(ii) Have performance characteristics inferior to those described in sub-paragraphs (b)(2) or (b)(3); *and*

(d) Connectors and couplers controlled by sub-paragraph (e) are not:

(i) Fiber-optic bulkhead or hull penetration connectors, specially designed for use in ships or vessels; *or*

(ii) Wavelength division multiplex type fiber-optic couplers.

(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 optical fibers controlled by sub-paragraph (c)(2), when exported for identifiable civil applications, having all of the following characteristics:

(a) Not fabricated to be nuclear radiation sensitive;

(b) A "beat length" of more than 50 cm (low birefringence); *and*

(c) Not optimized for operation at any wavelength exceeding 1,370 nm.

Dated: August 11, 1989.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 89-19268 Filed 8-16-89; 8:45 am]

BILLING CODE 3510-DT-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Exchange of Futures for Cash Commodities or in Connection With Cash Commodity Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Final Rule.

SUMMARY: The Commodity Futures Trading Commission has adopted final Regulation 1.35(a-2), 17 CFR 1.35(a-2), which requires futures commission merchants ("FCMs"), introducing brokers ("IBs"), and other contract market members to request from their customers, upon request of the Commission, the United States Department of Justice, or a contract market, documentation of cash transactions underlying exchanges of futures for cash commodities or exchanges of futures in connection with cash commodity transactions.[1] Final Regulation 1.35(a-2) also requires customers to create, retain, and produce such documentation to the requesting body. The final regulation defines documentation as "those documents customarily generated in accordance with cash market practices." Final Regulation 1.35(a-2) also requires that all contract markets adopt, as necessary, corresponding rules requiring members to provide such documentation to the contract market, the Commission, or the United States Department of Justice upon request.

EFFECTIVE DATE: New Commission Regulation 1.35(a-2) becomes effective November 15, 1989.

FOR FURTHER INFORMATION CONTACT: Patricia C. Apfelbaum, Assistant Director, or Elizabeth A. Patterson, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Notice

The total public reporting burden for the collection of information which includes this final regulation is estimated to average 80.83 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the entire collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Joseph G. Salazar, CFTC Clearance Officer, 2033 K Street, NW., Washington, DC 20581; and to Office of Management and Budget, Paperwork Reduction Project (3038-0022), Washington, DC 20503.

II. Introduction

On November 16, 1988, the Commission published a proposal to amend Commission Regulation 1.35 by adding a new paragraph (a-2) which would have required FCMs, IBs, and other contract market members to request from their customers, upon request of the Commission, the United States Department of Justice, or a contract market, documentation of cash transactions underlying EFPs. 53 FR 46089. Proposed Regulation 1.35(a-2) would have required customers to create, retain, and produce such documentation to the requesting body via the FCM, IB, or contract market member. The proposed regulation defined documentation as "those documents customarily generated in accordance with cash market practices." The Commission also proposed to amend Regulation 1.35 to require that all contract markets adopt, as necessary, corresponding rules requiring members to provide such documentation to the contract markets, the Commission, or the United States Department of Justice upon request.

In proposing to add new paragraph (a-2) to Regulation 1.35, the Commission noted that ensuring the availability of records of cash transactions underlying EFPs is essential to the success of exchange surveillance programs for monitoring EFPs and determining whether they are bona fide. 53 FR 46090. The Commission further noted that access to such records is "necessary to the Commission's ability to monitor the effectiveness of the exchanges' surveillance programs with respect to EFPs and to the Commission's ability to review such trades in the course of routine trade practice surveillance or specific investigations." Id. Records of these cash transactions should allow the Commission and the exchanges to verify the occurrence of the cash transaction and to review the prices and other terms of those transactions in connection with any inquiry into the legitimacy of an EFP. Finally, the Commission stated its belief in the appropriateness of requiring "customers, who are parties to cash transactions and therefore have the best access to the requested documents, to produce those documents for examination." Id.

III. Comments and Commission Response

The Commission requested comment on the proposed amendments and received eleven written responses.[2] Although the majority of the commenters did not dispute the appropriateness of collecting and reviewing customer cash transaction documentation,[3] the commenters did raise a number of questions and criticisms related to specific aspects of the Regulations. The Commission has carefully reviewed the comments received, and has adopted the rule essentially as proposed, with certain modifications and clarifications. The

[1] These transactions are referred to in section 4c(a) of the Commodity Exchange Act ("Act"), 7 U.S.C. 6c(a), and Regulation 1.38(b), 17 CFR 1.38(b), as exchanges of futures for cash commodities or exchanges of futures in connection with cash commodity transactions, but are more commonly known as exchanges of futures for physicals ("EFPs").

[2] This request elicited wirtten comment from: (1) Kansas City Board of Trade; (2) Coffee, Sugar & Cocoa Exchange, Inc.; (3) New York Mercantile Exchange; (4) Chicago Mercantile Exchange; (5) Futures Industry Association; (6) National Grain and Feed Association; (6) Geldermann, Inc.; (8) Salomon Brothers, Inc.; (9) Walters Trading and Investment Company; (10) Cargill, Inc.; and (11) The Wright-Lorenz Grain Co., Inc.

[3] Two commenters voiced their disapproval of the proposed amendments as "unnecessary regulation."

comments are discussed below in the context of each subparagraph of final Regulation I.35(a–2).

A. Subparagraph (a–2)(1)—Collection of Customer Documentation by FCMs, IBs, and Members of Contract Markets

In the November 16, 1988, **Federal Register** release, the Commission proposed to amend Regulation 1.35 by adding a new subparagraph (a–2)(1) which would have required FCMs, IBs, and members of contract markets, upon request of the exchange, the Commission, or the United States Department of Justice, "to obtain from [their] customers and to provide to the requesting body" documentation of cash transactions underlying EFPs. Six commenters stated that proposed subparagraph (a–2)(1) inappropriately placed the burden of production of customer-held documents on FMCs, IBs, and contract market members by requiring that such entities "obtain" and "provide" customer cash documentation. The commenters contended that the proposed subparagraph would have created a new regulatory liability (and a corresponding potential for sanction) for an FCM, IB, or contract market member which requested cash documentation, but failed to receive it from the customer.

Although the Commission did not intend that subparagraph (a–2)(1) be so read, the Regulation, as drafted, could be so interpreted. Accordingly, the Commission has determined to revise subparagraph (a–2)(1) to make clear that FCMs, IBs, and contract market members are required to act as intermediaries for document production between customers and the requesting body. Thus, subparagraph (a–2)(1) of Regulation 1.35, as adopted, states that each FCM, IB, and contract market member "shall request from its customers and, upon receipt thereof, provide to the requesting body" customer cash documentation.

In connection with revising this language, the Commission reminds FCMs, IBs, and contract market members that their role as conduit between the customer and the contract market, the Commission, or the United States Department of Justice is not without attendant duties. First, upon request of one of the foregoing bodies, the FCM, IB, or contract market member must promptly request that the customer provide cash documentation. Second, after receiving the requested customer documents, the FCM, IB, or contract market member must expeditiously forward the documents to the requesting body. Finally, if the documents are not forthcoming, the FCM, IB, or contract market member must so inform the requesting body, in order that the contract market, the Commission, or the United States Department of Justice may take appropriate action. Of course, FCMs, IBs, and contract market members remain responsible for their document retention and production duties under Regulation 1.38(b), 17 CFR 1.38(b), Regulation 1.35(a), 17 CFR 1.35(a), and Regulation 18.05, 17 CFR 18.05.

B. Subparagraph (a–2)(2)—Customer Production of Documentation Upon Request

Proposed subparagraph (a–2)(2) would have required all customers of FCMs, IBs, and contract market members to create, retain, and produce upon request of the FCM, the IB, the contract market member, the exchange, the Commission, or the United States Department of Justice documentation of the cash transactions underlying EFPs. Customers would have been required to retain the documents for five years, pursuant to Regulation 1.31(a)(1), 17 CFR 1.31(a)(1), and to produce the documents to the specified entities promptly upon request.

One commenter noted that the proposed language "was so broad as to allow an FCM, IB, or contract market member to require documentation in the ordinary course of business without such demand being based upon a request from one of the regulatory authorities." The commenter argued that the proposed language could allow firms access to customer records for purposes other than the transmission of documents from the customer to the requesting body. The Commission found merit in this comment and, accordingly, determined to revise subparagraph (a–2)(2) by deleting FCMs, IBs, and contract market members from the list of "requesting bodies."

Several commenters also expressed concern about the confidentiality of customer records under the Regulation as proposed. The commenters asserted that the proposed Regulation would have permitted a firm (*e.g.*, an FCM) to discover, by virtue of its role as a transmitter of documents, the terms on which, and the parties with whom, its customers were conducting business. The commenters asserted that this intermediary role of FCMs, IBs, and contract market members potentially could harm customers because such firms may be competitors of customers in the cash market. Given those commenters' concerns, the Commission has decided that customers, if they so desire, may provide documents directly to the requesting body, bypassing the FCM, IB, or contract market member which relayed the request. In this connection, to avoid unnecessary duplication of efforts, firms may wish to require that their customers notify them of any document production made directly to the requesting entity by the customer.

C. Subparagraph (a–2)(3)—Requirement that Contract Markets Adopt Rules Pertaining to Document Production

The language of final subparagraph (a–2)(3) is identical to that originally proposed by the Commission. The subparagraph requires each contract market to adopt rules mandating that its members produce documentation of cash transactions underlying EFPs.

One commenter asserted that subparagraph (a–2)(3) is unnecessary because exchanges already have the right to demand that their members produce documents that underlie EFP cash transactions. Although the Commission does not dispute the accuracy of the commenter's statement, the Commission nevertheless believes that each exchange should set forth the EFP document production requirement affirmatively in the interest of fully notifying market participants of their obligations and in order to promote consistent treatment of all transactions by all exchanges. Of course, as the Commission indicated in its original proposal, only those exchanges which do not have such an affirmative provision need take regulatory action in order to comply with new Regulation 1.35(a–2). 53 FR 46091.

D. Subparagraph (a–2)(4)—Definition of "Documentation"

Finally, the Commission has adopted subparagraph (a–2)(4) as proposed. The subparagraph states that documentation, as defined in Regulation 1.35(a–2), consists of those documents "customarily generated in accordance with cash market practices which demonstrate the existence and nature of the cash transactions, including, but not limited to, contracts, confirmation statements, telex printouts, invoices, and warehouse receipts or other documents of title." [4]

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[4] As previously noted, the Commission understands that commercial practices in the markets in which EFPs are transacted contemplate that some documentation of the cash transaction will be created. 53 FR 46091. The Commission has stated further that "* * * a customer's inability to produce such documentation would create a strong inference that an EFP is not bona fide." 53 FR 46090.

Several commenters expressed concern that the Commission intended to require that customers submit documentation generated by or in the custody of independent third parties. The commenters stated that documentation in the hands of third parties might be inaccessible to customers, so that customers might be held liable for non-production of documents which were beyond their physical control. The Commission intends that customers retain and produce those documents which are "customarily generated in accordance with cash market practices" and which customers ordinarily would possess or to which they would have access. Thus, the rule would not impose liability on a customer for failure to produce documents which were retained beyond the customer's control.

IV. Implementation Time of Regulation 1.35(a-2)

Final Commission Regulation 1.35(a-2) will beome effective 90 days after the date of publication of the final rule. The delayed effective date should provide ample time for the affected entities to adopt compliance procedures and for exchanges, as necessary, to adopt and submit to the Commission, pursuant to section 5a(12) of the Act, rules consistent with the requirements of Regulation 1.35(a-2)(3).

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 et seq., requires that agencies, in proposing rules, consider the impact of the rules on small businesses. Regulation 1.35(a-2), as promulgated, would affect contract markets, FCMs, IBs, contract market members, and the customers of FCMs, IBs, and contract market members. The Commission previously has determined that contract markets are not "small entities" for the purposes of the RFA, and that the Commission need not, therefore, consider the effect of proposed amendments on contract markets in relation to the RFA. 47 FR 18618, 18619, April 30, 1982. The Commission has also determined that FCMs should be excluded from the definition of "small entity" based upon the fiduciary nature of the FCM/customer relationships as well as the fact that FCMs must meet minimum financial requirements. 47 FR 18618, 18619, April 30, 1982.

With respect to IBs, the Commission has stated that it is appropriate to evaluate within the context of a particular rule proposal whether some or all IBs should be considered small entities and, if so, to analyze the economic impact on such entities at that time. 48 FR 34248, 35275-78, August 3, 1983. Final Regulation 1.35(a-2) will have little effect on IBs, regardless of size. Pursuant to existing Commission Regulation 1.57, 17 CFR 1.57, IBs will never handle customer EFPs independently. Regulation 1.57 requires that IBs open and carry customer accounts with FCMs on a fully-disclosed basis and that they transmit customer orders to FCMs. Given this fact, the FCMs, not the IBs, would have primary responsibility for customer document transmission. As a practical matter, an IB would be approached for customer documents only if an FCM failed to request and forward customer documents and the requesting entity determined not to request documents directly from the customer. Thus, IBs of any size should not be burdened significantly by the final rules.

Like IBs, non-FCM members seldom will be called upon to request and provide documentation of customer EFPs. Non-FCM members generally transact EFPs for their own accounts. In those instances where non-FCM contract market members may act as brokers to arrange EFPs between customers, those members will handle both the cash and the futures portions of the trade and will be acting as IBs. In some circumstances, however, the member may act as broker between customers only as to a cash transaction, which becomes part of an EFP cleared through an FCM. In such cases, which are likely to occur infrequently, the member only would be approached for the cash documentation if the FCM clearing the EFP failed to request and forward customer documents and if the requesting entity chose not to request documentation directly from the customer. Therefore, the final rules should not place a significant burden on non-FCM members of any size.

Finally, the Commission does not believe that final Regulation 1.35(a-2) significantly will affect customers of FCMs, IBs, or contract market members that are also small businesses. For most EFPs, an FCM or contract market member will take the opposite side of the customer transaction and thus will be required to create and retain documentation and to report those transactions under existing Regulation 1.35(a). For most EFPs, then, the participating FCM or contract market member will be the primary source for obtaining documentation of the cash transaction.[5]

In most markets, customers using EFPs generally will be large entities such as commercial market participants (producers, users, etc.), trade houses, institutions, banks, pension funds, and dealers. EFP users in the currency and metals markets are also primarily large entities (i.e., banks, bullion dealers, etc.) However, some participants, although not a substantial number—particularly professional traders, small trade houses, small corporations and other businesses—may be "small entities." To the extent that any small entities do fall within the purview of the final Regulation 1.35(a-2), the recordkeeping required to those entities will be relatively minor. First, the rule requires only that customers create, retain, and produce those documents customarily generated in accordance with cash market practices.[6] Customers presumably create and retain these documents in the normal course of business for general business, financial, and tax reasons. Second, the records of only a small number of transactions will be requested annually so the temporal and monetary impacts of document production on any single entity should be minimal.

Accordingly, pursuant to section 3(a) of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1168 (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, has certified that this rule, as promulgated, will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq., imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. In compliance with the Act the Commission previously submitted this

[5] As noted above, however, the Commission intends that customers create, retain, and produce, upon request, those documents which are "customarily generated in accordance with cash market practices" and which customers ordinarily would possess or to which they would have access.

[6] Document retention under final Regulation 1.35(a-2) would fall within the five-year retention requirement of Commission Regulation 1.31(a), 17 CFR 1.31(a). Regulation 1.31(a) provides:

Section 1.31 Books and Records; Keeping and Inspection. (a)(1) All books and records required to be kept by the Act or by these regulations shall be kept for a period of five years from the date thereof and shall be readily accessible during the 2 years of the 5-year period. All such books and records shall be open to inspection by any representative of the Commission or the U.S. Department of Justice.

rule in proposed form and its associated information collection requirements to the Office of Management and Budget. The Office of Management and Budget approved the collection of information associated with this rule on January 6, 1989, and assigned OMB control number 3038–0022 to the rule. The burden associated with this entire collection, including this final rule is as follows:

Average burden hours per response. 80.83
Number of respondents..... 470
Frequency of response..... On occasion

The portion of the OMB control number 3038–0022 public reporting burden specifically related to the collection of information pursuant to final Regulation 1.35(a–2) is estimated to average one-half hour per response for each of the 24 FCMs, IBs, or contract market members expected to be required to collect documents from customers transacting EFPs at nonreportable levels during a year.[7] This estimate includes time to request, obtain, organize, and provide documents to the Commission, the contract market, or the United States Department of Justice. Each of the estimated 24 customers transacting EFPs at nonreportable levels who are asked to provide documentation annually will spend an estimated one hour per response in locating, photocopying, and providing requested documents through an FCM, IB, or contract market member to the contract market, the Commission, or the United States Department of Justice. Finally, each of the estimated 570 other customers who would be required to maintain documents solely under Regulation 1.35(a–2) are expected to devote two hours to filing documents annually. The total annual public burden related to Regulation 1.35(a–2) is estimated to be 1,176 hours.

Copies of the OMB approved information collection package associated with this rule may be obtained from Gary Waxman, Office of Management and Budget, Room 3220, NEOB, Washington, DC 20503, (202) 395–7340.

List of Subjects in 17 CFR Part 1

Commodity futures, Contract markets, Customers, Exchanges of futures for physicals, Futures commission merchants, Introducing brokers, Members of contract markets, Noncompetitive trading, Reporting and recordkeeping requirements.

[7] Commission regulation 18.05 currently requires that each trader holding or controlling reportable positions keep records of all futures and cash commodity positions and transactions.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4, 4c, 4g, 5, 5a, 8, and 8a thereof, 7 U.S.C. 6, 6c, 6g, 7, 7a, 12, and 12a, the Commission hereby amends part 1 of chapter I of title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 19, 21, 23, and 24, unless otherwise stated.

2. Section 1.35 is amended by adding paragraph (a–2) to read as follows:

§ 1.35 Records of cash commodity, futures, and option transactions.

* * * * *

(a–2)(1) *Futures commission merchants, introducing brokers, and members of contract markets.* Upon request of the contract market, the Commission, or the United States Department of Justice, each futures commission merchant, introducing broker, and member of a contract market shall request from its customers and, upon receipt thereof, provide to the requesting body documentation of cash transactions underlying exchanges of futures for cash commodities or exchanges of futures in connection with cash commodity transactions.

(2) *Customers.* Each customer of a futures commission merchant, introducing broker, or member of a contract market shall create, retain, and produce upon request of the contract market, the Commission, or the United States Department of Justice documentation of cash transactions underlying exchanges of futures for cash commodities or exchanges of futures in connection with cash commodity transactions.

(3) *Contract markets.* Every contract market shall adopt rules which require its members to provide documentation of cash transactions underlying exchanges of futures for cash commodities or exchanges of futures in connection with cash commodity transactions upon request of the contract market.

(4) *Documentation.* For the purposes of this paragraph, documentation means those documents customarily generated in accordance with cash market practices which demonstrate the existence and nature of the underlying cash transactions, including, but not limited to, contracts, confirmation statements, telex printouts, invoices, and warehouse receipts or other documents of title.

* * * * *

Issued in Washington, DC on August 11, 1989 by the Commission.

Jean A. Webb,

Secretary.

[FR Doc. 89–15314 Filed 8–16–89; 8:45 am]

BILLING CODE 6351–01–M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 213

Trade Remedy Assistance

AGENCY: U.S International Trade Commission.

ACTION: Notice of final rulemaking.

SUMMARY: This notice sets forth final rules that the U.S. International Trade Commission has adopted to revise part 213 of the Commission's Rules of Practice and Procedure. Part 213 sets forth the rules governing trade remedy assistance provided by the Commission through the Trade Remedy Assistance Office.

Notice of proposed rulemaking was published in the **Federal Register** on December 21, 1988 (53 FR 51281) and interested persons were given until February 6, 1989, to submit comments. None were submitted.

The revisions to part 213 conform the rules to the changes made in section 339 of the Tariff Act of 1930 (19 U.S.C. 1339) by section 1614 of the Omnibus Trade and Competitiveness Act of 1988 ("the Omnibus Trade Act"). The amendments provide that an office to be known as the Trade Remedy Assistance Office ("Office") is established in the Commission; that the Office shall provide advice and assistance concerning remedies and procedures under the trade laws identified in section 339 of the Tariff Act of 1930; and that the Office, in coordination with other agencies administering trade laws, shall provide technical assistance to eligible small businesses to assist them in seeking relief under the identified trade laws. Technical assistance shall be available to assist eligible small businesses in preparing complaints or petitions for relief and in any consequent administrative review or appeal to the administering agency.

The final rules adopted closely follow those proposed and published in the **Federal Register** of December 21, 1988 with the exception of (1) non-

substantive or grammatical changes to reduce redundant explanations and to make the final rules easier to understand; (2) the addition of a requirement that trade associations applying for technical assistance from the Trade Remedy Assistance Office provide a listing of members; (3) the removal of the application form for technical assistance from the rules themselves. The added requirement that trade associations applying for technical assistance provide a listing of members is intended to enable the Commission to verify the eligibility of such applicants. The application form for technical assistance was removed from the rules because the form itself does not affect the substantive requirements for obtaining technical assistance from the Trade Remedy Assistance Office.

EFFECTIVE DATE: September 18, 1989.

ADDRESSES: Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC, 20436.

FOR FURTHER INFORMATION CONTACT: Gary L. Kaplan, Director, Trade Remedy Assistance Office, U.S. International Trade Commission, telephone (202) 252–2200 or 1–800–343–9822. Hearing impaired individuals may obtain further information on this matter by contacting the Commission's TDD terminal at (202) 252–1810.

SUPPLEMENTARY INFORMATION: The Commission has determined that the revisions do not constitute a "major rule" within the meaning of Executive Order 12291 (Improving Government Relations) and do not exert a "significant economic impact on a substantial number of small entities" within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

Explanation of Revisions to 19 CFR Part 213

Section 213.1

Section 213.1 is amended to refer to the new statutory provisions in the Omnibus Trade Act, to identify the Trade Remedy Assistance Office, to incorporate the statutory requirement of assisting and advising interested parties concerning remedies and procedures under the trade laws listed in § 213.2(b) of this part, and to indicate that the Trade Remedy Assistance Office, in coordination with the other agencies responsible for administering these trade laws, shall provide technical assistance to eligible small businesses seeking relief under these trade laws.

Section 213.2

Existing § 213.2 has been deleted, because it is duplicative of the requirements for assistance set forth in existing § 213.4, renumbered as § 213.3.

Section 213.3

Section 213.3 is renumbered § 213.2. Section 213.3(a) is renumbered § 213.2(a) and amended to reflect the replacement of the "Trade Remedy Assistance Center" by the "Trade Remedy Assistance Office," to include and to correct the Office's address which appears in existing rule § 213.4, to incorporate the new statutory requirement of advising and assisting interested parties concerning remedies and procedures, and to provide that technical assistance, as defined § 213.2(d), is to be coordinated with the other agencies responsible for administering the trade laws listed in § 213.2(b).

Section 213.3(b) is renumbered § 213.2(b) and amended to replace the words "Trade Remedy Laws" with the term "Trade Laws," which appears in section 339 of the Tariff Act of 1930, and to list each of the trade laws in the statute since the Office is now required to provide technical assistance regarding all of these laws. Prior to passage of the Omnibus Trade Act, the Trade Remedy Assistance Center was responsible for providing technical assistance only with regard to those trade remedy laws administered by the Commission. Section 406 of the Trade Act of 1974 (19 U.S.C. 2436, relating to market disruption investigations) is also included in the list of trade laws in § 213.2(b). Although section 406 is not included in the trade laws listed in section 339 of the Tariff Act of 1930, it is administered by the Commission, it provides for relief similar to that which may be obtained under section 201 of the Trade Act of 1974, (19 U.S.C. 2251) and it is included in the list of "Trade Remedy Laws" appearing in existing § 213.3(b).

A new § 213.2(c) is added to define the term "administering agency" as used in these proposed rules and to identify the agency or agencies responsible for administering each of the trade laws listed in § 213.2(b)

Existing § 213.3(c) is renumbered § 213.2(d) and adds language indicating that technical assistance is available during administrative review or appeals to the administering agency. Under the prior law and the existing rule, technical assistance was limited to the period "up to the date of the filing of a petition or complaint at the Commission." Language has been added to reflect that technical assistance, which includes informal legal advice and assistance, does not include legal representation of an eligible small business or advocacy on its behalf, and that the receipt of such assistance does not ensure that the recipient will prevail in any trade remedy proceeding. *See* H.R. Rep. No. 40, 100th Cong., 1st Sess. 172–173 (1987). Language also has been added to this section to indicate that, as had been the practice of the Trade Remedy Assistance Center, the staff of the Office may consult with other Commission personnel when provding technical assistance.

Existing § 213.3(d) is renumbered § 213.2(e), but is otherwise without substantive change. Existing § 213.3(e) is renumbered § 213.2(f) and amended to refer to SBA size standards as the basis for determining the eligibility of a small business for technical assistance.

Section 213.4

Section 213.4 is renumbered § 213.3. Section 213.4(a) is renumbered § 213.3(a), retitled more appropriately "Application for Technical Assistance from Small Businesses," and amended to delete the Office's address and to add language that an application for assistance is available from the Office. Otherwise this section is substantively the same as existing § 213.4(a). Section 213.4(b) is renumbered § 213.3(b) and retitled more appropriately "Application for Technical Assistance from Joint Applicants, Trade Associations and Unions," but is substantively unchanged from existing § 213.4(b), except for the new requirement that trade associations must provide a list of members to be eligible for technical assistance. Sections 213.4(c) is renumbered § 213.3(c), retitled more appropriately "Determination of Eligibility and Notification of Determination," and amended to recite that the Office will make a determination of eligibility. Section 213.4(d) is renumbered § 213.3(d), but is not substantively changed from existing § 213.4(d).

Section 213.5

Section 213.5 is renumbered § 213.4 and amended to add the requirement that an eligible small business that has received technical assistance from the Office must disclose that fact in any petition, application or complaint filed with any other agency which administers the trade law under which remedies or benefits are sought. In the existing rule, such disclosure was only required for petitions or complaints filed with the Commission. This change is consistent with the requirement in the Omnibus Trade Act that the Office shall now provide technical assistance regarding all the listed trade laws.

Section 213.6

Section 213.6 is renumbered § 213.5, but is not substantively changed from existing § 213.6.

Section 213.7

Section 213.7 is renumbered § 213.6, but is not substantively changed from existing § 213.7.

Appendix A

Appendix A, which set forth an application form for obtaining technical assistance, has been deleted from the rules, because the form itself does not affect the substantive requirements for obtaining technical assistance from the Office.

List of Subjects in 19 CFR Part 213

Administrative practice and procedure, Imports, Small businesses, Trade remedy assistance.

19 CFR part 213 is revised as follows:

PART 213—TRADE REMEDY ASSISTANCE

Sec.

213.1 Purpose and applicability of part.
213.2 Definitions.
213.3 Determination of small business eligibility.
213.4 Disclosure of receipt of technical assistance.
213.5 Access to Commission resources.
213.6 Information concerning assistance.

Authority: Sec. 339 of the Tariff Act of 1930 (19 U.S.C. 1339), as added by sec. 221, Trade and Tariff Act of 1984 (Pub. L. 98–573, approved Oct. 30, 1984; 90 Stat. 2989), and as amended by sec. 1614, Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418, approved Aug. 23, 1988; 102 Stat. 110); sec. 335, Tariff Act of 1930 (72 Stat 680; 19 U.S.C. 1335).

§ 213.1 Purpose and applicability of part.

(a) Section 339 of the Tariff Act of 1930, as amended, establishes in the Commission an office known as the Trade Remedy Assistance Office and directs the Commission to provide general information to the public, upon request, and, to the extent feasible, assistance and advice to interested parties concerning the remedies and benefits available under the trade laws identified in § 213.2(b) and the procedures to be followed and appropriate filing dates in investigations under the trade laws. In coordination with other agencies administering the trade laws, the Trade Remedy Assistance Office also shall provide technical assistance, as defined in § 213.2(d), to eligible small businesses seeking to obtain the remedies and benefits available under the trade laws.

(b) The rules in this Part govern the establishment of the Trade Remedy Assistance Office, its function, small business eligibility for technical assistance and procedures for obtaining such assistance. Members of the public seeking general information from the Trade Remedy Assistance Office are not subject to the application procedures set forth in this Part.

§ 213.2 Definitions.

(a) *Office.* The Trade Remedy Assistance Office (hereinafter "Office") provides general information to the public, upon request, and, to the extent feasible, assistance and advice to interested parties concerning the remedies and benefits available under the trade laws identified in § 213.2(b) and the procedures to be followed and appropriate filing dates in investigations under those trade laws. In coordination with other agencies responsible for administering the trade laws listed in § 213.2(b), the Office also provides technical assistance, as defined in § 213.2(d) to eligible small businesses that seek to obtain remedies and benefits under the trade laws. The Office's address is Trade Remedy Assistance Office, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

(b) *Trade laws.* The trade laws (with respect to which general information and technical assistance are available) are defined as:

(1) Chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to injury caused by import competition);

(2) Chapters 2 and 3 of such title II (relating to adjustment assistance for workers and firms);

(3) Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

(4) Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., relating to the imposition of countervailing duties and antidumping duties);

(5) Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, relating to the safeguarding of national security);

(6) Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, relating to unfair practices in import trade); and

(7) Section 406 of the Trade Act of 1974 (19 U.S.C. 2436, relating to market disruption).

(c) *Administering agencies.* Administering agency refers to the agency or agencies responsible for administering a particular trade law. The trade laws relating to injury caused by import competition, unfair practices in import trade and market disruption are administered by the Commission. The trade laws relating to countervailing and antidumping duties are jointly administered by the Commission and the Department of Commerce. The trade laws relating to adjustment assistance for firms and safeguarding national security are administered by the Department of Commerce. The trade law relating to adjustment assistance for workers is administered by the Department of Labor. The trade law relating to relief from foreign import restrictions and export subsidies is administered by the United States Trade Representative.

(d) *Technical Assistance.* Technical assistance is informal advice and assistance, including informal legal advice, intended to enable eligible small businesses to determine the appropriateness of pursuing particular trade remedies, to prepare petitions and complaints (other than those which are frivolous in the opinion of the agency) and to seek to obtain the remedies and benefits available under the trade laws identified in § 213.2(b). Technical assistance is available to eligible small businesses at any time until the completion of administrative review or of an appeal to the administering agency regarding proceedings under the trade laws listed in § 213.2(b). Technical assistance does not include legal representation of an eligible small business or advocacy on its behalf and receipt of technical assistance does not ensure that the recipient will prevail in any trade remedy proceeding. The Office provides such technical assistance independently of other Commission staff but may consult with other staff as appropriate.

(e) *Applicant.* An applicant is an individual, partnership, corporation, joint venture, trade or other association, cooperative, group of workers, or certified or recognized union, or other entity that applies for techincal assistance under this part.

(f) *Eligible small business.* An eligible small business is an applicant that the Office has determined to be entitled to technical assistance in accordance with the SBA size standards and the procedures set forth in this part.

(g) *SBA size standards.* SBA size standards are the small business size standards of the Small Business Administration set forth in 13 CFR 121.2. The SBA size standards categorize business concerns according to the Standard Industrial Classification ("SIC") code of the Bureau of the Census and base the size determination upon the number of employees or annual receipts of the business concern in the appropriate SIC category.

§ 213.3 Determination of small business eligibility.

(a) *Application for technical assistance from small businesses.* An applicant for technical assistance must certify that it qualifies as a small business under the appropriate size standard(s) and that it is an independently owned and operated company. An application for technical assistance is available from the Office. The application must be signed under oath by an officer or principal of the applicant. The completed application should be submitted to the Office at the address set forth in § 213.2(a).

(b) *Application for technical assistance from joint applicants, trade associations and unions.* If several businesses jointly or simultaneously from the same industry apply for technical assistance, each business must meet the appropriate SBA size standard(s) and so certify. If a trade association applies for technical assistance, an officer of the trade association must certify that eighty (80) percent of the trade association's members are companies that meet the appropriate size standard(s) and provide a listing of members of the association. If a union applies for technical assistance, an officer of the union must certify that the union has less than ten thousand (10,000) members within the industry for which trade relief is being sought. Applications for trade associations or for unions to request technical assistance are available from the Office. Applications must be signed under oath by an officer of the association or union and completed applications should be submitted to the Office as set forth in § 213.2(a).

(c) *Determination of eligibility and notification of determination.* The Office shall determine whether the applicant is eligible for technical assistance and notify the applicant of the determination within ten (10) days of receipt of a properly completed application. Pursuant to 19 U.S.C. 1339(c)(1), the Office's determination of eligibility is not reviewable by any other agency or by any court.

(d) *Notification to administering agencies.* When an applicant seeks technical assistance on matters involving the trade laws, and the Office determines that the applicant is eligible for technical assistance, the Office shall:

(1) Promptly notify the appropriate administering agency or agencies of the Office's determination that the applicant is eligible to receive technical assistance; and

(2) Consult with the administering agency or agencies as to the provision of technical assistance to that applicant.

§ 213.4 Disclosure of receipt of technical assistance.

An eligible small business that has received technical assistance from the Office must state that it has received technical assistance from the Trade Remedy Assistance Office in any resulting petition, complaint or application which is filed with the Commission or any other agency which administers the trade law under which remedies or benefits are sought.

§ 213.5 Access to Commission resources.

Commission resources, in addition to the Office's resources, are available to an eligible small business to the same extent as those resources are available to members of the general public. No special rights of access to Commission resources shall be accorded to an eligible small business.

§ 213.6 Information concerning assistance.

Any person may contact the Office with questions regarding eligibility for technical assistance. Summaries of the trade laws and the SBA size standards can be obtained by writing to the Trade Remedy Assistance Office, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

By order of the Commission.

Issued: August 10, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-19204 Filed 8-16-89; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Maduramicin Ammonium With Roxarsone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by American Cyanamid Co. The application provides for the use of currently approved maduramicin ammonium 1 percent Type A articles and roxarsone 10, 20, 50, or 80 percent Type A articles to make combination drug Type C broiler feeds. The feeds are for the prevention of coccidiosis and for increased rate of weight gain and improved feed efficiency.

EFFECTIVE DATE: August 17, 1989.

FOR FURTHER INFORMATION CONTACT: James F. McComack, Center for Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., Berdan Ave., Wayne, NJ 07470, is the sponsor of NADA 140-821. The NADA provides for combining Cygro™ (maduramicin ammonium) 1 percent Type A articles with 3-Nitro™ (roxarsone) 10, 20, 50, or 80 percent Type A articles to make Type C broiler feeds containing 4.54 to 5.45 grams of maduramicin ammonium and 22.7 to 45.4 grams of roxarsone per ton of feed. The Type C broiler feeds are for the prevention of coccidiosis caused by *Eimeria acervulina, E. tenella, E. brunetti, E. maxima, E. necatrix,* and *E. mivati,* for increased rate of weight gain and for improved feed efficiency. The NADA is approved and 21 CFR 558.340(c) and 558.530(d)(3) are amended to reflect the approval.

Maduramicin ammonium and roxarsone are new animal drugs used in Type A articles to make combination drug Type C feeds. They are Category II drugs which, as provided for in 21 CFR 558.4(e), require an approved form FD-1900 for making a Type C feed from a Type A article as in this NADA as approved and in the regulations in 21 CFR 558.340 as amended.

In accordance with the freedom of information provisions of Part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(ii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animals feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to