

## The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

**Eurocopter France:** Docket No. 2003–SW–15–AD.

**Applicability:** Model AS332C, C1, L, and L1, AS350B, BA, B1, B2, B3 and D, and AS355E, F, F1, F2 and N helicopters with a Breeze 300-pound electric hoist (hoist) and hoist operator control unit 26M, part number (P/N) 350A63–1136–00 or 350A63–1136–01, and hoist electric box 91M, P/N 332A67–2875–00, installed, certificated in any category.

**Compliance:** Required within 100 hours time-in-service or within 2 months, whichever occurs first, unless accomplished previously.

To prevent failure of the hoist pyrotechnic squib electrical control unit, lack of adequate current to activate the hoist pyrotechnic squib, an inability of the pilot to cut the rescue hoist cable in the event of cable entanglement or other emergency, and subsequent loss of control of the helicopter, accomplish the following:

(a) Modify and re-identify the hoist operator control unit; replace the fuses; and functionally test the hoist operation and the emergency jettison controls in accordance with the Accomplishment Instructions, paragraph 2B, Operational Procedure, of Alert Service Bulletin (ASB) No. 25.00.71 for Model AS355E, F, F1, F2, and N helicopters; ASB No. 25.00.79 for Model AS350B, BA, B1, B2, B3, and D helicopters; and ASB No. 25.01.18 for Model AS332 C, C1, L, and L1 helicopters, all dated November 12, 2002, as applicable.

(b) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group, Rotorcraft Directorate, FAA, for information about previously approved alternative methods of compliance.

**Note:** The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 2002–584(A) and AD 2002–585(A), both dated November 27, 2002.

Issued in Fort Worth, Texas, on August 8, 2003.

**David A. Downey,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 03–21522 Filed 8–21–03; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

#### 19 CFR Part 141

**RIN 1515–AC15**

### Anticounterfeiting Consumer Protection Act: Entry Documentation

**AGENCY:** Customs and Border Protection, Department of Homeland Security.

**ACTION:** Notice of withdrawal of proposed rulemaking.

**SUMMARY:** This document informs the public that the Bureau of Customs and Border Protection (CBP) has decided to withdraw the proposal to require importers to provide on the invoice a listing of all trademarks appearing on imported merchandise and its packaging. The proposal was intended to provide a means to determine whether imported merchandise bears an infringing trademark in violation of law. The authority for the proposal was section 12 of the Anticounterfeiting Consumer Protection Act. Based on the comments received in response to the proposal and further evaluation of the proposal, CBP has determined that the proposed rule would not be an efficient and effective way to combat counterfeiting and is withdrawing the proposal.

**DATES:** As of August 22, 2003, the proposed rule published on September 13, 1999 (64 FR 49423) is withdrawn.

#### FOR FURTHER INFORMATION CONTACT:

George F. McCray, Esq., Chief, Intellectual Property Branch, Office of Regulations and Rulings, Customs and Border Protection, (202) 572–8710.

#### SUPPLEMENTARY INFORMATION:

#### Background

On September 13, 1999, Customs (then exclusively under the Department of the Treasury; as of March 1, 2003, the U.S. Customs Service was transferred to the Department of Homeland Security, and became redesignated as the Bureau of Customs and Border Protection (CBP)) published a document in the **Federal Register** (64 FR 49423) proposing to amend the Customs

Regulations to require all importers to provide on each invoice of imported merchandise a listing of any trademark information appearing on the imported merchandise, including packaging. The proposal was intended to provide a means to determine whether imported merchandise bears an infringing trademark in violation of law. The authority for the proposal was section 12 of the Anticounterfeiting Consumer Protection Act of 1996 (ACPA)(19 U.S.C. 1484(d)).

Comments on the proposed amendment were solicited for 60 days.

The comment period closed November 13, 1999. Fifty-seven comments were received. Most were against the proposal. Among the reasons cited were that this requirement would present an overwhelming burden to importers, trademark owners, manufacturers and suppliers, and establish unrealistic recordkeeping requirements. Further, the requirement would likely not be complied with by counterfeiters. Additionally, it was stated that the proposal would not provide Customs with any new enforcement tools to combat the importation of infringing goods into the United States.

The following summarized comments supporting the withdrawal of the proposal are noted.

#### *Costs of Compliance Would Be Enormous*

The administrative costs associated with complying with this requirement would be enormous. The proposed amendment would cause severe and unreasonable burdens to trade and provide only minimal, if any, benefit to CBP enforcement.

The statement in the notice that the proposal would require importers to “identify information of a sort that is already maintained by the importer” is incorrect. The proposal would require importers to expend extraordinary efforts canvassing their suppliers—and their suppliers’ third-party suppliers—in order to develop required trademark lists. Additionally, even more effort would be required to ensure that the lists are up to date and accurately reflect the components contained in the merchandise covered by each specific invoice.

Creating and maintaining this database would force importers to create new administrative procedures devoted solely to tracking trademarks on components contained within final products. It would also force importers to devote resources to policing suppliers of such components.

### *Unrealistic Recordkeeping Requirements*

The proposed requirement would also place difficult recordkeeping obligations on foreign suppliers and importers who do not have direct knowledge of product components or parts. It would be extremely difficult to effectively monitor invoicing practices of thousands of different foreign vendors to ensure that trademark information is accurately listed on invoices. Additionally, many imported products incorporate parts and components which are themselves trademarked merchandise. Obtaining information as to the trademark status of parts and components would require considerable effort from both vendors and importers, and in certain instances would be unavailable in any event.

Most businesses (particularly those in the areas of high technology and communications) have very rapidly changing product specifications, often changing in-box components bearing trademarks during a production run. The logistics of managing exactly which trademarks are included in which box on which shipment would add enormous complexity and cost to the supply chain.

### *No New Enforcement Tools*

Furthermore, it was stated that the proposed regulation would do nothing to enhance Customs ability to enforce ACPA. Requiring trademark information to be printed on each invoice would not address the principal problem, which is mis-declaration by counterfeiters. Listing trademarks on an invoice does not help a Customs inspector determine whether or not the merchandise bears an infringing trademark. Generally, the only method of determining this is through actual inspection of the merchandise; in fact, without such inspections, substantiating the veracity of the information contained in these commercial invoices is extremely difficult.

### *Trademarked Merchandise Will Be Identified for Criminals and Counterfeiters Who Will Not Comply With New Requirements*

The fact that a shipment consists of branded apparel is not necessarily apparent from commercial and transportation documents and the identity of the trademarks is not always apparent from the name of the seller or consignee. This present circumstance makes it difficult for criminals to identify shipments of interest. The proposed entry documentation requirements would eliminate this

margin of safety and make it easier for this class of individual to target shipments.

### *Increased Penalties*

The proposal creates the likelihood that importers of legitimate product could be penalized for inadvertent omissions of some protected trademarks from the invoice. The regulatory proposal would create an affirmative obligation on the part of exporters and importers to list all trademarks appearing on the merchandise to be imported into the United States, and the omission of information on any trademarked goods would impose liability, under 19 U.S.C. 1592(a) for any "material omission".

### **Conclusion**

CBP has determined that the proposed rulemaking should be withdrawn. After consideration of the comments and further review, CBP agrees with the majority of commenters that the proposed approach would not be an effective or efficient way to combat counterfeiting. Since section 12 of the ACPA does not mandate revision of the Customs Regulations, but rather provides authority for CBP to require such additional information as the agency determines "may be necessary" to determine whether imported merchandise bears infringing trademarks, CBP does not believe amendment of the Customs Regulations is required; Customs already has access to information from other sources which effectively serves to identify imported merchandise bearing violative trademarks. Accordingly, CBP is withdrawing the proposal published in the **Federal Register** (64 FR 49423) on September 13, 1999. If, in the future, a more effective and efficient method of data collection is developed to aid in determining whether imported merchandise bears an infringing trademark, CBP will consider implementation of such measures at that time.

**Robert C. Bonner,**

*Commissioner, Customs and Border Protection.*

Approved: August 18, 2003.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 03-21574 Filed 8-21-03; 8:45 am]

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## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

### **26 CFR Parts 1 and 14a**

**[REG-122917-02]**

**RIN 1545-BA75**

### **Statutory Stock Options; Hearing**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Cancellation of notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of cancellation of a public hearing on proposed rulemaking relating to statutory stock options.

**DATES:** The public hearing originally scheduled for Tuesday, September 2, 2003, at 10 a.m. is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Guy R. Traynor of the Legal Processing Division, Associate Chief Counsel, at (202) 622-3693 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on June 9, 2003 (68 FR 34344), announced that a public hearing was scheduled for September 2, 2003 at 10 a.m., in the auditorium of the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The subject of the Public hearing is proposed regulations under sections 421, 422, 423, 424, 425 and 6039, of the Internal Revenue Code. The public comment period for these proposed regulations expired on August 12, 2003.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of topics to be addressed. As of August 18, 2003, no one has requested to speak. Therefore, the public hearing scheduled for September 2, 2003 is cancelled.

**LaNita Van Dyke,**

*Acting Chief, Legal Publishing Division, Associate Chief Counsel (Procedure & Administration).*

[FR Doc. 03-21470 Filed 8-21-03; 8:45 am]

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