The filing requirements of part 154 are therefore clearly inconsistent with the filing requirements of part 284. The filing requirements of part 154 are also incompatible with the regulatory scheme of part 284, which grants to pipelines the flexibility they need to respond to changing market forces and the exigencies of particular situations, like emergencies. In this context, giving the type of pre-service notification required by part 154 is impracticable or impossible. Likewise, the elaborate informational filings required by part 154 are simply not needed by the Commission to exercise its supervisory responsibilities over the gas markets for part 284 transactions and constitute an unnecessary regulatory burden on the industry. The rulemakings that adopted part 284 fully spell out the rate reports and filings that pipelines must make, including when the filings must be made, if the pipelines render service qualifying under the subject to part 284.

The Commission has received requests for waiver of the filing requirements of part 154 from pipelines providing service under part 284.[4] These waiver requests impose an unnecessary workload on the pipelines and the Commission's staff and serve no useful purpose. The Commission understands that a significant number of pipelines do not (and cannot) fully comply with all of the part 154 filing requirements for part 284 services. There exists confusion in the industry as to which filing requirements, those of part 154 and/or those of part 284, apply to services rendered under part 284.

III. The Final Rule

For the reasons set forth above, the final rule adopted herein clarifies that the requirements of part 154 governing the filing of contracts, service agreements and related information do not apply to the sale or transportation of natural gas pursuant to part 284. The clarification is effected by adding a sentence at the end of § 154.1(a). The clarification will eliminate the confusion that has arisen from the inadvertent inconsistency between parts 154 and 284.

IV. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement must be prepared for any Commission action that may have a significant adverse effect on the human environment.[5] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[6] No environmental analysis is necessary for adoption of this rule because it is merely procedural and corrective in nature, clarifying existing filing requirements.[7]

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [8] requires rulemakings to either contain a description and analysis of the impact the rule will have on small entities or certify that the rule will not have a significant economic impact on a substantial number of small entities. The final rule, by clarifying that certain filing requirements are inapplicable, will have the effect of reducing the regulatory burden on pipelines, including those that may be considered small entities. The Commission therefore certifies pursuant to the Regulatory Flexibility Act [9] that this rule will not have a "significant economic impact on a substantial number of small entities."

VI. Paperwork Reduction Act

The Paperwork Reduction Act [10] and the Office of Management and Budget's (OMB) [11] regulations require that OMB approve certain information collection requirements imposed by agency rules. This final rule, by clarifying that particular filing requirements do not apply to certain transactions, reduces the information collection requirements in part 154. The Commission is notifying the Office of Management and Budget that this information collection requirement has been reduced.

VII. Administrative Findings and Effective Date

The Administrative Procedure Act (APA) [12] specifies that notice and comment for rulemaking are not required when the "agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." The Commission finds that notice and comment are unnecessary for this rulemaking, as it merely cures an inadvertent inconsistency in the regulations by confirming that the later-adopted reporting and filing requirements in part 284, which are specific to transactions performed under the authority of part 284, take precedence over the earlier-adopted, more general requirements in part 154.

This final rule is procedural in nature. The Commission finds good cause to make this rule effective immediately upon issuance. This final rule is therefore effective November 9, 1989.

List of Subjects in 18 CFR Part 154

Alaska, Natural Gas, Pipelines, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends part 154, chapter I, title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Lois D. Cashell,

Secretary.

PART 154—RATE SCHEDULES AND TARIFFS

1. The authority citation for part 154 continues to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w (1982); Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Independent Offices Appropriations Act, 31 U.S.C. 9701 (1982).

2. In § 154.1, paragraph (a) is amended by adding the following sentence at the end:

§ 154.1 Application; obligation to file.

(a) * * * The reporting requirements of part 154 governing the filing of contracts, service agreements and related information do not apply to the sale or transportation of natural gas pursuant to part 284.

* * * * *

[FR Doc. 89-27019 Filed 11-16-89; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 388

[Docket No. RM87-21-001; Order No. 448-A]

Revision of Freedom of Information Act Rules; Technical Amendment

Issued November 9, 1989.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; technical amendment.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing this technical amendment to make one correction to Part 388 of the

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[4] See, for example, the compliance filing of Sabine Pipe Line Co., Docket No. CP86-522-010, filed January 27, 1989.

[5] Regulations Implementing National Environmental Policy Act, 52 FR 47,897 (Dec. 17, 1987); FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987).

[6] 18 CFR 380.4 (1988).

[7] 18 CFR 380.4(a)(1) and 380.4(a)(2)(ii) (1988).

[8] 5 U.S.C. 601–612 (1982).

[9] 5 U.S.C. 603, 605(b) (1982).

[10] 44 U.S.C. 3501–3520 (1982).

[11] 5 CFR 1320.13 (1988).

[12] 5 U.S.C. 553 (1982).

Commission's regulations. On January 14, 1988, the Commission issued a final rule in Order No. 488. In the final rule the word "confidential" was replaced by the word "privileged" in numerous places in § 388.112 of the Commission's regulations. This technical correction now replaces that word in the one place where it was inadvertently overlooked when the final rule was issued.

EFFECTIVE DATE: This technical correction is effective November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Ethel Lenardson Morgan, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8530.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357-8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this technical amendment will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Before Commissioners: Martha O. Hesse, Chairman; Charles A. Trabandt, Elizabeth Anne Moler and Jerry J. Langdon.

The Federal Energy Regulatory Commission (Commission) is making one technical correction to part 388 of the Commission's regulations. The Commission is correcting § 388.112(c)(1)(i) by removing the word "confidential" and replacing it with the word "privileged" in order to conform the meaning of this subsection with the meaning of the remainder of § 388.112, which deals with requests for privileged treatment of documents submitted to the Commission.[1] In the final rule, issued on January 14, 1988, the word "confidential" was changed to "privileged" in appropriate places in § 388.112.[2] This technical correction now changes that word in the one place where it was inadvertently overlooked in the final rule.

This technical correction is effective November 9, 1989.

List of Subjects in 18 CFR Part 388

Freedom of Information.

In consideration of the foregoing, the Commission amends part 388, chapter I, title 18 of the Code of Federal Regulations as set forth below.

By the Commission.

Lois D. Cashell,

Secretary.

PART 388—INFORMATION AND REQUESTS

1. The authority citation for part 388 continues to read as follows:

Authority: Freedom of Information Act, 5 U.S.C. 552 (1982) as amended by Freedom of Information Reform Act of 1986; Administrative Procedure Act, 5 U.S.C. 551-557 (1982); 5 U.S.C. 301-305 (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982).

§ 388.112 [Amended]

2. In § 388.112, in paragraph (c)(1)(i), the word "confidential" is removed and the word "privileged" is inserted in its place.

[FR Doc. 89-27020 Filed 11-16-89; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

[T.D. 89-96]

Implementation of the Air Carrier Smuggling Prevention Program

AGENCY: U.S. Customs Service, Treasury.

ACTION: Interim rule, solicitation of comments.

SUMMARY: The Anti-Drug Abuse Act of 1988 (19 U.S.C. 1584 note) directed that the Customs Service implement a new program to be known as the Air Carrier Smuggling Prevention Program (ACSPP) as an amendment of the Customs Regulations. This program is intended to be a logical extension of the Customs expanded interdiction program, and is to exist for a 2-year test period. This interim amendment establishes the ACSPP for a 2-year period at the Miami, Dallas, and Los Angeles International Airports. Participation in the program will be optional for carriers. In order to be considered for the program, a carrier will have to provide Customs with a comprehensive security plan to assist in preventing illicit drugs from entering the United States. Those carriers which do apply and are accepted will be accorded the appropriate consideration should any contraband violation occur. The ACSPP is intended to increase the cooperative effort which prevails between Customs and the carriers. All comments received will be reviewed and considered before the final regulations are issued.

DATES: Interim rule effective December 18, 1989; comments must be received on or before January 16, 1990.

ADDRESSES: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations and Disclosure Law Branch, U.S. Customs Service, Room 2119, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Gary Heffner, Office of Inspection and Control, U.S. Customs Service (202) 566-2140.

SUPPLEMENTARY INFORMATION:

Background

An important part of the Customs Service efforts to eliminate the importation of narcotics into the United States is the cooperation of the major air and sea carriers. As a result of increased penalties and possible seizure of conveyances with the enactment of the Anti-Drug Abuse Act of 1986, Customs and many of the major carriers have been working closely together with other law enforcement agencies to combat the flow of illegal drugs. Thus far, cooperation with air carriers has been reflected by the creation of initiatives on three levels which describe the relationships between Customs and the air carriers. At the lowest level, there is no official

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[1] The word "confidential" which appears twice in § 388.112(f) is not changed because the word is used as part of the term "confidential commercial information", which term is defined in Executive Order No. 12,600 and is included within the scope of § 388.107(d) as "trade secrets and commercial or financial information obtained from a person and privileged or confidential." This is also Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552 (1982), as amended by the Freedom of Information Reform Act of 1986, Pub. L. 99-570, sections 1801-1804, 100 Stat. 3207, 3207-48 (1986).

[2] Order No. 488, 53 FR 1469 (Jan. 20, 1988); III FERC Stats. & Regs. ¶ 30,789 (Jan. 14, 1988).

agreement between Customs and the carriers. This level consists of primarily low-risk flights or carriers. The feeling between the parties is that, at present, compliance with existing regulations offers adequate protection for the carriers and provides sufficient safeguards to Customs and the American people.

A second level of the air carrier initiative consists of formal agreements between the air carriers and Customs. At this level, the carriers are engaged in flights on which there is a higher risk that attempts will be made to smuggle illegal narcotics. At this level, the air carriers have agreed with Customs that they will take active measures to prevent their conveyances from being used to facilitate smuggling. To this end, they and Customs have developed procedures which are intended to reduce the chances that narcotics will be on or in planes operated by the carrier.

On May 1, 1989, Customs announced a new "Super Carrier Initiative Agreement" with the aim of further uniting government and industry efforts to eliminate commercial carriers as the means of transporting narcotics into the United States. This program was designed to meet the needs of high risk carriers that have made significant efforts to prevent smuggling aboard their conveyances but continue to experience difficulties resulting in mounting penalties and seizures of their conveyances. By signing the Super Carrier Initiative Agreement, the carrier agrees to impose strict security standards at foreign and domestic terminals and facilities and aboard their conveyances. In return, Customs will provide enhanced security awareness training, foreign and domestic site surveys, and assistance in identifying potential smuggling opportunities. Should illegal drugs continue to be found aboard the conveyance, the degree of compliance with the terms of the agreement will be considered in assessing penalties or seizing the conveyance.

Air Carrier Smuggling Prevention Program

In section 7369 of the Anti-Drug Abuse Act of 1988 (19 U.S.C. 1584 note), Congress sought to reinforce the cooperative efforts of Customs and the air carriers by directing the Customs Service to establish a 2-year demonstration program at three international airports classified as high risk. This program has been identified as the Air Carrier Smuggling Prevention Program (ACSPP).

The 2-year demonstration of the ACSPP will be conducted at the Miami, Dallas, and Los Angeles International Airports. These sites vary in size, airport configuration, and geographic proximity to narcotic source countries, as well as in level of risk, and will provide an adequate assessment of this program. To expedite this program, Customs is willing to work with carriers and accept applications to enter into this program prior to the effective date of this interim regulation.

As an integral element in the ACSPP, the carrier must continue to stress the importance of its security measures at the point of departure. It must be understood that the ACSPP is designed to prevent drugs from entering the United States by instituting preventive procedures at the point of departure.

Carriers who wish to participate in the program will have to submit detailed compliance programs (Standard Operating Procedures (SOPs)) to Customs for review and approval prior to their being accepted into the program. These SOPs will have to detail security procedures the carriers will take to reduce the possibility of their aircraft being used by smugglers. These procedures will have to include employee awareness programs, passenger baggage and cargo integrity procedures, as well as physical security measures which will have to be taken at both foreign and domestic terminals. These measures will not affect any Customs right to conduct searches or inspections of passengers, cargo and conveyances. The interim amendment to part 122 of the Customs Regulations sets forth the establishment of the ACSPP, and the criteria and methods which Customs will utilize in determining an air carrier's eligibility to participate in the program. The interim regulation is being issued after consultation with the Secretary of Transportation.

Comments

Before adopting this interim amendment as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m., at the Regulations and Disclosure Law Branch, Room 2119, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC.

Inapplicability of Notice

Congress directed that the ACSPP be established within 6 months after enactment of the Anti-Drug Abuse Act of 1988. In order to comply with the Congressional mandate that the program be implemented within a short time period, it is determined, pursuant to 5 U.S.C. 553(b)(B), that notice of the interim regulation is impracticable. However, before adopting final regulations, consideration will be given to all written comments timely submitted.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), do not apply.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis is required.

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1515-____.

Comments concerning the collection of information and accuracy of estimated average annual burden, and suggestions for reducing the burden should be directed to the Office of Management and Budget, Paperwork Reduction Project (1515-____), Washington, DC 20503, with copies to the U.S. Customs Service, Paperwork Management Office, at the address previously specified.

The collection of information in the regulation is in § 122.173. This information is required by Customs to determine whether applicants to the ACSPP have developed procedures which Customs believes will be sufficient to attain the objectives of the program. Customs will use the information to verify the adequacy and completeness of plans and procedures participating carriers will implement to insure that the ACSPP operates as intended by both the Congress and the Customs Service. The likely respondents are commercial air carriers engaged in international commerce with arrival destinations at one or more of the designated airports.

Estimated total annual reporting and/or recordkeeping burden: 1,800 hours.

Estimated average annual burden per respondent and/or recordkeepers: 60 hours.

Estimated number of respondents and recordkeepers: 30.

Estimated annual frequency of responses: 1.

Part 178, Customs Regulations (19 CFR part 178), which lists the information collections contained in the regulations and the control number assigned by OMB will be amended accordingly when the final amendment to the regulation is adopted.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 122

Air carriers, Air transportation, Aircraft, Airports.

Amendment to the Regulations

Part 122 of the Customs Regulations (19 CFR part 122) is amended as set forth below:

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122, Customs Regulations (19 CFR part 122), is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 58b, 66, 1433, 1436, 1459, 1590, 1624, 1644, 49 U.S.C. App. 1509. Subpart R, also issued under 19 U.S.C. 1584 note.

2. Part 122 is amended by adding a new subpart R consisting of §§ 122.171 through 171.176, to read as follows:

Subpart R—Air Carrier Smuggling Prevention Program

Sec.

Subpart R—Air Carrier Smuggling Prevention Program

§ 122.171 Description of program.

The Air Carrier Smuggling Prevention Program (ACSPP) is designed to enlist the cooperation of the air carriers in Customs efforts to prevent the smuggling of controlled substances. If carriers develop and adopt thorough and complete internal security procedures at all terminals, both foreign and domestic, the opportunity for their conveyances being used as conveyances for controlled substances will be greatly reduced. Participation in the program is voluntary. However, should a controlled substance be introduced into the United States on a conveyance owned or operated by a participating carrier, the carrier will be exempt from seizure and penalty should it satisfy the provisions of § 122.175 of this part. The program will be operational for a period of 2 years from December 18, 1989, pursuant to 19 U.S.C. 1584 note.

§ 122.172 Eligibility.

Any carrier whose international flights arrive at, or depart from, any of the designated test airports, Miami International Airport, Dallas-Fort Worth International Airport, or Los Angeles International Airport, is eligible for participation in the ACSPP.

§ 122.173 Application procedures.

(a) *Application.* To participate in the ACSPP, an eligible carrier will submit an application to the Assistant Commissioner, Office of Inspection and Control, U.S. Customs Service, in which the carrier must certify that it has developed and will continue to maintain procedures which are designed to safeguard both employee and cargo integrity. Copies of the procedures developed by the carrier must accompany the application.

(b) *Approval criteria.* Upon receipt, each application will be reviewed to determine whether the procedures contained therein meet the requirements of the ACSPP. In determining whether a SOP submitted by an applicant carrier contains sufficient detail to assure the proper level of care and diligence required under the provisions of the ACSPP, the Assistant Commissioner, Inspection and Control, will verify that, at a minimum, procedures are in place which:

(1) Assure positive security background checks are performed on all carrier employees, both those employed within the United States and without, to the extent permitted by law;

(2) Assure a system of positive baggage and cargo identification is employed at all terminals used by the carrier;

(3) Assure the carrier employs a system to assure that no unmanifested cargo or mismanifested cargo is placed on board the conveyance or entered into the United States on any of their conveyances;

(4) Assure the carrier has specific procedures through which it will notify Customs should it discover any unmanifested or mismanifested cargo on any of its conveyances or in any area subject to its control;

(5) Assure the carrier has an effective and practical employee awareness training program in place; and

(6) Assure thorough security measures are implemented at all foreign departure points.

(c) *Acceptance and notification.* Upon proper verification by Customs that a carrier has certified in writing that it will be conducting its operations pursuant an approved SOP, the carrier will be notified that its application to the ACSPP has been accepted. Acceptance into the ACSPP is made with the understanding and expectation that the carrier will continue to act with the highest degree of care and diligence required under law and that it will abide by and perform all elements of its approved SOP.

§ 122.174 Operational procedures.

(a) *Participating carriers.* Participating carriers are required to:

(1) Provide security personnel for every international arrival to conduct the following procedures:

(i) Perform a thorough internal and external search of the arriving aircraft;

(ii) Maintain total control of all passengers and cargo being discharged from the aircraft to either the Customs passenger hall or to the carrier's cargo facility;

(iii) Verify that all cargo on aircraft is properly manifested, marked and weighed and that piece counts are properly performed; and

(iv) Maintain physical security of the aircraft and ramp access to the aircraft while it is being offloaded.

(2) Provide security personnel at the foreign point of departure for every international departure scheduled to arrive at an ACSPP designated airport to conduct the following procedures:

(i) Perform a thorough internal and external search of the departing aircraft;

(ii) Maintain total control of all passengers and cargo being loaded on the aircraft from either the passenger terminal or the carrier's cargo facility;

(iii) Verify that all cargo placed on the aircraft is properly manifested, marked and weighed and that piece counts are properly performed;

(iv) Maintain physical security of the aircraft and ramp access to the aircraft while it is being loaded; and

(v) Maintain similar positive security measures at all foreign intermediate airports prior to the arrival of the aircraft at an ACSPP designated airport.

(b) *U.S. Customs.* U.S. Customs will:

(1) Retain all current options available regarding the search and inspection of any and all passengers, cargo and conveyances; and

(2) Provide training to carrier personnel to assist the development of proper operational procedures.

§ 122.175 Exemption from penalties.

Should a controlled substance be introduced into the United States or discovered aboard an aircraft owned or operated by a participating carrier, or in cargo carried by a participating carrier, the participating air carrier shall be considered to have met the test of highest degree of care and diligence required under law, and shall not be subject to the penalty or seizure provisions of the Tariff Act of 1930, as amended, if the carrier establishes at an oral presentation before the district director or his designee, that the carrier was not grossly negligent nor engaged in willful misconduct, and that it had complied with all the provisions of these regulations.

§ 122.176 Removal from ACSPP.

(a) *Grounds for removal and suspension from ACSPP.* (1) The Assistant Commissioner, Inspection and Control, shall revoke the privilege of operating as a member of the ACSPP if:

(i) Acceptance into the program was gained through fraud or the misstatement of a material fact; or

(ii) An officer of the carrier or corporation which has been accepted into the program is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling, or theft-connected or Customs related crime.

(2) The Assistant Commissioner, Inspection and Control, may revoke or suspend the privilege of operating as a member of the ACSPP if the carrier has been notified in writing that it has been found in noncompliance with a provision of the program and after having been given a reasonable opportunity, has failed to correct the noncompliance. Examples of noncompliance include:

(i) Refusing or neglecting to obey a proper order of a Customs officer or any Customs order, rule, or regulation relative to the carrier's cooperation within the program;

(ii) Failing to retain merchandise which has been designated for examination by Customs;

(iii) Failing to provide secure facilities or properly safeguard merchandise within the carrier's area of control; and

(iv) Failing to observe any of the procedures which the carrier had set forth in the SOP which served as the basis for its acceptance into the program.

(b) *Notice and appeal.* The Assistant Commissioner, Office of Inspection and Control, shall suspend or remove participants from the ACSPP by serving notice of the proposed action upon the carrier in writing. The notice shall be in the form of a statement specifically setting forth the grounds for suspension or removal and shall provide the carrier with notice that it may file a written notice of appeal from suspension or revocation within 10 days following receipt of the notice of revocation or suspension. The notice of appeal shall be filed in duplicate with the office of the Assistant Commissioner, Inspection and Control, and shall set forth the response of the carrier to the statement of the Assistant Commissioner.

(c) *Notice of decision.* The Assistant Commissioner, Inspection and Control, shall notify the participating carrier in writing of the decision concerning continued participation in the program.

Michael H. Lane,
Acting Commissioner of Customs.

Approved: October 26, 1989.

John P. Simpson,
Acting Assistant Secretary of the Treasury.

[FR Doc. 89-27025 Filed 11-16-89; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 89F-0107]

Indirect Food Additives; Adhesives and Components of Coatings

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 bentonite, modified with benzyl (hydrogenated tallow alkyl) dimethyl ammonium chloride as a modifier in resinous and polymeric coatings for use in contact with food. This action is in response to a petition filed by United Catalysts, Inc.

DATES: Effective November 17, 1989; written objections and requests for a hearing by December 18, 1989.

ADDRESSES: 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: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of May 2, 1989 (54 FR 18700), FDA announced that a food additive petition (FAP 8B4112) had been filed by United Catalysts, Inc., P.O. Box 32370, Louisville, KY 40232, proposing that § 175.300 Resinous and polymeric coatings (21 CFR 175.300) be amended to provide for the safe use of bentonite, modified with benzyl (hydrogenated tallow alkyl) dimethyl ammonium chloride, as a rheological modifier in resinous and polymeric coatings for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that 21 CFR 175.300 should be amended in paragraph (b)(3)(xxxiii) 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 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 materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA 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, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before December 18, 1989, 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 175

Adhesives, Food additives, Food packaging.

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, 21 CFR part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

§ 175.300 [Amended]

2. Section 175.300 is amended in paragraph (b)(3)(xxxiii) by alphabetically adding a new entry to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xxxiii) * * *

Bentonite, modified by reaction with benzyl dimethyl alkyl ammonium chloride, where the alkyl groups are derived from hydrogenated tallow (CAS Reg. No. 71011-24-0). For use only as a rheological agent in coatings intended to contact food under repeated use conditions.

* * * * *

Dated: November 8, 1989.

Richard J. Ronk,

Deputy Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-26987 Filed 11-16-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 175

[Docket No. 88F-0227]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of bentonite, modified by reaction with sodium stearate and benzyl dimethyl alkyl ammonium chloride, where the alkyl groups are derived from hydrogenated tallow; and for the safe use of hectorite, modified by reaction with a mixture of benzyl methyl dialkyl ammonium chloride and dimethyl dialkyl ammonium chloride, where the alkyl groups are derived from hydrogenated tallow, for use as rheological agents in resinous and polymeric coatings complying with 21 CFR 175.300 when used on repeated-use containers. This action is in response to a petition filed by N. L. Industries, Inc.

DATES: Effective November 17, 1989; written objections and requests for a hearing by December 18, 1989.

ADDRESSES: 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: Gillian Robert-Baldo, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 26, 1988 (53 FR 28069), FDA announced that a food additive petition (FAP 8B4082) had been filed by N. L. Industries, Inc., P.O. Box 1090, Hightstown, NJ 08520, proposing that § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) be amended to provide for the safe use of bentonite clay modified by reaction with benzyl dimethyl hydrogenated tallow alkyl ammonium chloride and sodium stearate, and for the safe use of hectorite clay modified by reaction with a mixture of benzyl methyl bis(hydrogenated tallow alkyl) ammonium chloride and dimethyl bis(hydrogenated tallow alkyl) ammonium chloride as pigments in resinous and polymeric coatings for use on repeated-use bulk food containers.

FDA has evaluated data in the petition and other relevant material. During the course of its evaluation, FDA determined that the additives would be more accurately described as "bentonite, modified by reaction with sodium stearate and benzyl dimethyl alkyl ammonium chloride, where the alkyl groups are derived from hydrogenated tallow;" and as "hectorite, modified by reaction with a mixture of benzyl methyl dialkyl ammonium chloride and dimethyl dialkyl ammonium chloride, where the alkyl groups are derived from hydrogenated tallow." Therefore, the agency is using these names in this final rule.

The agency has also determined in its review that the additives are not pigments but instead are rheological agents used in coatings to control flow, viscosity, and pigment suspension, and that it would be more appropriate to regulate the proposed use of the additives in § 175.300(b)(3)(xxxiii) as rheological additives rather than in § 175.300(b)(3)(xxvi). The petitioner agrees with this finding. The agency further concludes that the proposed use of these additives is safe.

Therefore, the agency is amending § 175.300(b)(3)(xxxiii) to include two new entries which identify the two substances and prescribe limitations for their safe use as rheological agents in resinous and polymeric coatings.

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 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 materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA 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, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before December 18, 1989, 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