January 3, 1985. Such articles are enumerated in the list of HTS subheadings in Annex A.

Second, pursuant to subsection 504(c)(3) of the Act, I have determined to waive the application of section 504(c) of the Act with respect to certain eligible articles from certain beneficiary developing countries. I have received the advice of the United States International Trade Commission on whether any industries in the United States are likely to be adversely affected by such waivers, and I have determined, based on that advice and on the considerations described in sections 501 and 502(c) of the Act (19 U.S.C. 2461 and 2462(c)), that such waivers are in the national economic interest of the United States. The waivers apply to the eligible articles of the beneficiary developing countries that are enumerated in Annex B opposite the HTS subheadings applicable to each article.

Finally, I have determined, pursuant to subsection 504(c)(2) of the Act and after taking into account the considerations described in sections 501 and 502(c) of the Act, that certain beneficiary developing countries have demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to certain eligible articles. Therefore, I have determined that subsection 504(c)(2)(B) of the Act should apply to such countries with respect to such articles. Such countries are enumerated in Annex C opposite the HTS subheadings applicable to each article.

These determinations shall be published in the **Federal Register**.

George Bush

THE WHITE HOUSE,
Washington, April 13, 1989.

[FR Doc. 89-9352
Filed 4-13-89; 10:43 am]
Billing code 3195-01-M

Annex A

HTS subheadings for which no like or directly competitive article was produced in the United States on January 3, 1985

HTS Subheading	HTS Subheading	HTS Subheading
0305.59.20	2933.51.10	8714.93.10
0501.00.00	3301.29.10	8714.93.60
0502.10.00	3301.29.20	8714.94.25
0505.90.00	3806.20.00	8714.94.40
0510.00.20	3808.10.10	9105.99.10
0709.90.10	3926.20.20	9202.90.20
0710.90.10	3926.90.70	9502.10.60
0712.90.15	4206.10.30	9502.99.10
0803.00.40	4601.20.20	9617.00.40
0807.10.50	4602.10.11	
0811.90.25	4602.10.13	
0908.20.20	4807.91.00	
1207.91.00	4823.90.50	
1211.90.60	5301.21.00	
1302.12.00	5701.10.13	
1401.20.40	5702.10.10	
1504.30.00	5702.91.20	
1515.50.00	5805.00.20	
1602.50.10	5904.10.00	
1904.90.00	6304.99.10	
2001.90.10	6304.99.40	
2001.90.42	6402.20.00	
2001.90.50	6502.00.60	
2008.30.54	6703.00.30	
2008.91.00	6802.91.30	
2008.99.15	6812.50.50	
2008.99.63	7004.10.10	
2008.99.65	7004.10.50	
2208.20.10	7004.90.50	
2208.90.12	7006.00.20	
2208.90.14	7013.10.10	
2208.90.15	7016.10.00	
2208.90.55	7103.10.40	
2208.90.72	7103.99.50	
2306.60.00	7104.10.00	
2402.20.10	7104.90.10	
2402.20.90	7116.20.20	
2504.10.10	7215.90.50	
2805.22.10	7615.20.00	
2912.30.50	8446.21.00	
2912.50.00	8447.20.10	
2918.13.10	8447.20.60	
2918.13.20	8448.51.10	
2918.23.10	8452.10.00	
2922.29.23	8525.20.15	

Annex B

HTS subheadings and countries granted Competitive Need Waivers

HTS Subheading	Country
0603.10.30	Colombia
0714.90.20	Colombia
1602.50.10	Uruguay
1701.11.00	Colombia; Philippines
2008.99.15	Philippines
2008.99.28	Colombia
2915.70.00	Malaysia; Philippines
2915.90.10	Malaysia; Philippines
3503.00.50	Colombia
3921.90.11	Colombia
4412.21.00	Philippines
4412.29.50	Philippines
4601.91.40	Philippines
4602.10.13	Philippines
4602.10.19	Philippines
4602.10.50	Philippines
6702.90.40	Macau
8003.00.00	Malaysia
8473.21.00	Malaysia
8473.29.00	Malaysia
8473.30.80	Malaysia
8473.40.20	Malaysia
8473.40.40	Malaysia
8512.10.40	Malaysia
8512.20.40	Malaysia
8512.30.00	Malaysia
8512.90.20	Malaysia
8525.10.80	Malaysia
8527.19.00	Malaysia
8527.32.00	Malaysia
8527.39.00	Malaysia
8527.90.80	Malaysia
8529.10.60	Malaysia
8529.90.50	Malaysia
8531.10.00	Malaysia
8531.20.00	Malaysia
8531.80.00	Malaysia
8541.40.20	Malaysia
9009.90.00	Malaysia
9401.50.00	Philippines
9401.90.25	Philippines
9403.80.30	Philippines
9403.90.25	Philippines
9503.10.00	Macau
9503.20.00	Macau
9503.49.00	Macau
9503.80.60	Macau
9503.90.60	Macau
9503.90.70	Mexico
9601.90.20	Philippines
9613.10.00	Philippines

Annex C

HTS subheadings and countries subject to Reduced Competitive Need Limits

HTS Subheading	Country
0603.10.70	Colombia
0704.90.20	Mexico
0708.10.40	Mexico
0710.21.40	Mexico
0804.50.80	Mexico
0807.10.70	Mexico
0810.90.40	Mexico
0813.30.00	Argentina
1005.90.20	Argentina
1102.20.00	Argentina
1103.13.00	Argentina
2005.10.00	Mexico
2005.90.55	Mexico
2005.90.90	Mexico
2007.99.50	Brazil
2202.10.00	Mexico
2202.90.90	Mexico
2203.00.00	Mexico
2208.90.45	Mexico
2504.10.10	Brazil
2804.69.10	Brazil
2843.21.00	Mexico
2843.29.00	Mexico
2905.19.00	Brazil
2915.31.00	Brazil
2916.15.50	Brazil
2917.13.00	Brazil
2917.14.10	Brazil
2917.19.50	Brazil
2917.35.00	Brazil
2918.11.10	Brazil
2937.92.10	Mexico
3004.39.00	Mexico
3207.40.10	Mexico
3703.10.30	Brazil
3703.20.30	Brazil
3703.90.30	Brazil
3823.90.40	Brazil
3904.10.00	Mexico
3904.21.00	Mexico
3904.22.00	Mexico
3921.13.50	Mexico
4107.21.00	Argentina
4107.29.30	Argentina
4303.90.00	Argentina
4409.10.60	Mexico
4411.11.00	Brazil
4411.19.20	Brazil
4411.21.00	Brazil
4411.29.60	Brazil
4421.90.10	Mexico
5607.30.20	Mexico
6406.10.65	Brazil
6406.99.60	Brazil
6702.90.60	Thailand
6802.99.00	Mexico
6810.11.00	Mexico
6908.10.20	Thailand
6909.19.10	Mexico
6910.10.00	Brazil
6910.90.00	Brazil
6911.90.00	Brazil
7004.10.20	Mexico
7103.10.40	Brazil
7103.99.50	Brazil
7104.90.50	Brazil
7114.11.70	Mexico
7114.20.00	Mexico
7115.90.20	Mexico
7116.20.20	Brazil
7202.21.50	Brazil
7202.30.00	Brazil
7314.19.00	Mexico
7402.00.00	Mexico
7407.21.50	Brazil
7407.21.90	Brazil
7903.10.00	Mexico
7903.90.30	Mexico
8408.20.20	Brazil
8408.20.90	Brazil
8408.90.90	Brazil
8409.91.91	Brazil; Mexico
8409.91.92	Mexico
8409.91.99	Brazil; Mexico
8409.99.91	Brazil
8409.99.92	Brazil

Annex C (con.)

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HTS subheadings and countries subject to Reduced Competitive Need Limits

HTS Subheading	Country
8409.99.99	Brazil
8411.99.90	Brazil
8414.51.00	Mexico
8414.59.80	Mexico
8414.60.00	Mexico
8414.90.10	Mexico
8415.10.00	Mexico
8415.81.00	Mexico
8415.82.00	Mexico
8415.83.00	Mexico
8415.90.00	Mexico
8419.32.50	Brazil
8419.89.10	Brazil
8419.90.20	Brazil
8421.23.00	Brazil; Mexico
8421.31.00	Brazil; Mexico
8425.31.00	Mexico
8425.41.00	Mexico
8425.42.00	Mexico
8426.12.00	Mexico
8426.19.00	Mexico
8426.20.00	Mexico
8426.30.00	Mexico
8426.41.00	Mexico
8426.49.00	Mexico
8426.91.00	Mexico
8426.99.00	Mexico
8428.10.00	Mexico
8428.20.00	Mexico
8428.40.00	Mexico
8428.50.00	Mexico
8428.60.00	Mexico
8428.90.00	Mexico
8429.11.00	Brazil
8429.19.00	Brazil
8429.20.00	Brazil
8429.30.00	Brazil
8429.40.00	Brazil
8429.52.50	Brazil
8429.59.50	Brazil
8430.10.00	Brazil
8430.20.00	Brazil
8430.41.00	Brazil
8430.49.80	Brazil
8430.50.50	Brazil
8430.61.00	Brazil
8430.62.00	Brazil
8430.69.00	Brazil
8431.10.00	Mexico
8431.31.00	Mexico
8431.39.00	Mexico
8431.41.00	Brazil
8431.42.00	Brazil
8431.43.80	Brazil
8431.49.10	Mexico
8431.49.90	Brazil
8465.94.00	Brazil
8471.10.00	Brazil
8479.10.00	Brazil
8479.30.00	Brazil
8479.81.00	Brazil
8479.82.00	Brazil
8479.89.70	Brazil
8479.89.90	Brazil
8479.90.40	Brazil
8479.90.80	Brazil
8483.10.10	Brazil; Mexico
8483.10.30	Brazil
8505.19.00	Mexico
8507.20.00	Mexico
8507.90.40	Mexico
8523.11.00	Mexico
8523.12.00	Mexico
8523.13.00	Mexico
8523.20.00	Mexico
8523.90.00	Mexico
8525.10.80	Mexico
8527.21.10	Brazil
8527.31.40	Brazil
8527.90.80	Mexico

Annex C (con.)

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HTS subheadings and countries subject to Reduced Competitive Need Limits

HTS Subheading	Country
8529.10.60	Mexico
8529.90.50	Mexico
8539.90.00	Mexico
8543.20.00	Mexico
8543.30.00	Mexico
8543.80.90	Mexico
8543.90.80	Mexico
8548.00.00	Mexico
9017.10.00	Brazil
9017.20.40	Brazil
9017.90.00	Brazil
9025.11.20	Brazil
9026.10.20	Brazil
9026.20.40	Brazil
9026.80.20	Brazil
9031.10.00	Brazil
9031.20.00	Brazil
9031.80.00	Brazil
9031.90.60	Brazil
9032.89.60	Brazil
9032.90.60	Brazil
9033.00.00	Brazil
9303.30.40	Brazil
9401.30.40	Yugoslavia
9401.40.00	Thailand
9401.61.40	Yugoslavia
9401.61.60	Thailand
9401.69.60	Yugoslavia
9401.69.80	Thailand
9403.30.80	Thailand
9403.40.90	Thailand
9403.50.90	Thailand
9403.60.80	Thailand
9405.10.80	Mexico
9405.20.80	Mexico
9405.40.80	Mexico
9502.91.00	Mexico
9503.10.00	Mexico
9503.30.80	Mexico
9503.70.80	Mexico
9503.80.20	Mexico
9503.80.40	Mexico
9503.80.80	Mexico
9503.90.50	Mexico
9503.90.60	Mexico
9504.20.60	Brazil
9508.00.00	Brazil
9613.80.20	Mexico
9613.90.40	Mexico

Rules and Regulations

Federal Register
Vol. 54, No. 73
Tuesday, April 18, 1989

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Schedule B Appointment Authority for Professional and Administrative Career Positions

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This regulation, which was previously published as a final rule on August 31, 1982 (47 FR 38257), provided for the filling of Professional and Administrative Career (PAC) positions at the GS–5 and GS–7 levels in certain occupations under a Schedule B PAC authority during the period when the Office of Personnel Management did not have a register of competitive eligibles to fill vacancies in those occupations. Pursuant to the direction of the United States Court of Appeals for the D.C. Circuit and the United States District Court for the District of Columbia, OPM supplemented the rulemaking record to include publication of the cost data upon which OPM relied in making its decision in 1982. Having complied with the Courts' instructions, OPM will continue to permit agencies to use a Schedule B authority in the PAC occupations under the same conditions as stated previously and will continue to terminate that authority with respect to particular occupations as competitive registers are established for those occupations.

EFFECTIVE DATE: May 18, 1989.

FOR FURTHER INFORMATION CONTACT: James S. Green, Associate General Counsel, Office of General Counsel—(202) 632–5087.

SUPPLEMENTARY INFORMATION: At 54 FR 3457 dated January 24, 1989, the Office of Personnel Management published a notice of proposed rulemaking. Pursuant to the direction of the United States Court of Appeals for the DC Circuit (*NTEU* v. *Horner*, Nos. 87–5102 & 87–5191) and the United States Court for the District of Columbia (Civil Action No. 84–2573), OPM supplemented the rulemaking record which had been developed in 1982 for the purpose of receiving comments. The original final rule had been published on August 31, 1982 (47 FR 38257). The purpose of supplementing the rulemaking record was to permit OPM to explain further the cost data upon which it relied in 1982 when it authorized agencies to use a Schedule B authority to appoint eligible applicants to positions in the Professional and Administrative Career (PAC) occupations at the GS–5 and GS–7 levels where agencies were unable to fill vacancies through internal recruitment.

Pursuant to the terms of a consent decree which was entered by the U.S. District Court for the District of Columbia (*Luevano* v. *Devine*, Civil Action No. 79–271), OPM, in 1982, eliminated the Professional and Administrative Career Examination (PACE) which was formerly used to examine applicants for the PAC occupations. By 1982, the existing PACE registers had become or would shortly have become inadequate for staffing needs. OPM permitted agencies to use a Schedule B appointing authority to fill vacancies in PAC occupations until it could replace that authority with job-specific, competitive examinations for the approximately 118 PAC occupations. Since 1986, by Executive Order 12596, PAC employees hired under the Schedule B appointment authority have been converted non-competitively into the competitive service at the GS–9 level where the employing agency had determined that the employee's qualifications and performance warranted such conversion.

Two comments were received on OPM's publication regarding the use of Schedule B based on certain cost considerations, one from a private citizen and one from a labor union which represents Federal employees in some agencies. Both expressed their concern that the use of Schedule B as an appointing authority in the excepted service would undermine basic merit principles.

Appointments under Schedule B are made subject to the same basic qualification requirements as appointments in the competitive service, requiring that selections be made soley on the basis of merit and fitness. As such, use of Schedule B is subject to the same statutory requirements at 5 U.S.C. 2301 and 2302 governing merit system principles and prohibited personnel practices.

Each agency determines when and in what manner to advertise individual PAC vacancies based on current staffing needs. Procedures in evaluating individual applications under Schedule B may take the form of a straight numerical ranking of candidates based on a rating of each applicant's education and experience similar to the traditional unassembled testing methods used in competitive examinations. Agencies may group and rank applicants into adjective categories such as "qualified" or "highly qualified" or into score ranges such as "90–100," "80–89," or "70–79."

Additionally, agencies are required to consider veterans preference. Under Schedule B appointments, veterans have always been listed first in their respective category. Disabled veterans precede all others regardless of numerical rating. Thus, some veterans may experience a greater advantage, in some instances, because they are placed first in their category as opposed to being merely first in terms of their numerical score.

The rationale for the published rule involved only cost considerations as required by the Courts' orders. However, the union has raised several other concerns that did not involve cost considerations but to which OPM's response is nevertheless warranted. The union expressed the concern that agencies should use only internal procedures until competitive examinations are developed rather than continue to use Schedule B. From its inception, OPM has emphasized that agencies may use Schedule B a an appointing authority to fill vacancies through external sources where they have been unable to fill such vacancies through other means such as reassignment, transfer, reinstatement or promotion (FPM Letter 213–32 (4), paragraph 6 (September 9, 1982) and 47 FR 28257 (August 31, 1982)). Indeed, internal appointments have always been the primary method of filling PAC positions at the GS–5 and GS–7 levels, regardless of whether external

appointments were through PACE, alternative competitive examining, or through Schedule B.

Agency success in complying with the instruction to use Schedule B as a last resort is reflected in the small proportion of external hiring which has actually occurred under the Schedule B PAC authority. In the calendar years between 1983 and 1986, external PAC hires at the GS–5 and GS–7 levels under Schedule B ranged from between 14 to 20 percent of all hires in the PAC occupations. In 1987, only 10 percent of all such hires were from external sources. In the first six months of 1988, less than 8 percent of all PAC hires at the GS–5 and GS–7 levels were from external sources. Thus, today over 90 percent of all hiring in the PAC occupations at those levels is through the kind of competitive examination and appointment process which the union suggests is appropriate or through internal procedures such as reinstatement, transfer, reassignment or promotion, not through Schedule B appointment.

External PAC hires, whether through Schedule B or through competitive examining procedures, represent a very small portion of OPM's overall examining responsibility. For example, in calendar year 1987, in PAC occupations for which competitive examinations had not yet been developed, external PAC hires under Schedule B at the GS–5 and GS–7 levels represented only sixty-eight hundredths of one percent of total new hires in all occupations under all appointing authorities in the Executive Branch agencies, excluding postal employees. OPM's resources for developing and revising examinations for external recruitment in the PAC occupations must be viewed in comparison to its total examining responsibilities in all occupations.

The union also raises certain concerns regarding OPM's obligations under the *Luevano* consent decree, concerns which are based on the union's possible misunderstanding of that decree. To the extent that the union's comments relate to OPM's decision to terminate the use of the PACE and to permit agencies to use Schedule B until competitive examinations could be developed cost-effectively, OPM now takes this opportunity to respond to and to correct any misunderstandings of that decree.

The union suggests that OPM entered into the consent decree and then shortly thereafter abandoned its agreement to replace the PACE with competitive examinations. When the Court preliminarily approved the decree in late 1980, OPM believed that it would have the budgetary and personnel resources to replace the PACE with job-specific examinations in all PAC occupations in accordance with the decree's timetable. However, due to subsequent, government-wide reductions in Federal hiring and actual reductions in OPM's own budgetary and personnel allocations, events which began to occur after the preliminary approval of the decree and subsequent to final approval in February 1982, OPM believed it had to concentrate its limited resources initially on developing examinations in those occupations which traditionally had the largest number of vacancies. The extensive discussion of cost data and personnel and budget reductions is set forth in the proposed rule at 54 FR 3457–3458 (January 24, 1989) which is referenced herein.

The union states that the decree allowed a phased replacement of the PACE and that OPM's budget should have been adequate to develop alternative tests during the three-year, phase-in period. OPM has already explained that development of many job-specific tests was considered to be too expensive in view of OPM's budgetary constraints and the anticipated reductions in hiring. Indeed, the vast majority of occupations subject to Schedule B had fewer than 20 external hires on average from 1983 to the present. In addition, while the decree allowed for a three-year, phase-out period of PACE, a minimum of 50 percent of the appointments in all PAC jobs had to be by alternative examinations after one year, 80 percent after two years, and 100 percent at the end of three years. That schedule did not lend itself to the gradual development of scores of new tests which the union comments seem to suggest.

The union also states that OPM's cost figures are misleading because the figures are based on developing separate tests for each covered occupation. The union offers its view that the decree allows OPM to group similar jobs under a single test and that, by doing so, OPM could, or should, have been able to reduce its costs. Under the decree, OPM was permitted to develop a single examination to cover more than one PAC occupation only where the occupations are similar *and* where there are relatively few vacancies to fill in those occupations. Not all such small-fill occupations can be covered by a single examination, however, because some lack the requisite homogeneity and, thus, are unsuitable for grouping. Even if grouping is acceptable in some cases, development of the remaining job-specific, competitive examinations is still enormously expensive.

The union also suggests that OPM's recently announced intention to group occupations for a proposed new examining system undercuts OPM's position that grouping was not feasible at the time of the Schedule B decision. However, that view ignores the extensive developmental work which must precede any decision to group the different PAC occupations for purposes of examination. Additionally, as has been stated on several occasions, and as OPM has expressed to the Court in the *Luevano* case, OPM's proposal to group occupations into general categories for examining purposes has been forwarded to the *Luevano* plaintiffs for their consideration as required under the decree. OPM is awaiting their response to that proposal and no final decision can be reached until that time.

The union also asserts that OPM's rationale for using Schedule B was to undermine the consent decree. The facts simply do not support that assertion. Rather than undermining the decree, the use of Schedule B has actually enhanced Federal employment opportunities for individuals who belong to minority groups. Prior to the abolition of the PACE in 1982, minority hiring under PACE averaged only 5.9 percent between 1973 and 1980. After the abolition of the PACE and under Schedule B, overall minority hiring between 1982 to 1986 rose to 22.7 percent. In 1986 and again in 1987, minority hiring rose to 24 percent.

It is OPM's plan to establish competitive registers for all remaining PAC occupations at the entry level in the near future. In the interim, agencies may continue to utilize Schedule B as an appointing authority where they are unable to fill PAC positions through internal recruitment. Once competitive registers are established for the remaining PAC occupations, agency authority to use Schedule B to fill PAC occupations will terminate. Incumbent Schedule B employees who have performed satisfactory service immediately prior to the date on which the competitive register is established for that occupation may have their positions converted to competitive appointments pursuant to the regulations at 5 CFR 315.701.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains solely to procedures for appointment of employees by Federal agencies.

List of Subjects in 5 CFR Part 213

Government employees.

Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is republishing its final regulation under 5 CFR 213.3202(l), originally published on August 31, 1982 (47 FR 38257) and amended on July 6, 1987 (52 FR 25193), as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for Part 213 continues to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.102 also issued under 5 U.S.C. 1104, Pub. L. 95–454, sec. 3(5); § 213.3102 also issued under 5 U.S.C. 3301, 3302 (E.O. 12364, 47 FR 22931), 3307, 8337(h), and 8457.

2. In § 213.3202, paragraph (l), is republished to read as follows:

§ 213.3202 Entire Executive Civil Service.

* * * * *

(l) Professional and administrative career (PAC) positions at the GS–5 or GS–7 grade level which are subject to the decree entered on November 19, 1981, by the United States District Court for the District of Columbia in the civil action known as *Leuvano* v. *Devine* and numbered as No. 79–271, which were not removed from coverage of the Professional and Administrative Career Examination (PACE) prior to the effective date of the consent decree, and which are to be filled, under the conditions described below, by appointment of individuals other than those who at the time of such appointment already have competitive status in the Federal civil service. When a Federal agency needs to fill a PAC position that was not removed from PACE coverage before the consent decree became effective, and the agency has made maximum use of priority placement sources and has given appropriate consideration to available and qualified status applicants, then OPM may authorize the agency to make a new appointment under this paragraph. Such appointments shall be authorized and made pursuant to such Schedule B requirements for PAC positions as shall be prescribed in the Federal Personnel Manual. Terms of use of this appointment authority shall be established by an appointment authority agreement to be executed for each position excepted from the competitive service pusuant to this authority. The appointment authority agreement will remain in effect with respect to particular GS–5 and GS–7 PAC positions only so long as there is no competitive examination available to fill those positions. Establishment of a register under an alternative competitive examination for any PAC position(s) at grades GS–5 and GS–7 will immediately terminate all agreements permitting new Schedule B appointments to such position(s) under this authority. Individuals appointed before termination of the agreements may, however, continue to serve under those appointments at grades GS–5 and GS–7 until they are appointed to a competitive position in accordance with applicable civil service laws, rules, and regulations. An incumbent of a Schedule B PAC position may be converted to a career or career-conditional appointment under the provisions of Executive Order 12596, subject to the conditions set out in § 315.170 of this chapter.

[FR Doc. 89–9182 Filed 4–17–89; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 89–053]

Tuberculosis in Cattle and Bison; State Designation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the regulations governing the interstate movement of cattle and bison because of tuberculosis by raising the designation of Oregon from a modified accredited state to an accredited-free state.

EFFECTIVE DATE: May 18, 1989.

FOR FURTHER INFORMATION CONTACT: Dr. Ralph L. Hosker, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, Room 734, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7715.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** and effective January 12, 1989 (54 FR 1145–1146, Docket Number 88–191), we amended the regulations in 9 CFR Part 77 governing the interstate movement of cattle and bison by removing Oregon from the list of modified accredited states in § 77.1 and adding it to the list of accredited-free states in that section. Comments on the interim rule were required to be postmarked or received on or before March 13, 1989. We did not receive any comments. The facts presented in the interim rule still provide a basis for this rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule". Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

The groups affected by this action will be certain livestock owners in Oregon, as well as buyers and importers of Oregon cattle. Changing the status of Oregon will improve the marketability of cattle and bison from Oregon, since some prospective cattle and bison buyers prefer to buy from accredited-free states. This will result in a beneficial economic impact on some small entities. However, based on our experience in similar designations of other states, the impact should not be significant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the

Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Transportation, Tuberculosis.

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR Part 77 and that was published at 54 FR 1145–1146 on January 12, 1989.

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, 134f; 7 CFR 2.17, 2.51 and 371.2(d).

Done at Washington, DC, this 12th day of April 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–9199 Filed 4–17–89; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 50, 51, 52, and 170

RIN 3150–AC61

Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is now adding a new part to its regulations which provides for issuance of early site permits, standard design certifications, and combined construction permits and operating licenses with conditions for nuclear power reactors. The new part sets out the review procedures and licensing requirements for applications for these new licenses and certifications. The final action is intended to achieve the early resolution of licensing issues and enhance the safety and reliability of nuclear power plants.

EFFECTIVE DATE: May 18, 1989.

ADDRESS: Documents relative to this final rule may be examined and copied for a fee at the NRC Public Document Room, 2120 L Street NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Steven Crockett, Attorney, Office of the General Counsel, telephone (301) 492–1600, on procedural matters, or Jerry Wilson, Office of Nuclear Regulatory Research, telephone (301) 492–3729, on technical matters, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission has long sought nuclear power plant standardization and the enhanced safety and licensing reform which standardization could make possible. For more than a decade, the Commission has been adding provisions to 10 CFR Part 50 and Part 2 that allow for limited degrees of standardization, and for as many years, the Commission has been proposing legislation to Congress on the subject. The Commission was frequently asked by Members of Congress to what extent legislation on the subject was necessary, and in doing the analysis necessary to reply to these questions, the Commission came to believe that much of what it sought could be accomplished within its current statutory authority. Thus the Commission embarked on standardization rulemaking.

The rulemaking process has been lengthy and highly public. A year and a half ago, the Commission announced its intent to pursue standardization rulemaking in its Policy Statement on Nuclear Power Plant Standardization (52 FR 34884; September 15, 1987). The Policy Statement set forth the principles that would guide the rulemaking and provided for a forty-five-day comment period on the Policy Statement. On October 20, 1987, about mid-way through the comment period the NRC staff held a public workshop on the Policy Statement. During the Workshop, the staff presented a detailed outline of the proposed rule and answered preliminary questions about it. A transcript of the workshop may be found in the Commission's public document room, Gelman Building, 2120 L Street, NW, Washington, DC. After a lengthy internal consideration of the comments received on the Policy Statement and the outline of the rule presented at the Workshop, and after public briefings of the Commission and the Advisory Committee on Reactor Safeguards (ACRS), the Commission issued a proposed rule (53 FR 32060; Auguest 23, 1988) and provided for a sixty-day comment period. The comment period was extended to 75 days on October 24, 1988 (53 FR 41609). Mid-way through that period the NRC staff again held a public workshop, this time on the text of the proposed rule.[1]

During the second, 75-day comment period, the Commission received over 70 sets of comments, ranging from one-page letters to multi-paged documents, one of which included an annotated rewrite of the whole rule. The commenters included the Department of Energy (DOE), agencies and offices in the states of Connecticut, Indiana, New York, and North Carolina, the Nuclear Utility Management and Resources Council (NUMARC), the American Nuclear Energy Council, Westinghouse, General Electric, Combustion Engineering, Stone & Webster, the U.S. Chamber of Commerce, the Union of Concerned Scientists (UCS), the Nuclear Information and Resource Service (NIRS), the Ohio Citizens for Responsible Energy (OCRE), the Maryland Nuclear Safety Coalition, and several utilities, corporations, public interest groups, and individuals. All the comments may be viewed in the agency's public document room.

The Commission has carefully considered all the comments and wishes to express its sincere appreciation of the often considerable efforts of the commenters. While the broad outlines, and even many of the details, of the proposed rule remained unchanged in the final rule, few sections of the proposed rule have escaped revision in light of the comments, and some have been thoroughly revised. In the remainder of this section of this final rule preamble, the Commission makes two general responses to comments and then summarizes both the comments and its responses to them. In Section II of this final rule preamble, the Commission responds to comments on the chief issues raised by the comments. While Section II often touches on the broad policies which lie behind the rule, readers wishing to know more about those broad policies may consult the statement of considerations which was published with the proposed rule. In Section III, which proceeds section-by-section through the final rule, the Commission notes minor changes and offers some minor clarifications of the meaning of some provisions. For a complete record of the differences

[1] Given this lengthy and public process, the Commission is unpersuaded by commenters on the proposed rule who claim that the public was not given enought time to consider the rule. For example, the Nuclear Information Resource Service (NIRS) says that given the importance of the rule, one "would think that the NRC would encourage the widest possible public participation on this rule, perhaps even by making special efforts to solicit comment." That is, of course, precisely what the Commission did.