

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 775

[Docket No. 90372-9072]

Import Certificate/Delivery
Verification Procedure for Australia;
Termination of Grace PeriodAGENCY: Bureau of Export
Administration, Commerce.

ACTION: Final rule.

SUMMARY: On July 5, 1988 (53 FR 25144) the Bureau of Export Administration published a final rule establishing new documentation requirements for exports to Australia under the Import Certificate/Delivery Verification (IC/DV) procedure. The rule provided that as of August 19, 1988, the Bureau of Export Administration would begin accepting the Australian Import Certificate as supporting documentation for the export license application (Form BXA-622P). It also provided a grace period until October 3, 1988 within which either the Australian Import Certificate or the Statement by Ultimate Consignee and Purchaser (Form ITA-629P) would be accepted by the Bureau of Export Administration and that after October 3, 1988 only the Import Certificate would be acceptable. That rule was amended by a notice of August 1, 1988 (53 FR 28864) that extended the grace period indefinitely in order to allow both governments more time to integrate their procedures for implementing new documentation requirements. This rule amends the previous rule by establishing the date of June 15, 1989, whereby only the Australian Import Certificate will be accepted to support an export license application for "A" level commodities.

EFFECTIVE DATE: This rule is effective June 15, 1989.

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. This rule is consistent with Executive Orders 12291 and 12661.
2. The Import Certificate and Delivery Verification (IC/DV) requirement set forth in Part 775 supersedes the requirement for Form ITA-629P, Statement by Ultimate Consignee and Purchaser (approved by the Office of Management and Budget under control number 0694-0021) to accompany license applications (approved under

OMB control number 0694-0005) for exports and reexports to Australia. The Import Certificate and Delivery Verification are issued by the Government of Australia and do not constitute collection of information requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

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

4. 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.

5. Section 13(a) of the Export Administration Act of 1979, as amended (EAA) (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 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.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. 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.

List of Subjects in 15 CFR Part 775

Exports, Reporting and recordkeeping requirements.

Accordingly, Part 775 of the Export Administration Regulations is amended as follows:

PART 775—[AMENDED]

1. The authority citation for 15 CFR Part 775 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, Pub. L. 99-64 of July 12, 1985 and Pub. L. 100-418 of August 23, 1988; 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. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

§ 775.1 [Amended]

2. The table in § 775.1 is amended by removing footnote 1 (and its reference after the word "Australia" in the column titled "and the country of destination is").

§ 775.3 [Amended]

3. Section 775.3(b) is amended by removing footnote 1 (and its reference, "For exports to Australia, the Bureau of Export Administration will accept either the Australian Import Certificate or Form ITA-629P, Statement by Ultimate Consignee or Purchaser") and redesignating footnote 1(a) as footnote 1.

4. Supplement No. 1 to Part 775 is amended by revising the entry for Australia to read as follows:

**Supplement No. 1 to Part 775—
Authorities Administering Import
Certificates/Delivery Verification
Systems in Foreign Countries¹**

Country	IC/DV Authorities	System administered ²
Australia.....	Director, Technology Transfer and Analysis, Industry Policy and Operations Division, Department of Defense, Russell Office, Canberra A.C.T. 2600.	IC/DV

² IC—Import Certificate and/or DV—Delivery Verification

Dated: May 10, 1989.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 89-11620 Filed 5-15-89; 8:45 am]

BILLING CODE 3510-DT-M

¹ Facsimiles of Import Certificates and Delivery Verifications issued by each of these countries may be inspected at the Bureau of Export Administration Western Regional Office, 3300 Irvine Avenue, Suite 345, Newport Beach, California 92660-3198 or at any U.S. Department of Commerce District Office or at the Office of Export Licensing, Room 1099D, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-AA26

Ranges of Comparability Using Energy Cost and Consumption Information for Labeling and Advertising of Refrigerators, Refrigerator-freezers, and Freezers

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission amends its Appliance Labeling Rule by revising the ranges of comparability used on required labels for refrigerators, refrigerator-freezers, and freezers.

Under the rule, each required label on a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. This notice publishes the new range figures, which, under §§ 305.10, 305.11 and 305.14 of the rule, must be used on labels on refrigerators, refrigerator-freezers, and freezers manufactured on and after August 14, 1989, and in advertising of refrigerators, refrigerator-freezers, and freezers in catalogs printed after August 14, 1989. Properly labeled refrigerators, refrigerator-freezers, and freezers manufactured prior to the effective date need not be relabeled. Catalogs printed prior to the effective date in accordance with 16 CFR 305.14 need not be revised.

EFFECTIVE DATE: August 14, 1989.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202-326-3035, or Ruth Sacks, Research Analyst, 202-326-3033, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

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. Refrigerators, refrigerator-freezers, and freezers are included as one of the categories. Before these labeling requirements may be prescribed, the statute 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 rule² covering seven of the thirteen appliance categories, including refrigerators, refrigerator-freezers, and freezers.

The rule requires that energy costs and related information be disclosed on labels and in retail sales catalogs for all refrigerators, refrigerator-freezers, and freezers presently manufactured. Certain point-of-sale promotional materials must disclose the availability of energy usage information. If a refrigerator, refrigerator-freezer or freezer is advertised in a catalog from which it may be purchased by cash, charge account or credit terms, then on each page of the catalog that lists the product shall be included the range of estimated annual energy costs for the product. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of the DOE test procedures.

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 The data submitted by manufacturers are based, in part, on the representative average unit cost of the type of energy used to run the appliances tested. According to § 305.9 of the rule, these average energy costs, which are provided by DOE, will be periodically revised by the Commission, but not more often than annually. 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%.

The new figures for the estimated annual costs of operation for refrigerators, refrigerator-freezers, and freezers, which were calculated using the 1988 representative average energy

costs published by DOE on December 23, 1987,⁴ have been submitted and have been analyzed by the Commission. New ranges based upon them are herewith published.

In consideration of the foregoing, the Commission amends Appendices A-1, A-2 and B of its Appliance Labeling Rule by publishing the following ranges of comparability for use in the labeling and advertising of refrigerators, refrigerator-freezers, and freezers beginning August 14, 1989.

List of Subjects in 16 CFR Part 305

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

Accordingly, 16 CFR Part 305 is amended as follows:

PART 305—[AMENDED]

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

Authority: Section 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; section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

2. In Appendices A1, A2 and B, Paragraph 1 of each and the introductory text in Paragraph 2 of each are revised to read as follows:

Appendix A-1—Refrigerators**1. Range Information**

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Low	High
Less than 2.5.....	\$22	\$36
2.5 to 4.4.....	25	44
4.5 to 6.4.....	23	49
6.5 to 8.4.....	29	38
8.5 to 10.4.....	30	68
10.5 to 12.4.....	39	50
12.5 to 14.4.....	40	56
14.5 to 16.4.....	45	57
16.5 and over.....	38	92

2. Yearly Cost Information—Electricity

Estimates on the scale are based on a national average electric rate of 8.04¢ per kilowatt hour.

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¹ 44 FR 66466, 16 CFR Part 305 (Nov. 19, 1979).

² Reports for refrigerators, refrigerator-freezers and freezers are due by August 1.

⁴ 52 FR 48563.

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

Appendix A-2—Refrigerator-Freezer**1. Range Information**

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Low	High
Less than 10.5.....	\$36	\$72
10.5 to 12.4.....	57	85
12.5 to 14.4.....	58	108
14.5 to 16.4.....	61	115
16.5 to 18.4.....	62	126
18.5 to 20.4.....	73	137
20.5 to 22.4.....	68	145
22.5 to 24.4.....	69	149
24.5 to 26.4.....	79	233
26.5 to 28.4.....	120	152
28.5 and over.....	96	176

2. Yearly Cost Information—Electricity

Estimates on the scale are based on a national average electric rate of 8.04¢ per kilowatt hour.

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Appendix B—Freezers**1. Range Information**

Manufacturers' rated total refrigerated volume in cubic feet	Ranges of estimated yearly energy costs	
	Low	High
Less than 5.5.....	\$24	\$52
5.5 to 7.4.....	26	44
7.5 to 9.4.....	29	54
9.5 to 11.4.....	28	82
11.5 to 13.4.....	33	82
13.5 to 15.4.....	34	92
15.5 to 17.4.....	47	111
17.5 to 19.4.....	49	118
19.5 to 21.4.....	42	107
21.5 to 23.4.....	47	88
23.5 to 25.4.....	81	81
25.5 to 27.4.....	55	89
27.5 to 29.4.....	103	103
29.5 and over.....	136	217

2. Yearly Cost Information—Electricity

Estimates on the scale are based on a national average electric rate of 8.04¢ per kilowatt hour.

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By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89-11733 Filed 5-15-89; 8:45 am]

BILLING CODE 6750-01-M

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**
Food and Drug Administration
21 CFR Part 178

[Docket No. 87F-0326]

**Indirect Food Additives: Adjuvants,
Production Aids, and Sanitizers**

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 3,3'-[[2,5-dimethyl-1,4-phenylene]bis[imino(1-acetyl-2-oxo-2,1-ethanediyl)azo]]bis[4-chloro-N-(5-chloro-2-methylphenyl)-benzamide] as a colorant for polymers intended to contact food. This action responds to a petition filed by Ciba-Geigy Corp.

DATES: Effective May 16, 1989; written objections and requests for a hearing by June 15, 1989.

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

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the *Federal Register* of November 6, 1987 (52 FR 42728), FDA announced that a petition (FAP 7B4033) had been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.3297 *Colorants for polymers* (21 CFR 178.3297) be amended to provide for the safe use of 3,3'-[[2,5-dimethyl-1,4-phenylene]bis[imino(1-acetyl-2-oxo-2,1-ethanediyl)azo]]bis[4-chloro-N-(5-chloro-2-methylphenyl)-benzamide] as a colorant for polymers intended to contact food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that these data and material establish the safety of the level of use of the additive in the manufacture of polymers, and that the regulations should be amended in § 178.3297 as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not

required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before June 15, 1989, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

**PART 178—INDIRECT FOOD
ADDITIVES: ADJUVANTS,
PRODUCTION AIDS, AND SANITIZERS**

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784 1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.3297 is amended in paragraph (e) by alphabetically adding a new entry to the table to read as follows:

§ 178.3297 Colorants for polymers.

(e) * * *

Substances	Limitations
3,3'-(2,5-Dimethyl-1,4-phenylene)bis[imino(1-acetyl-2-oxo-2,1-ethanediy)azo]bis[4-chloro-N-(5-chloro-2-methylphenyl)-benzamide] (CAS Reg. No. 5280-80-8).	For use at levels not to exceed 1 percent by weight of polymers. The finished articles are to contact food only under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter.

Dated: April 28, 1989.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-11653 Filed 5-15-89; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

(T. D. 8255)

RIN 1545-AM45

Reimbursement to State and Local Law Enforcement Agencies

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary Regulations.

SUMMARY: This document contains temporary regulations that provide guidance to State and local law enforcement agencies in applying for reimbursement of expenses incurred in an investigation where resulting information furnished by the agency to the Service substantially contributes to the recovery of Federal taxes with respect to illegal drug or related money laundering activities. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the proposed rules section of this issue of the Federal Register.

EFFECTIVE DATE: February 16, 1989. These regulations apply to information first provided to the Service by a State or local law enforcement agency after February 16, 1989.

FOR FURTHER INFORMATION CONTACT: Gail M. Winkler of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (202-566-4442, not a toll-free number.)

SUPPLEMENTARY INFORMATION:
Background

This document contains temporary regulations relating to reimbursement of expenses to State and local law enforcement agencies under section 7624 of the Internal Revenue Code of 1986. This provision was added to the Code by section 7602 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, 102 Stat. 4181, 4507-08 [1988]). The temporary regulations added by this document will remain in effect until superseded by later temporary or final regulations relating to these matters or until expiration of 3 years from the date of issuance, whichever occurs first.

Explanation of Provisions

Section 7624 gives the Internal Revenue Service discretion to reimburse a State or local law enforcement agency for expenses incurred in an investigation where resulting information furnished by the agency to the Service substantially contributes to the recovery of Federal taxes with respect to illegal drug or related money laundering activities. The temporary regulations provide that the reimbursement allowable under this provision is limited to 10 percent of the amount recovered for Federal taxes, including additions to tax, and civil penalties, but not interest or criminal fines. However, no reimbursement is allowable with respect to expenses that have been or will be reimbursed from other sources, such as a Federal or State forfeiture program. The temporary regulations also provide that reimbursement will not be paid unless the amount of taxes recovered is at least \$50,000. This section applies to State law enforcement agencies including the District of Columbia, and local law enforcement agencies within the states and the District of Columbia.

Whether or not information furnished by a State or local law enforcement agency substantially contributes to the recovery of taxes is necessarily a determination based on facts and circumstances that can be made by the Service only on a case by case basis. Nevertheless, the temporary regulations explain the type of information that the Service will consider as having "substantially contributed" to the collection of additional Federal taxes with respect to illegal drug or related money laundering activities. These rules are intended to provide guidance to law enforcement agencies as to the types of information that the Service generally finds highly useful in developing and prosecuting a Federal tax case involving illegal drug or related money laundering activities.

Thus, as provided in these temporary regulations, where information provided by a State or local law enforcement agency substantially contributes to the collection of at least \$50,000 in additional taxes, additions to tax and civil penalties with respect to illegal drug or related money laundering activities, the Service may provide reimbursement for reasonable investigative expenses, not otherwise reimbursed, up to a maximum of 10 percent of the taxes recovered. A special account has been established for this purpose to receive and expend funds.

A State or local law enforcement agency furnishing information to the Service must use Form 211A to apply for reimbursement under this section. An application for reimbursement may be filed with the Service as soon as the agency has made a final determination as to the amount of the expenses incurred and the amount received or to be received from other sources. However, no application will be considered by the Service if filed later than 30 days after the Service has notified the agency of the amount of taxes recovered. If more than one agency files an application for reimbursement with respect to the taxes recovered, the Service will use discretion in allocating the amount of reimbursement to be paid to each agency, but in no event shall the aggregate of amounts paid by the Service exceed 10 percent of the sum of additional Federal taxes recovered.

Section 7809(d) of the Code provides that reimbursement under section 7624 must be paid out of the amounts recovered as a result of information furnished by the State or local law enforcement agency which substantially contributed to the recovery. Congress did not provide for any separate appropriation of Federal funds for this purpose. For this reason, the Service must insure against the possibility of having to refund to the taxpayer amounts collected after these amounts have already been paid to a State or local law enforcement agency as reimbursement. Accordingly, the temporary regulations provide that no reimbursement will be paid before expiration of the period of limitations for filing a claim for refund by the taxpayer or the determination of the taxpayer's liability becomes final. In general, no refund is allowable unless a claim for refund is filed by a taxpayer within 3 years from the time the return is filed or 2 years from the time the tax is paid, whichever is later. However, in many instances this period for filing a