

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Chapter III

[020711168-2168-01]

RIN: 0625-AA60

Steel Import Licensing and Surge Monitoring

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Proposed rule and request for public comment.

SUMMARY: The Department of Commerce is issuing, and requesting public comment on, a proposed rule to establish a steel licensing and surge monitoring system as instructed by the President in his announcement of safeguard remedies on certain steel products.

DATES: Written comments must be received on or before 5 p.m. Eastern daylight savings time on August 19, 2002. Please keep written comments to five pages or less.

ADDRESSES: Written comments should be sent to Roland L. MacDonald, Director of Policy and Analysis, Import Administration, Room 3713, Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Kelly Parkhill (202) 482-3791; Julie Al-Saadawi (202) 482-1930; or Laura Merchant (202) 482-0367.

SUPPLEMENTARY INFORMATION: On March 5, 2002, President Bush announced the imposition of safeguard measures on certain steel products pursuant to Section 203 of the Trade Act of 1974 (see 67 FR 10593; a copy of the President's proclamation is available on the White House website: <http://www.whitehouse.gov/news/releases/2002/03/20020305-7.html>). These measures, in the form of tariffs ranging from 8 to 30 percent on a number of

steel products and a tariff-rate quota on slabs, were the result of a section 201 investigation requested by the President and initiated by the International Trade Commission (ITC) in June 2001. The effective date of the safeguard measures was March 20, 2002.

A number of countries were exempted from the safeguard measures because of international commitments under bilateral free trade agreements, NAFTA and the WTO. However, in granting these exemptions, the President made clear that the exclusionary status would be revoked for developing countries, in full or part, if a surge in imports from that exempted country were to undermine the effectiveness of the safeguard measure. The President also stated that the United States Trade Representative (USTR):

is authorized to determine whether a surge in imports of a product that is the product of a country listed in subdivision (d)(i) undermines the effectiveness of the pertinent safeguard measure and, if so, upon publication of a notice in the **Federal Register**, to revise subdivision (d) of Note 11 in the Annex to this proclamation to indicate that such product from such country is not excluded from such safeguard measure.

The President instructed USTR to review import data on a quarterly basis for signs of material increases in imports, which would then be the basis for immediate consultations and possible inclusion in the safeguard measure. To assist this effort, the President instructed the Secretary of the Treasury and the Secretary of Commerce to:

establish a system of import licensing to facilitate the monitoring of imports of certain steel products. * * * [and] the Secretary of Commerce, within 120 days of the effective date of the safeguard measures established by the Proclamation, to publish regulations in the **Federal Register** establishing such a system of import licensing.

The Secretary of Commerce has delegated the responsibility for issuing these regulations to the Import Administration. In fulfillment of the President's instructions, the International Trade Administration is today publishing this proposed rule and request for comment to establish an internet-based steel licensing and surge monitoring system. The system will be comprised of three parts:

(1) An online registration system for steel importers;

(2) An automatic steel license issuance system; and

(3) An import surge monitoring website.

Although portions of these systems will be linked, for security purposes and the protection of proprietary information collected, the three systems will operate separately on a stand-alone basis. There will be an alternative backup method in place at Commerce, such as a telephone or fax system, should there be a malfunction of the internet-based system.

All imports of steel products listed in the President's section 201 relief determination, including those products subject to country exemptions or product exclusions will be required to obtain a steel import license and provide the license number to U.S. Customs on the entry summary. The only exceptions are the low-valued imports described below under "informal entries". Information gathered from these licenses will be used to ensure that the purpose of the 201 relief is not undermined. An interagency group will assist USTR with analysis required of the data collected beyond the data posted for the surge monitor.

Steel Import Licensing System. The steel import licensing system includes both the online registration system for importers and the automatic steel import license issuance system. In order to obtain a steel import license, an importer or the importer's agent or customs broker, must first register with the Department of Commerce (Commerce) and be assigned a user identification number. This identification number will be required to log on to the steel import license issuance system. A single user identification number will be issued to an importing company or brokerage house. Operating units within the company (e.g., individual branches, divisions or employees) will all use the same company user identification code. The steel import license issuance system will be designed to allow multiple users of a single identification number from different locations within the company to enter information simultaneously.

Any company or broker with a United States address may register and obtain a user identification number. There is no fee to register and a user identification number will be issued within two (2) business days. As part of the registration

process, the importer, agent or customs broker will be required to provide certain general information. Such information will include the applicant company name, Employer Identification Number (EIN) or the Customs ID number (where no EIN is available), address, phone number, contact information and email address for both the company headquarters and any branch offices that will be applying for steel licenses. This information will be used solely for the purposes of administering the steel import licensing and surge monitoring programs. The information will not be released by Commerce, except as required by U.S. law. Commerce will begin registering and issuing user identification numbers at least two weeks prior to the implementation date of the steel licensing program. Should a company prefer to apply for an ID non-electronically, a fax/phone option will be available at Commerce during regular business hours. The user ID will be needed to apply for the license. One option for the user ID may be the Employer Identification Number or Customs ID number (where there is no EIN).

Steel import licenses will be issued to registered importers, customs brokers or their agents through an automatic steel import licensing system. The separately issued user identification number discussed above will be required to access the system. There will be no fee charged to apply for the import licenses.

Steel import licenses will be issued automatically after the completion of the application form. In order to obtain the license, the applicant must report the following information about the steel import transaction:

- (1) Applicant company name and address;
- (2) Applicant contact name, phone number, fax number and email address;
- (3) Importer name;
- (4) Exporter name;
- (5) Manufacturer name;
- (6) Country of origin;
- (7) Country of exportation;
- (8) Expected date of export;
- (9) Expected date of import;
- (10) Expected port of entry;
- (11) Customs entry number;
- (12) Current HTS number (from Chapters 72, 73, or 99);
- (13) Original HTS number in Chapter 72 or 73 (if HTS number in 12 above is a Chapter 99 product);
- (14) Quantity (in kilograms); and
- (15) Customs value (U.S. \$).

Much of the information requested on the application form will be filled out automatically based on information provided in the registration process

(e.g., applicant company name and address) or will be self-generated from other information reported in the form (e.g., product description, section 201 remedy category or average unit value). Other information will be available from flip down lists in the application form (e.g., HTS numbers covered by the section 201 remedy, country of origin, port of entry) and will not have to be typed. A sample copy of the steel import license is available for viewing on Import Administration's website (<http://ia.ita.doc/steel/license/>). As currently proposed, a Customs entry number must be reported in order to obtain a license. Parties are encouraged to comment on whether the Customs entry number should remain a required field or if it should only be required if available at the time of filing. Parties are also encouraged to comment whether applicants should be allowed to enter "unknown" in the fields for exporter and manufacturer name.

Upon completion of the application form, the importer, customs broker or the importer's agent will certify as to the accuracy and completeness of the information and submit the form electronically. After refreshing the page, the system will automatically issue a steel import license number. The refreshed form containing the submitted information and the newly issued license number will appear on the screen (the "license form"). Applicants can print the license form themselves only at that time. For security purposes, users will not be able to retrieve licenses themselves from the license system at a later date for reprinting. If needed, copies of completed license forms can be requested from Commerce during normal business hours.

The steel import license will be required on every entry of covered steel products (except informal entries covered below). As currently envisioned, a single license could cover multiple products as long as the importer, exporter, manufacturer, and country of origin and exportation are the same. However, separate licenses would be required if any of the above information differed with respect to a given set of covered imported steel products. As a result, a single Customs entry may require more than one steel import license. The applicable license number(s) must cover the total quantity of steel entered and should match the information provided on the Customs entry summary. There is no requirement to present physical copies of the license forms at the time of entry summary; however, copies must be maintained in accordance with Customs' normal requirements.

Commerce is examining two alternative licensing procedures: a single license per entry and a multiple entry license. Under the multiple entry option, the license could be obtained for the quantity of goods to be imported over an extended period (up to 30 days) and the same license number would be reported until the quantity is exhausted or the license has expired. Parties interested in such alternative licensing procedures should submit comments on the requirements of such licenses and the ways in which the necessary accuracy of such information can be ensured.

Certain aggregate information collected from the license application system will be posted on the steel import surge monitoring website. Subject to comment received, only the aggregate information described below will be available to the public. All other information including copies of the licenses and the names of importers, exporters, and manufacturers, will be considered business proprietary information and will not be released to the public. Its use will be strictly limited to the administration of the section 201 remedies imposed by the President and it will not be kept longer than the period of time legally required beyond the expiration of these remedies.

In addition to the sample steel import license, prototype versions of the online registration system and the automatic steel import license issuance system are available for test use on Import Administration's website (<http://ia.ita.doc.gov/steel/license/>). Interested parties are encouraged to test the system and comment on any concerns about the system or provide suggested improvements.

Steel Import Surge Monitoring System. Commerce will create a stand-alone steel import surge monitoring website. This website will report certain aggregate information on imports of section 201 product categories obtained from the steel licenses. Aggregate information will be reported on a monthly basis by country of origin and section 201 product category and will include import quantity (metric tons), import Customs value (U.S. dollars) and average unit value (dollars per metric ton). Reported monthly import data will be refreshed each week with new data on licenses issued in the prior week. This data collected may be adjusted periodically for canceled or unused steel import licenses, if deemed appropriate for accurate monitoring purposes. Parties are encouraged to comment whether additional aggregate data should be reported (e.g., port of entry data) and any disclosure concerns

they may have over the currently proposed system (e.g., as currently proposed Commerce will not adjust, range or redact any aggregate information reported by the monitoring system)

The monitoring system will also present a range of historical data for comparison purposes. This will include comparisons to the previous month and to the same month in the previous year, three month rolling averages along with similar comparisons to the immediately preceding period, the same period from the preceding year, and monthly import data on each complete section 201 product category. A sample version of the steel import surge website is available for viewing on Import Administration's website (<http://ia.ita.doc.gov/steel/license/>).

At present, Commerce is still considering whether similar aggregate data on excluded products will be reported on the monitoring system website given the more specific nature of these products. As currently envisioned, such information would only be available for review by the appropriate government agencies. However, we encourage parties to comment on whether some sort of aggregate data on these products could or should be reported on the monitoring website (e.g., quantity by country of origin and remedy product category).

Duration of the Steel Import License. The steel import license can be applied for up to 30 days prior to the expected date of importation and until the date of filing of the entry summary documents. The steel import license is valid for up to 45 days; however, import licenses that were valid on the date of importation but expired prior to the filing of entry summary documents will be accepted. Special timing issues surrounding withdrawal of products from a warehouse, FTZ issues, and temporary imports will be handled separately.

Handling of Steel to Foreign Trade Zones. Commerce proposes to require a license for steel shipped into a U.S. FTZ. Because a Customs entry number would not be available for shipments entering the FTZ, an alternate code would be entered in the Customs entry number field on the license application. Upon withdrawal from the FTZ as an import into the U.S., another license would be required filed in the standard fashion with a Customs entry number identifier.

U.S. Customs Requirements. U.S. Customs intends to publish a separate Notice of Proposed Rulemaking (NPRM), setting requirements for the timely filing of the steel import license

information at entry summary. Customs intends to propose that an entry summary not completed in the allowed filing period will be subject to liquidated damages for violation of the bond condition requiring timely completion of entry. In accordance with 19 USC 1623(c), Customs will publish guidelines establishing standards for setting the terms and conditions for mitigation of these claims.

Hours of Operation. As currently proposed, parties will be able to access the system 24 hours a day, 7 days a week. If the system is down for an extended period of time, parties will be able to obtain licenses from Commerce via fax during regular business hours. Should the system be inaccessible for an extended period of time, Customs may consider this as part of mitigation.

Informal Entries. No import license shall be required on informal entries of steel products, such as merchandise valued at less than \$2,000. For additional information, refer to 19 CFR 143.21–28.

Interim Monitoring. Census added a special section 201 monitoring report to its monthly early release of steel import data. This special section includes two summary reports that provide preliminary section 201 import figures for each of the section 201 product categories as well as figures for each of the top 20 excluded countries. Full reports covering imports of steel products subject to section 201 remedies are also made available by Census. These two full reports, one sorted by country of origin, the other, by section 201 product category provide aggregate import information by product category for all countries starting with the early release of April import data on May 29, 2002. All information is posted on Census' website (<http://www.census.gov/foreign-trade/Press-Release/steel—index.html>).

The new early release import data reported by Census provides the Administration and the public with an interim means of monitoring potential import surges from excluded countries until the steel licensing and surge monitoring system is operational. Once the new steel licensing and surge monitoring program is in place, the early release data reported by Census will then act as a check on the accuracy of the data collected under the steel licensing program.

Duration. The licensing program will be in effect for the duration of the safeguard measures only. The licenses, however, will be valid for 10 business days after the expiration of the safeguard measures to allow for the final

filing of required Customs documentation.

Classification

Regulatory Flexibility Act. The Chief Counsel for Regulation certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant impact on a substantial number of small entities as that term is defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* A summary of the factual basis for this certification is below.

This proposed rule will not have a significant impact on a substantial number of companies. In most cases, brokerage companies will apply for the license for the steel importers. Most brokerage companies that are currently involved in filing documentation for importing goods into the U.S., are accustomed to Customs' automated systems. Today, more than 99% of the Customs filings are handled electronically. Therefore, the web-based nature of this simple license application should not be a significant obstacle to any firm in completing this new requirement. However, should a company need to apply for an ID or license non-electronically, a fax/phone option will be available at Commerce during regular business hours. There is no cost to register for a company-specific ID user code and no cost to file for the license. Each license form is expected to take about 10 minutes to complete using much of the same information used to complete the Customs Entry Summary documentation. This is the one additional requirement of the importers' broker to fulfill U.S. entry requirements to import each covered steel product shipment. Commerce estimates that approximately 400 brokerage companies and importers will apply for steel import licenses annually. Of this number, Commerce estimates that fewer than 5% of brokerage companies would be considered small entities. Commerce estimates about 1%, or \$33,333.00, represents the amount that small entities will incur as a result of this proposed rule.

Paperwork Reduction Act. This proposed rule contains collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act (PRA). These requirements will be submitted to OMB for approval. Public reporting burden for these collections of information is estimated at 10 minutes. The licensing system requests information already required of an importer, approval is automatic, and the importer will have

ample opportunity and time to apply. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments on the reporting burden estimate or any other aspect of the requirements in this proposed rule to ITA Office of Policy at the ADDRESSES above and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: ITA Desk Officer).

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the Paperwork Reduction Act unless that collection displays a valid OMB Control Number.

Executive Order 12866

It has been determined that this rule is not significant for purposes of EO 12866.

Executive Order 12866

This rule does not contain policies with federalism implications as that term is defined in EO 13132.

Dated: July 11, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[DEA-226 N]

Schedules of Controlled Substances: Temporary Placement of Benzylpiperazine and Trifluoromethylphenylpiperazine into Schedule I

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of intent.

SUMMARY: The Deputy Administrator of the Drug Enforcement Administration (DEA) is issuing this notice of intent to temporarily place N-Benzylpiperazine (BZP) and 1-(3-trifluoromethylphenyl) piperazine (TFMPP) into Schedule I of the Controlled Substances Act (CSA) pursuant to the temporary scheduling provisions of the CSA. This intended action is based on a finding by

the DEA Deputy Administrator that the placement of BZP and TFMPP into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety. Finalization of this action will impose the criminal sanctions and regulatory controls of a Schedule I substance on the manufacture, distribution, and possession of BZP and TFMPP.

FOR FURTHER INFORMATION CONTACT:

Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307-7183.

SUPPLEMENTARY INFORMATION:

What Is Temporary Scheduling?

The Comprehensive Crime Control Act of 1984 (Pub. L. 98-473), which was signed into law on October 12, 1984, amended section 201 of the Controlled Substances Act (CSA) (21 U.S.C. 811) to give the Attorney General the authority to temporarily place a substance into Schedule I of the CSA for one year without regard to the requirements of 21 U.S.C. 811(b) if he finds that such action is necessary to avoid an imminent hazard to the public safety. The Attorney General may extend the temporary scheduling for up to six months. A substance may be temporarily scheduled under the emergency provisions of the CSA if that substance is not listed in any other schedule under section 202 of the CSA (21 U.S.C. 812) or if there is no exemption or approval in effect under 21 U.S.C. 355 for the substance. The Attorney General has delegated his authority under 21 U.S.C. 811 to the Deputy Administrator of DEA (28 CFR 0.100).

What Criteria Must Be Considered in Determining Temporary Scheduling?

In making a finding that placing a substance temporarily into Schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Deputy Administrator is required to consider three of the eight factors set forth in section 201(c) of the CSA (21 U.S.C. 811(c)). These factors are as follows: (4) its history and current pattern of abuse; (5) The scope, duration and significance of abuse; and (6) What, if any, risk there is to the public health.

What Are BZJP TFMPP?

BZP and TFMPP are piperazine derivatives. BZP was first synthesized in 1944 as a potential antiparasitic agent. DEA is not aware of therapeutic applications for BZP or TFMPP. BZP and TFMPP have no accepted medical use in treatment in the United States.

The safety for use of these two substances has not been determined. They are available primarily as chemical intermediates in syntheses. The two substances are similar in chemical structure and are often found and abused together in tablets or powder form.

What Information Was Considered In Respect to Making the Finding of Imminent Hazard to the Public Health?

DEA, as required by 21 U.S.C. 811(h)(3), considered the following three factors set forth in paragraphs (4), (5) and (6) of 21 U.S.C. 811(c). The information relevant to the three factors is summarized below.

21 U.S.C. 811(c)(4) Its History and Current Pattern of Abuse

Abuse of BZP was first reported in late 1996 in California. BZP and TFMPP are being encountered in several regions of the U.S. and their abuse has spread rapidly from the states where they were initially encountered. Over the past few years, in the United States, BZP and TFMPP have increasingly been found in similar venues as the popular club drug 3,4-methylenedioxymethamphetamine (MDMA, also known as Ecstasy). BZP and TFMPP are also sold as MDMA and are targeted to the youth population. The tablet form often bears imprints commonly seen on MDMA tablets such as a fly, crown, heart, butterfly, or bull's head logos in pink, tan, white, or green. BZP and TFMPP have also been found in powder form or liquid form packaged in small convenience sizes sold on the Internet. Illicit distributions occur through smuggling of bulk powder through organizations with connections to overseas sources of supply. The bulk powder is then processed into capsule, tablet, or pill form and distributed through organized networks. These organizations also distribute other controlled substances such as MDMA, 2C-B, marijuana and anabolic steroids.

21 U.S.C. 811(c)(5) the Scope, Duration, and Significance of Abuse

The increasing abuse of BZP and TFMPP in the United States is evidenced by increasing encounters by law enforcement agencies. DEA, State and local enforcement agencies reported BZP and TFMPP in drug exhibits seized in the states of California, Connecticut, Florida, Illinois, Indiana, Iowa, Louisiana, Minnesota, Nevada, Texas, Virginia, and Wisconsin. In the past year, thirty-one seizures were reported and amounted to over 21,000 tablets and 1000 pounds of powder. BZP and TFMPP are being promoted as legal alternatives to MDMA. They are often