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DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CAS-RM-79-102]

Energy Conservation Program for Consumer Products; Final Rulemaking Regarding Test Procedures for Central Air Conditioners, Including Heat Pumps; Correction

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Fianal rule; correction.

SUMMARY: On March 14, 1988 (53 FR 8304), DOE published a final rule amending test procedures for central air conditioners, including heat pumps. This document corrects an editorial error in that notice. The correction is set out below.

EFFECTIVE DATE: September 12, 1988.

Issued in Washington, DC, March 29, 1988.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

PART 430—[CORRECTED]

1. In § 430.2 the definition of "Central air conditioners," is correctly revised as follows.

§ 430.2 Definitions

* * * * *

"Central air conditioner" means a product, other than a packaged terminal air conditioner, which is powered by single phase electric current, air cooled, rated below 65,000 Btu per hour, not contained within the same cabinet as a furnace, the rated capacity of which is above 225,000 Btu per hour, and is a heat pump or a cooling unit only.

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[FR Doc. 88-7242 Filed 4-1-88; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Placement of Propylhexedrine and Pyrovalerone Into Schedule V

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration (DEA) in order to place propylhexedrine and pyrovalerone into Schedule V of the Controlled Substances Act (CSA). This action is being taken to enable the United States to meet its obligations under the 1971 Psychotropic Convention. As a result of this rule, some of the regulatory controls and the criminal sanctions of a Schedule V substance under the CSA will be applicable to the manufacture, distribution and possession of propylhexedrine and pyrovalerone.

EFFECTIVE DATE: The effective date for the requirements imposed by this Order is May 4, 1988, unless otherwise set forth below in the supplementary information section.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking regarding placement of propylhexedrine and pyrovalerone into Schedule V of the CSA was published in the **Federal Register** on October 30, 1987 (52 FR 41737). The Administrator found that the temporary placement of propylhexedrine and pyrovalerone into Schedule V is necessary in order to satisfy United States obligations under the 1971 Convention on Psychotropic Substances.

In response to the Notice of Proposed Rulemaking, a comment was received from SmithKline Consumer Products, the manufacturer of a preparation that contains propylhexedrine. In that comment, SmithKline asserted that U.S. treaty obligations would be satisfied by provisions of the Federal Food, Drug and Cosmetic Act, and therefore, that placement of propylhexedrine into Schedule V was unnecessary. The provisions of the Psychotropic Substances Act of 1978, Pub. L. 95-633, clearly indicate that Congress intended that

> control of psychotropic substances in the United States should be accomplished within the framework of the procedures and criteria for classification of substances provided in the Comprehensive Drug Abuse Prevention and Control Act of 1970. 21 U.S.C. 801(a)(3).

The provision of the Psychotropic Substances Act, as codified into the CSA, which applies with regard to propylhexedrine and pyrovalerone is found at 21 U.S.C. 811(d)(4)(B). It clearly states that in a case such as the one at issue, a substance shall be placed in Schedule IV or V of the CSA in order to carry out the minimum United States obligations under the treaty. This paragraph further specifies that the Attorney General shall except the drug from application of any provision of the CSA which he finds is not necessary to carry out treaty obligations. Consistent with this requirement, the Administrator will except propylhexedrine and pyrovalerone from certain recordkeeping and security requirements of the CSA. The requirements necessary for compliance with the treaty include: licensing or registration of manufacturers, import and export restrictions, and penal measures for illegal activity. These requirements cannot be imposed under the Federal Food, Drug and Cosmetic Act.

It should be noted that the United States has formally requested that the Secretary-General of the United Nations exempt the propylhexedrine-containing preparations presently approved by the Food and Drug Administration, including the SmithKline product, from specified measures of international control. In conjunction with this request, DEA will accept applications from manufacturers of products containing propylhexedrine for exclusion of their products pursuant to 21 U.S.C. 811(g)(1) and 21 CFR 1308.22. Such exclusions

would permit the present propylhexedrine-containing nasal inhalers to retain their over-the-counter status. If SmithKline, or any other firm that manufactures a product containing propylhexedrine, submits such a request for exclusion, DEA will make every effort to expedite the processing of the request. In essence, the exemption of the substances propylhexedrine and pyrovalerone from certain regulations and the exclusion of products containing propylhexedrine will impose minimal regulatory burden on legitimate manufacturers, while enabling the United States to comply with the requirements of the Psychotropic Convention.

The following provisions of the regulations (and their effective dates) that will be applicable to propylhexedrine and pyrovalerone are as follows:

1. *Registration.* Any person who manufactures, distributes, engages in research, imports, exports or otherwise handles propylhexedrine and/or pyrovalerone or who proposes to engage in such activity shall obtain a registration to conduct that activity by June 3, 1988, pursuant to Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Importation and Exportation.* All importation and exportation of propylhexedrine and/or pyrovalerone occurring after May 4, 1988, shall be in compliance with Part 1312 of Title 21, Code of Federal Regulations.

3. *Criminal Liability.* Any activity with propylhexedrine and/or pyrovalerone not authorized by the CSA or implementing regulations occurring after May 4, 1988, is unlawful.

Those properly registered to handle propylhexedrine and/or pyrovalerone will be exempted from the security requirements of 21 CFR 1301.71–1301.76; the labelling and packaging requirements of 21 CFR 1302.03–1302.05, 1302.07 and 1302.08; the inventory requirements of 21 CFR 1304.11–1304.19; and the recordkeeping requirements of 21 CFR 1304.21–1304.27.

Pursuant to Title 5, United States Code, section 605(b), the Administrator certifies that the placement of propylhexedrine and pyrovalerone into Schedule V of the CSA, as ordered herein, will not have a significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). This action must be carried out in order to fulfill United States international treaty obligations.

In accordance with the provisions of 21 U.S.C. 811(d), this scheduling action is a formal rulemaking that is required by United States obligations under an international convention, namely, the Convention on Psychotropic Substances, 1971. Such formal proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193).

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Accordingly, based upon the notification of the Secretary-General of the United Nations, the requests by the Government of the United States relative to a qualified acceptance of the scheduling decisions regarding propylhexedrine and pyrovalerone and in accordance with the recommendations of the Assistant Secretary for Health, Department of Health and Human Services, under the authority vested in the Attorney General by 21 U.S.C. 811(d)(4) (B) and (C) and delegated to the Administrator of DEA by 28 CFR 0.100, the Administrator hereby amends 21 CFR 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. A new paragraph (d) is added to § 1308.15 to read as follows:

§ 1308.15 Schedule V.

* * * * *

(d) *Stimulants.* Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Propylhexedrine.....8161.
(2) Pyrovalerone.....1485.

John C. Lawn,

Administrator, Drug Enforcement Administration.

Dated: March 29, 1988.

[FR Doc. 88–7303 Filed 4–1–88; 8:45 am]

BILLING CODE 4410–09–M

Office of the Attorney General

28 CFR Part 0

[Order No. 1265–88]

Delegation of Power of the Attorney General Respecting Transfer of Offenders to or From Foreign Countries

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Section 0.64–2 of Title 28, Code of Federal Regulations, delegates to the Assistant Attorney General in charge of the Criminal Division all of the powers conferred on the Attorney General under 18 U.S.C. 4102 which have not been delegated to the Director of the Bureau of Prisons, including the authority to find appropriate or inappropriate the transfer of offenders to or from a foreign country under a treaty as referred to in Pub. L. 95–44. This final rule amends 28 CFR 0.64–2 by authorizing the Assistant Attorney General in charge of the Criminal Division to redelegate this authority to his Deputy Assistant Attorneys General, the Senior Associate Director of the Office of Enforcement Operations and, in the absence of the Senior Associate Director, to the Director of the Office of Enforcement Operations. This rule reflects certain organizational changes that have been made in the Criminal Division with respect to which office is charged with the responsibility for handling prisoner transfers under 18 U.S.C. 4102.

EFFECTIVE DATE: March 23, 1988.

FOR FURTHER INFORMATION CONTACT: Gerald Shur, Senior Associate Director, Office of Enforcement Operations, Criminal Division, Department of Justice, Washington, DC 20530; 202–633–3684.

SUPPLEMENTARY INFORMATION: The Assistant Attorney General currently is authorized under 28 CFR 0.64–2 to redelegate to his Deputy Assistant Attorneys General and appropriate Office Directors and Section Chiefs his authority to find appropriate or inappropriate the transfer of offenders to or from a foreign country under certain treaties. This final rule authorizes the Assistant Attorney General to redelegate this authority to his Deputy Assistant Attorneys General, the Senior Associate Director, Office of Enforcement Operations and, in the absence of the Senior Associate Director, the Director of the Office of Enforcement Operations.