

With the exception of the employee, the commenters were supportive of the amendments for a variety of reasons.

The automotive industry commenters included both domestic and foreign car dealers, and franchised as well as grey-market dealers. All agreed that the exemptions should be removed. All were concerned with the public health and safety threats associated with nonforming vehicles being allowed to operate on U.S. highways. The franchised dealers of foreign-made vehicles asserted that servicing of nonconforming vehicles is difficult and can damage the reputations of the vehicles they sell and service. Representatives of the grey-market vehicle modifiers and testers expressed concerns that exempt nonconforming vehicles would be sold in the U.S. and confused with those which had been modified by their members after importation, damaging the reputation of their industry.

The public international organization employee commented that the exemptions should be retained since he believed that far fewer than the 15,000 employees eligible for the exemption actually use it, and therefore it was not a major problem. Customs is of the opinion that the administrative problems experienced by the State Department and the health and safety problems recognized by EPA, NHTSA, and the Coast Guard are very real now, and could only be exacerbated if the exemptions were retained and at some point in the future were used by all eligible employees.

After careful analysis of the comments received, and further consideration of the matter, it has been determined to adopt the amendments as proposed. It should be noted that these amendments in no way prohibit an employee of a public international organization from importing a motor vehicle or boat into the U.S. under other Customs Regulations and having it modified to meet U.S. standards (see § 12.73(b)(5)(x), Customs Regulations (19 CFR 12.73(b)(5)(x)), for example).

#### Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is certified that the regulations set forth in this document will not have significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

#### Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

#### Drafting Information

The principal author of this document was John Doyle, Regulations Control Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

#### List of Subjects in 19 CFR Part 12

Air pollution control, Marine safety, Motor vehicle pollution, Motor vehicle safety, Motor vehicles.

#### Amendments to the Regulations

Part 12, Customs Regulations (19 CFR Part 12), is amended as set forth below.

#### PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The authority citation for Part 12 continues to read as follows:

**Authority:** 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnote 11, Tariff Schedules of the United States), 1624. Section 12.73 also issued under 19 U.S.C. 1484; 42 U.S.C. 7522, 7601; section 12.85 also issued under 19 U.S.C. 1623; 46 U.S.C. 4302, 4306, 4310.

2. Section 12.73(b)(5)(iv) is revised to read as follows:

#### § 12.73 Federal motor vehicle air pollution control.

\* \* \* \* \*

(b) \* \* \*

(5) \* \* \*

(iv) Such motor vehicle or motor vehicle engine is not covered by a certificate of conformity with Federal motor vehicle emission standards, and the importer or consignee is a member of the armed forces of a foreign country on assignment in the U.S. or is a member of the personnel of a foreign government on assignment in the U.S. or other individual who comes within the class of persons for whom free entry of motor vehicles has been authorized by the Department of State in accordance with general principles of international law and that such vehicle or engine will not be sold in the U.S.; or

\* \* \* \* \*

3. Section 12.80(b)(1)(vi) is revised to read as follows:

#### § 12.80 Federal motor vehicle safety standards.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(vi) The importer or consignee is a member of the armed forces of a foreign

country on assignment in the U.S. or is a member of the personnel of a foreign government on assignment in the U.S. or other individual who is within the class of persons for whom free entry of vehicles has been authorized by the Department of State in accordance with general principles of international law, is importing the vehicle or equipment item for purposes other than resale; and a copy of his official orders, if any, is attached to the declaration (or, if a qualifying member of the personnel of a foreign government on assignment in the U.S., the name of the Embassy to which he is accredited is stated on the declaration).

\* \* \* \* \*

4. Section 12.85(c)(5) is revised to read as follows:

#### § 12.85 Coast Guard boat and associated equipment safety standards.

\* \* \* \* \*

(c) \* \* \*

(5) *Products owned by certain foreign governments.* In the case of an importer or consignee employed in one of the capacities set forth in this subparagraph, a declaration will be filed in accordance with paragraph (d) of this section. The declaration shall state that the importer or consignee is either a member of the armed forces of a foreign country on assignment in the U.S. or is a member of the personnel of a foreign government on assignment in the U.S. or other individual who comes within the class of persons for whom free entry of boats has been authorized by the Department of State in accordance with general principles of international law, and that he is importing the product for purposes other than resale.

\* \* \* \* \*

**William von Raab,**  
*Commissioner of Customs.*

Approved:  
**Francis A. Keating, II,**  
*Assistant Secretary of the Treasury.*

November 12, 1986  
[FR Doc. 86-26760 Filed 11-26-86; 8:45 am]  
BILLING CODE 4820-02-M

#### 19 CFR Parts 113 and 141

[T.D. 86-204]

#### Customs Regulations Amendments Relating to Bonds and Powers of Attorney

**AGENCY:** U.S. Customs Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations to clarify that bonds submitted by limited partnerships need only have the firm name and the names of the general partners authorized to bind the firm placed on the bonds. Also, the regulations are being clarified to provide that limited partnerships need only name the general partners who have authority to bind the firm, on a power of attorney, unless the partnership agreement provides otherwise. These amendments are necessary inasmuch as the existing regulations only treat the subject of partnerships generally and do not differentiate between the ordinary partnership and a limited partnership.

**EFFECTIVE DATE:** November 28, 1986.

**FOR FURTHER INFORMATION CONTACT:** Jerry C. Laderberg, Entry Procedures and Penalties Division (202-566-5765).

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 113.32(a), Customs Regulations (19 CFR 113.32(a)), provides that unless written notice of the full names of all partners in the firm has been previously filed with the district director or regional commissioner (of Customs) in the case of a bond relating to repayment of erroneous drawback payment, the names of all persons composing the partnership shall appear in the body of the bond. Section 141.39(a), Customs Regulations (19 CFR 141.39(a)), similarly provides for the names of all members of a partnership on a power of attorney granted by a partnership. The rationale for the naming of the partners on the bond, as noted in § 113.32(c), is that when a bond is executed by any member of the partnership, it shall be binding on the other partners in like manner and to the same extent as if such other partners had personally joined in the execution, pursuant to section 495, Tariff Act of 1930, as amended (19 U.S.C. 1495).

These requirements make no distinction between an ordinary partnership and a limited partnership. In the ordinary partnership, all the partners are personally liable for the debts of the partnership and are bound by the actions of each other.

In a limited partnership, the limited partners are liable for the debts of the partnership only in an amount not exceeding their investment in the partnership. Also, they are not bound by the actions of any other partner in the firm, except as provided for in the partnership agreement. The general partners in a limited partnership, however, usually have the same

liabilities as the general partners in the ordinary partnership.

In return for the limited liability of the limited partner, his activities in the partnership are restricted. In fact, his name may not even appear in the business name of the partnership. Because of the extensive responsibility of the general partner, however, it is necessary for his name to be included in all documents of the partnership, as well as on bonds and powers of attorney.

**Action**

Because of the substantially different liabilities of limited partners, Customs believes that the regulations concerning the naming of all partners on bonds and powers of attorney should be amended to require, with respect to limited partnerships, only the name of the firm and the names of the general partners who have authority to bind the partnership on the bond or power of attorney (unless the partnership agreement provides otherwise with respect to a power of attorney), and to exempt the limited partners from being bound by the actions of other partners in the firm, except as provided for in the partnership agreement. Also, a copy of this agreement will be required to be submitted with each bond executed by the partnership, or each power of attorney submitted by it.

Accordingly, § 113.32 (a) and (c), and § 141.39(a), Customs Regulations, are amended to reflect these changes.

The amendments are in conformity with existing Customs policy which requires only the names of the general partners in a limited partnership who have authority to bind the firm, on a Customs bond or power of attorney. This policy was expressed in a Customs Headquarters ruling dated February 15, 1985 (723977JLF).

**Inapplicability of Public Notice and Delayed Effective Date Provisions**

Inasmuch as these amendments merely clarify existing regulations, pursuant to 5 U.S.C. 553(b)(B) and (d)(3), notice and solicitation of comments is unnecessary and good cause is found for dispensing with a delayed effective date for adoption of the amendments.

**Executive Order 12291**

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

**Regulatory Flexibility Act**

This document is not subject to the provisions of the "Regulatory Flexibility Act" (5 U.S.C. 601 et seq.). That Act does

not apply to any regulation, such as this, for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 et seq.) or any other statute.

**Drafting Information**

The principal author of this document was Susan Terranova, Regulations Control Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

**List of Subjects in 19 CFR Parts 113 and 141**

Customs duties and inspection, Customs bonds and principals, Powers of attorney.

**Amendments to the Regulations**

Parts 113 and 141, Customs Regulations (19 CFR Parts 113, 141), are amended as set forth below.

**PART 113—CUSTOMS BONDS**

1. The authority citation for Part 113 continues to read as follows:

**Authority:** 19 U.S.C. 66, 1623, 1624. Subpart E also issued under 19 U.S.C. 1484.

2. Section 113.32 is amended by revising paragraphs (a) and (c) to read as follows:

**§ 113.32 Partnerships as principals.**

(a) *Names of partners on the bond—*

(1) *In general.* Unless written notice of the full names of all partners in the partnership has been previously filed with the district director, or regional commissioner in the case of a bond relating to repayment of erroneous drawback payment, the names of all persons composing the partnership shall appear in the body of the bonds.

(2) *Limited partnerships.* Bonds submitted by limited partnerships need only have the firm name and the names of the general partners authorized to bind the firm on them. The bond must be accompanied by a copy of the partnership agreement. For this purpose, a partnership or a limited partnership means any business association recognized as such under the laws of the state where the association is organized.

(c) *Action of one principal binding on all principals of the partnership.*

Pursuant to section 495, Tariff Act of 1930, as amended (19 U.S.C. 1495), when a bond is executed by any member of the partnership, the bond shall be binding on the other partners in like manner and to the same extent as if such other partners had personally joined in the execution. However, in the case of a limited partnership, the limited

partners will not be bound by the actions of any other partner in the firm, except as provided for in the partnership agreement.

#### PART 141—ENTRY OF MERCHANDISE

1. The authority citation for Part 141 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624. Subpart G also issued under 19 U.S.C. 1505.

2. Section 141.39(a) is revised to read as follows:

##### § 141.39 Partnerships.

(a)(1) *General.* A power of attorney granted by a partnership shall state the names of all members of the partnership. One member of the partnership may execute a power of attorney in the name of the partnership for the transaction of all its Customs business.

(2) *Limited partnership.* A power of attorney granted by a limited partnership need only state the names of the general partners who have authority to bind the firm unless the partnership agreement provides otherwise. A copy of the partnership agreement must accompany the power of attorney. For this purpose, a partnership or limited partnership means any business association recognized as such under the laws of the state where the association is organized.

Alfred R. De Angelus,  
Acting Commissioner of Customs.

Approved:  
Francis A. Keating, II,  
Assistant Secretary of the Treasury.  
November 10, 1986.

[FR Doc. 86-26761 Filed 11-26-86; 8:45 am]

BILLING CODE 4820-02-M

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Food and Drug Administration

##### 21 CFR Part 172

[Docket No. 83F-0035]

##### Food Additives Permitted for Direct Addition to Food for Human Consumption; Aspartame

AGENCY: Food and Drug Administration.  
ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of aspartame in noncarbonated frozen or refrigerated, concentrated and single-strength fruit

juices, fruit drinks, fruit flavored drinks and ades, and imitation fruit flavored drinks and ades, and also in frozen stick-type confections and novelties. This action responds to petitions filed by the Coca-Cola Co., Division of Foods, and Tropicana Products, Inc.

**DATES:** Effective November 28, 1986; objections by December 29, 1986.

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

**FOR FURTHER INFORMATION CONTACT:** Carl L. Giannetta, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-426-5487.

**SUPPLEMENTARY INFORMATION:** In a notice published in the *Federal Register* of March 18, 1983 (48 FR 11513), FDA announced that a food additive petition (FAP 3A3694) had been filed by the Coca-Cola Co., Division of Foods, P.O. Box 2079, Houston, TX 77001, proposing that § 172.804 *Aspartame* (21 CFR 172.804) be amended to provide for the safe use of aspartame (1-methyl *N*-L- $\alpha$ -aspartyl-L-phenylalanine) as a sweetener in frozen concentrated and single-strength beverages, the latter being shipped, stored, and sold refrigerated; and that a food additive petition (FAP 3A3695) had been filed by Tropicana Products, Inc., P.O. Box 338, Bradenton, FL 33560, also proposing that § 172.804 be amended to provide for the safe use of aspartame as a sweetener in refrigerated single-strength nonstandardized dilute fruit juice beverages, frozen concentrated nonstandardized fruit juice containing beverages, and frozen fruit juice containing confections.

The agency received a citizen's petition (FAP 6CP3956) (dated July 17, 1986) from James S. Turner and Diane T. Dean, consumer attorneys, on behalf of the Community Nutrition Institute (CNI). The petition requested: reconsideration and repeal of 21 CFR 172.804 (c) and (d); and convening of a public hearing to receive and consider the evidence supporting these requests. The petition alleged that current food use of aspartame presents an imminent health hazard and fails to meet the legal safety standard. On October 23, 1986, CNI amended its petition. The petition further contends that new evidence (eye damage) shows that aspartame creates an imminent health hazard to the American consumer and that new evidence shows that aspartame is not shown to be safe. By letter dated November 21, 1986, the agency denied

the petition (This document is incorporated by reference and is on public display at the agency's Dockets Management Branch.)

One comment was received in response to the filing of the Tropicana petition. General Foods Corp. requested that the use of aspartame in frozen confections not be restricted to those confections containing fruit juice so that "any regulation which issues with respect to FAP 3A3695 include the use of APM [aspartame] in frozen novelties (e.g., gelatin pops) as well as in frozen fruit juice containing confections." The agency has considered this comment in evaluating the Tropicana petition and agrees that restricting the use of aspartame to juice-containing confections does not appear to be necessary. However, the frozen confection and novelties covered by this regulation are only those sold ready-to-eat on a stick.

In determining whether the proposed use of aspartame is safe, FDA has considered whether the estimated daily intake of the additive by the 90th percentile consumer will be less than the acceptable daily intake established by the agency. In the final regulation approving the use of aspartame in carbonated beverages (48 FR 31376; July 8, 1983), the agency established an acceptable daily intake of 50 milligrams per kilogram of body weight for aspartame. The agency determines the estimated daily intake for various age groups by making conservative projections based on data about particular food consumption levels and the amount of additive proposed for use in the particular food.

The agency concludes that consumption of aspartame will be well below the acceptable daily intake and that the proposed new uses will be safe. Therefore, the agency concludes that the regulation should be amended as set forth below.

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

The agency commonly uses the estimated daily intake for the 90th percentile consumer of a food additive as a measure of high chronic exposure

because that level of consumption is significantly above the intake of the average consumer and provides an added conservatism with respect to the acceptable daily intake for those individuals who regularly consume food containing the additive. Because of initial concerns about the potential consumer overexposure to one or a few types of products containing an artificial sweetener, the FDA Commissioner previously elected to be as cautious as possible and rely upon an even more conservative measure of potential aspartame consumption, the 99th percentile eater, in assessing the safety of aspartame for use in carbonated beverages.

However, as the number of uses of aspartame increases, the probability that a single individual will be a 99th percentile consumer for all uses diminishes significantly. For this reason, the increased number of uses of aspartame in food has made the use of the cumulative 99th percentile estimated daily intake an unrealistic measure of chronic exposure to aspartame. Under these circumstances, the use of the cumulative 90th percentile estimated daily intake is more realistic and more in accord with the agency's customary conservative way of calculating chronic exposure to food additives. Accordingly, the agency is no longer relying upon the cumulative 99th percentile estimated daily intake in evaluating the safety of aspartame.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. Under FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25), an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Any person who will be adversely affected by this regulation may at any time on or before December 29, 1986, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state.

Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

#### List of Subjects in 21 CFR Part 172

##### Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 172 is amended as follows:

#### PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR Part 172 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 349); 21 CFR 5.10, 5.61.

2. In § 172.804 by adding new paragraphs (c)(8) and (c)(9) to read as follows:

##### § 172.804 Aspartame.

\* \* \* \* \*

(c) \* \* \*

(8) Noncarbonated, refrigerated single-strength and frozen concentrates of the following beverages:

(i) Fruit juice based drinks (where food standards do not preclude such use).

(ii) Fruit flavored drinks and ades.

(iii) Imitation fruit flavored drinks and ades.

(9) Frozen stick-type confections and novelties.

\* \* \* \* \*

Dated: November 24, 1986

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-26859 Filed 11-25-86; 10:29 am]

BILLING CODE 4160-01-M

#### 21 CFR Part 172

[Docket No. 84F-0137]

#### Food Additives Permitted for Direct Addition to Food for Human Consumption; Aspartame

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of aspartame in breath mints. This action responds to a petition filed by the Shaklee Corp.

**DATES:** Effective November 28, 1986; objections by December 29, 1986.

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

**FOR FURTHER INFORMATION CONTACT:** Carl L. Giannetta, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-426-5487.

**SUPPLEMENTARY INFORMATION:** In a notice published in the *Federal Register* of May 18, 1984 (49 FR 21118), FDA announced that food additive petition FAP 4A3766 had been filed by the Shaklee Corp., Shaklee Terraces, 444 Market St., San Francisco, CA 94111, proposing that § 172.804 *Aspartame* (21 CFR 172.804) be amended to provide for the safe use of aspartame (1-methyl *N*-L- $\alpha$ -aspartyl-L-phenylalanine) as a sweetener in natural flavor products sold exclusively as breath mints.

The agency received a citizen's petition (FAP 6CP3956) (dated July 17, 1986) from James S. Turner and Diane T. Dean, consumer attorneys, on behalf of the Community Nutrition Institute (CNI). The petition requested: reconsideration and repeal of 21 CFR 172.804 (c) and (d); and convening of a public hearing to receive and consider the evidence supporting these requests. The petition alleged that current food use of aspartame presents an imminent health hazard and fails to meet the legal safety standard. On October 23, 1986, CNI amended its petition. The petition further contends that new evidence (eye damage) shows that aspartame creates an imminent health hazard to the American consumer and that new evidence shows that aspartame is not shown to be safe. By letter dated November 21, 1986, the agency denied the petition. (This document is incorporated by reference and is on