SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 71 of the Federal Aviation Regulations makes an editorial change to the existing legal description of the Oklahoma, OK, Transition Area. The existing legal description of the Oklahoma, OK, Transition Area excludes that portion within R-5601A. Based on a special airspace review, R-5601A is being redesigned in order to lessen the burden on the flying public. To correctly reflect the change, the legal description should state that the Oklahoma, OK, Transition Area excludes that portion within "R-5601" and not just in "R-5601A." I find that notice and public procedures under 5 U.S.C. 553(b) are unnecessary because this action is a minor editorial amendment in which the public would not be particularly interested. Section 73.51 of part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6E dated January 3, 1989.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Oklahoma, OK [Revised]

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Oklahoma, excluding that portion within R-5601.

Issued in Fort Worth, TX, on November 13, 1989.

Larry L. Craig,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 89-28563 Filed 12-6-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 24, 132, 141, 142 and 143

[T.D. 89-104]

RIN 1515-AA72

Customs Regulations Amendments Concerning Statement Processing and Automated Clearinghouse

AGENCY: U.S Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customers Regulations to provide users of Customs Automated Broker Interface (ABI) with the option of paying their entry/entry summaries and entry summaries by the statement processing method. Statement processing allows entry/entry summaries and entry summaries to be grouped and payment made for the group with a single payment. The document also establishes Automated Clearinghouse (ACH), an electronic payment mechanism, as the preferred method of payment of Customs duties, taxes and fees relative to ABI statements.

Further, the document provides an exception to the requirement that for entries of quota-class merchandise, estimated duties must be attached to the entry summary documentation. The document states that if an ABI participant chooses to do so, entries of quota-class merchandise and other special classes of merchandise designated by Customs Headquarters can be paid through statement processing and ACH if the preponderance of the ABI filer's non-special class entry summaries are also processed under statement processing and ACH. If an ABI participant opts to use statement processing for quota-class entries and the preponderance of his non-special class entries, he must use ACH. Further, quota status and quota priority can be acquired without estimated duties being attached to entry/entry summary documentation if statement processing and ACH are used.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: James Childress, Commercial System Division (202-343-6584).

SUPPLEMENTARY INFORMATION:

Background

Historically, Customs has generally required that estimated duties be attached to the submission of entry documentation or entry summary documentation. This payment was usually made by an individual check covering the entry or the entry summary. Through Customs Automated Commercial System (ACS), Customs has developed a method known as statement processing which allow one payment to cover multiple entry summaries. Further, Customs has developed an enhancement to statement processing which no longer requires that the estimated duties be attached to the submission of entry summary documentation. The enhancement is known as Automated Clearinghouse (ACH); ACH is an electronic payment mechanism. A filter who is on Customs ABI may transmit his entry data to Customs through the ABI, may elect to use statement processing, and use ACH to effect payment. The entry documentation and ACH payment authorization must be submitted within 10 working days after entry of the merchandise.

Customs published a document in the **Federal Register** (54 FR 10019) on March 9, 1989, proposing amendments to the Customs Regulations providing: (1) For the voluntary use by ABI participants of statement processing; (2) that all ABI participants using statement processing must pay their statements through the use of the ACH electronic payment mechanism; (3) that the payment of estimated duties regarding entry/entry summaries for special classes of merchandise, consisting of quota-class merchandise and other classes designated by Customs Headquarters, be allowed through ABI statement processing if the preponderance of the ABI participant's non-special class entry summaries are also processed under statement processing; and (4) that quota priority and status could be acquired without estimated duties being attached to the entry/entry summary documentation if statement processing and ACH are used.

Twenty comments were received in response to the proposal. Most commenters were in favor of the general concept set forth in the proposed rulemaking. However, there were several concerns. A discussion of the comments and our responses follows.

Analysis of Comments

Comments: Most commenters were opposed to the requirement that if an ABI participant uses statement processing, the ABI participant must use ACH.

Response: In view of the negative comments from the trade about mandatory ACH payment of all statements, Customs has decided to permit check or cash payment for a statement which does not include entries for quota-class merchandise. Customs has decided, however, that ABI participants who wish to gain release of quota-class and/or other special classes of merchandise without being required to attach estimated duties to the entry/entry summary documentation must use statement processing and the ACH method of payment for these transactions and for the largest portion of their Customs transactions. (See later discussion).

The incentive of offering deferred payment for entries of quota and other special class merchandise if payment is made by ACH and other marketing methods will be employed by Customs to encourage importers and brokers to adopt the ACH method of payment. Customs is committed to establishing ACH as the preferred method of payment.

Comment: Several comments received from individual brokers and trade associations requested that Customs maintain the option that broker's clients cqn pay Customs charges through the broker directly from their own accounts. The comments indicated that Customs should provide this option either for those clients who might elect to use ACH and have statement payments debited directly from their accounts, or for those clients who do not desire to use ACH, but currently provide the broker with a check payable to the "U.S. Customs Service" for their duties, taxes and fees that appear on an ABI statement.

Response: We agree that a broker's client should maintain the option to pay Customs directly through his own account. When a client elects to use the ACH method and have the funds debited directly from his own account, the client would be required to provide directly to Customs the bank transit routing number and the bank account number for each of his accounts from which ACH payments could be electronically debited. Customs would then assign a unique payer's unit number to each of his accounts and provide the assigned unit number(s) directly to the client and the Treasury-designated ACH processor. The client would then provide the appropriate payer's unit number to his broker to pay his statements through ABI. The funds would then be electronically withdrawn directly from the client's account.

Although ACH is the preferred payment method for ABI statements, it will not be possible for all entry filers in all instances. Therefore, Customs will continue to permit entry filers to pay by check payable to the "U.S. Customs Service" for duties, taxes, and fees, according to existing Customs regulations. However, it should be recognized that a particular statement payment must be accomplished entirely through ACH or completely by conventional method (check, cash, etc.). A mixing of payment methods for a single statement will not be accepted.

Comment: Some commenters were opposed to the proposed rule stating that the statement date must be the payment date. It was believed by certain commenters that the internal processes of a broker or importer may require early generation of the preliminary statement to allow the staff sufficient time to audit the proposed payments and perform any necessary amendments to the statement to ensure that proper payment can be tendered by the tenth working day.

Response: Customs recognizes the necessity of having adequate time to perform internal verification of proposed duty payments. Therefore, Customs has removed the requirement that statement date will be payment date. It should be noted, however, that the principal listed on the statement will be responsible for ensuring that the statement payment is timely made (that all related statement entries will be satisfied within 10 working days from the date of entry).

Comment: Several commenters stated that there should be an expedited administrative refund process for those ACH transactions which may be accepted over and above any required statement payment. These commenters stated that the administrative refund process should provide for refunding without need for the formal protest process and without any requirement for an entry-by-entry liquidation or reliquidation process; and any refund amount should be electronically provided to the payer.

Response: Customs agrees that a payer whose account is overdrawn directly as a result of an error by Customs or the Treasury-designated ACH processor should be entitled to immediate administrative relief without the need for formal protest action or liquidation or reliquidation action. Customs has the authority to provide such relief pursuant to 19 U.S.C. 1520(a)(4). However, because Customs believes that such errors will occur on a very isolated basis, administrative relief can be handled on a case-by-case basis without a formal provision. The reasons Customs believes that errors will be rare are twofold. First, the ACH payment process will be accomplished through ABI on a computer-to-computer basis with no manual intervention. Secondly, before an ACH payment authorization transaction is accepted for subsequent transmission to the Treasury-designated ACH processor, a strict set of edits must be completely passed relative to statement data and amount; if the ACH payment authorization is not error-free, it will not be accepted by Customs for subsequent transmission to the ACH processor. If an error does occur, Customs should be notified promptly so that immediate action can be instituted to ascertain the cause and take prompt action to satisfy the payer. It should be recognized that if the error was a result of an error at the payer's bank without culpability on the part of Customs or the Treasury-designated processor, Customs will not be responsible for the refund; the matter would have to be resolved with the payer's bank.

Comment: Several commenters were concerned with the system's security. There were concerns presented regarding protection against outside tampering with the system to prevent conversion of funds to outside personal accounts. In addition, assurances were sought that ACH.withdrawals would be made only for specific unpaid ABI statements and that Customs would debit the correct account for the ACH transaction.

Response: Although Customs cannot provide a 100 percent guarantee that a violation of the system could not occur, every precaution has been taken to avoid this possibility. The existing levels of security required to access both the Customs and bank system have been in place and operational for several years without experiencing any outside tampering.

Furthermore, the ACH authorization transaction input through ABI for statement payment and the resulting transmission to the Treasury-designated ACH processor contain no reference to the specific bank or bank account information. Instead, the Customs-assigned unique payer's unit number is used which is identifiable only to the ACH processor as to bank and bank account. The Customs system does not maintain a file which would provide any person inside or outside of Customs with accessibility to payer bank or bank account information. Also, the ACH processor system requires multiple levels of security to be satisfied before access can be gained to that system. There is no method available to gain access to the files of the ACH processor through Customs to obtain information regarding bank and bank account information.

The ACH electronic payment mechanism is initiated based on acceptance of a payment authorization transaction being received through ABI from the payer. Customs will not generate an internal transaction on its own initiative to accomplish an ACH payment. Customs acceptance of the ACH payment authorization is dependent on multiple edits being satisfied. Among these will be that the payer unit number provided in the transaction is eligible to accomplish payment of the statement number indicated in the transaction. Also, the statement number provided must be unpaid and the amount provided in the payment transaction must correspond exactly to the unpaid amount of the statement number provided. If any of these validations are not met, the transaction is not accepted by Customs for payment; the initiator of the ABI transaction is electronically notified as to what errors exist with the transaction. Most importantly, the unaccepted payment authorization will not be passed to the Treasury-designated ACH processor for funds withdrawal. Only error-free transactions are given to the ACH processor for eventual electronic withdrawal of funds.

The actual electronic withdrawal of funds from the payer's account will be accomplished through the Treasury-designated ACH processor. The bank and account from which funds are withdrawn will be dictated by the payer unit number provided in the accepted ABI payment authorization transaction. It is emphasized that it is the responsibility of the payer to ensure that all bank account information provided to Customs is correct and that the correct payer unit number is utilized in each ACH payment authorization transaction. If payers take this responsibility seriously, there is little need for concern regarding the correct accounts being debited for ACH transactions.

Comment: Some commenters were concerned that Customs may reduce the float period as soon as all ABI brokers are on ACH.

Response: Pursuant to this final rule, ACH is the payment method which should be utilized whenever possible by those ABI participants who use statement processing. Initially, Customs will electronically debit, through the Treasury-designated ACH processor, the payor's account on the second business day following the accepted payment date provided in the ABI acceptance notification record. However, it should be noted that the Treasury Department has reserved the right to review the effectiveness of ACH after a one year operational period. As a result of this review, Treasury could request changes to the program including a reduction in the float period.

Comment: Because the electronic ACH payment will not generate a cancelled check document, some commenters stated that the regulations should identify the document that an ACH user can present to substantiate that Customs duties for statement entries have been paid through an ACH transaction.

Response: The ABI statement process generates a final statement only after complete payment of the statement has been processed through the Customs financial system, either through an ABI–ACH transaction or by a Customs cashier entering a check or cash payment to the system. Therefore, the final statement could be utilized as evidence that statement payment has occurred through an ACH transaction in lieu of presenting a cancelled check. Section 24.25(c)(4), Customs Regulations, will be revised to indicate this.

Comment: Some commenters stated that Customs should provide a definition of the term "preponderance" in relation to its use in the requirement that entries of quota-class merchandise and other special classes of merchandise designated by Customs Headquarters can be paid through statement processing and ACH if the preponderance of the ABI filer's non-special class entry summaries are also processed under statement processing and ACH.

Response: The term "preponderance" was intended by Customs to mean the largest possible portion of a filer's non-special class entry summaries eligible for statement processing. To clarify the provision, "largest possible portion" is used in the final rule. All entries are eligible for statement processing except vessel repair entries and warehouse withdrawals. Customs does not wish to provide an exact percentage of eligible non-special class entry summaries that must be handled through statement processing and paid via the ACH payment mechanism, because Customs recognizes that there are valid business reasons which brokers may have for not using ACH in certain circumstances and the number of times that there are valid business reasons can vary from broker to broker. An example of a valid business reason why a broker has not paid an eligible entry summary through ACH is that the importer paid the broker with a check payable to "U.S. Customs." Because Customs does expect brokers who are using statement processing and ACH for quota and special class entries to use statement processing and ACH for the largest possible portion of their non-special class entries, a filer who excludes or deletes entries from the statement process and ACH should be prepared to articulate a sound business reason why these exclusions or deletions have occurred. While Customs will not in the normal course of events ask a filer to articulate his reasons for not using statement processing and ACH for a particular entry, if Customs believes that a broker is taking advantage of ACH for his quota-class entries and not using statement processing and ACH for the largest possible portion of his eligible non-special class entries, the ABI participant may be consulted by Customs as to why he has not used statement processing and ACH for certain entries. If Customs is not satisfied, after such consultation, that there were sound business reasons for the exclusion or deletion of non-special class entries, Customs may disqualify the participant from using statement processing/ACH for quota-class entries.

Comment: One commenter questioned why ACH is available only to ABI participants.

Response: The decision to make ACH available only to ABI participants was made by Customs. From a Customs standpoint, the effectiveness of the ACH payment process is dependent on accurate payment data being accepted through a controlled automated environment. The immediate method available which would provide Customs with the most effective means for operation of the ACH payment process is ABI. The ABI provides Customs with an immediate interface with the trade community which incorporates edits and validations to ensure accuracy and correctness of individual entry amounts. This existing interface can be readily adapted by Customs to accept a payment authorization and edit for correctness and provide data back to the payer indicating acceptance or error.

Additionally, the ABI format provides Customs levels of security which have been operational for some time without experiencing outside tampering which ensures protection of the ACH transaction from outside manipulation.

Comment: One commenter asked about the consequences of not accomplishing the ACH transaction timely because either Customs or the filer was experiencing computer difficulties.

Response: Customs is currently developing a policy of how it should handle the unavailability of processing due to a Customs computer problem. The goal of the policy Customs is designing is to provide operational guidelines in those instances of temporary Customs computer or communications problems. Where computer problems prevent the timely transmission of ACH payments, the option to bring check or cash payment to the Customs statement processing location is generally still available. As a general rule, the allowance of additional time to file ABI statement entries due to downtime of a filer's system should be granted. The allowance of additional time to file or pay through ACH due to filer computer breakdown is at the sole discretion of the District Director. Generally, every effort will be made to alleviate the risk of potential penalty action if Customs is timely notified of such problems.

Comment: Several commenters were concerned about the government having direct access to their bank accounts.

Response: Although the participating broker or importer would be required to provide their bank and bank account number to Customs, the broker or importer will dictate when and for what amount an electronic withdrawal will occur. Customs does not maintain an automatic access to the account.

The process to initiate electronic withdrawals through the Treasury-designated ACH processor is started only when Customs receives through ABI a payment authorization for a particular statement at a specific amount using a valid payer's unit number. If such a transaction is not received or is not accepted error-free, no transaction will be passed to the Treasury-designated ACH processor for electronic withdrawal. There is no manual intervention by Customs; only the data accepted error-free will be passed to the ACH processor. The ACH payment accepted will be applied only to the Customs duties owed on the entries which make up the specified statement.

Conclusion

After careful consideration of all the comments received and further review of the matter, it has been determined that the amendments with the modifications discussed above should be adopted. In addition, Customs has decided to eliminate the requirement of performing a freeze function on all preliminary statements which are to be paid through ACH. The "freeze" procedure was installed as part of the pilot test process to ensure that the broker payment amount transmitted directly to the Treasury-designated ACH processor would ultimately agree with the actual Customs preliminary statement amount. This procedure is no longer necessary under the ABI-ACH payment process because the ACH payment authorization will be transmitted directly to Customs via ABI and required to pass strict edits to ensure that statement data and amount are in complete agreement with existing Customs data before the payment authorization is accepted.

Inapplicability of Delayed Effective Date

Because this amendment neither imposes any additional burdens on, or takes away any existing rights or privileges from, the public, pursuant to 5 U.S.C. 553(d)(2), a delayed effective date is not required.

Executive Order

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

Regulatory Flexibility Act

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

Paperwork Reduction Act

The collection of information contained in this final regulation has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork and Reduction Act (44 U.S.C. 3504 (h)) under control number 1515–0167. The estimated average burden asssociated with this collection of information is 15 minutes per respondent or recordkeeper, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the U.S. Customs Service, Paperwork Management Branch, Washington, DC 20229, or the Office of Management and Budget, Paperwork Reduction Project (1515–0167), Washington, DC 20503.

Drafting Information

The principal author of this document was Harold M. Singer, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Imports, Taxes, Wages.

19 CFR Part 132

Customs duties and inspection, Imports, Quotas.

19 CFR Parts 141, 142 and 143

Customs duties and inspection, Entry, Imports.

Amendments to the Regulations

Parts 24, 132, 141, 142 and 143, Customs Regulations (19 CFR parts 24, 132, 141, 142 and 143) are amended as set forth below.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The general and relevant specific authority citation for part 24, CUSTOMS REGULATIONS (19 CFR part 24), continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624; 31 U.S.C. 9701; Public Law 99–662.

§ 24.1 also issued under 19 U.S.C. 197, 198, 1648.

2. Section 24.1(a) is amended by republishing the introductory text and by adding a paragraph (8) to read as follows:

§ 24.1 Collection of customs duties, taxes and other charges.

(a) Except as provided in paragraph (b) of this section, the following procedure shall be observed in the collection of Customs duties, taxes, and other charges (see § 111.29(b) and 141.1(b) of this chapter): * * *

(8) Participants in the Automated Broker Interface may use statement processing as described in § 24.25 of this part. Statement processing allows entry/entry summaries and entry summaries to be grouped by either importer or by filer, and allows payment of related duties, taxes and fees by a single payment, rather than by individual

checks for each entry. The preferred method of payment for users of statement processing is by Automated Clearinghouse.

* * * * *

3. Part 24 is amended by adding a new § 24.25 to read as follows:

§ 24.25 Statement processing and Automated Clearinghouse.

(a) *Description.* Statement processing is a voluntary automated program for participants in the Automated Broker Interface (ABI), allowing the grouping of entry/entry summaries and entry summaries on a daily basis. The related duties, taxes and fees may be paid with a single payment. The preferred method of payment is by Automated Clearinghouse (ACH), except where the importer of record has provided a separate check payable to the "U.S. Customs Service" for Customs charges (duties, taxes, or other debts owed Customs (see § 111.29(b) of this chapter)). A particular statement payment must be accomplished entirely through ACH or completely by check or cash. A mixing of payment methods for a single statement will not be accepted. ACH is an arrangement in which the filer electronically provides payment authorization for the Treasury-designated ACH processor to perform an electronic debit to the payer's bank account. The payment amount will then be automatically credited to the account of the Department of the Treasury. If a filer chooses to use statement processing for entries of quota-class merchandise and other special classes of merchandise designated by Customs Headquarters under § 142.13(c) of this chapter, he must also use statement processing as a normal course of business for the largest possible portion (see § 24.25(d)) of his eligible non-special class entries; further, he must use the ACH payment mechanism to pay all his ABI statements containing entries for quota-class merchandise. In no circumstance will check or cash be acceptable for payment of ABI statements containing entries for quota-class merchandise.

(b) *How to elect participation*—(1) *Statement processing.* An ABI filer must notify Customs in writing of the intention to utilize statement processing.

(2) *Automated Clearinghouse.* If an ABI filer pays his statements through ACH, rather than by check, he must provide to Customs the bank routing number and the bank account number for each account from which ACH payments are to be electronically debited. Upon the determination by Customs that the ABI filer has the necessary software to participate and otherwise qualifies to participate in ACH, Customs shall assign a unique identifying payer's unit number to the participant and the Treasury-designated ACH processor. This unique number assigned by Customs will alert the ACH processor as to which bank and account to issue the electronic debit. If a client of a ABI filer opts to pay Customs charges from his own account through an ABI filer, the client must provide directly to Customs the bank transit routing number and the bank account number for each of his accounts from which ACH payments can be electronically debited. Customs will then assign a unique payer's unit number to each of his accounts and provide the assigned unit number directly to the client and the Treasury-designated ACH processor. The client would then provide the appropriate payer's unit number to his broker to pay his statements through ABI. It is the responsibility of the participant to ensure that all bank account information is accurate and that the correct unique payer's unit number is utilized for each ACH transaction.

(c) *Procedure for filer.* (1) The filer shall transmit entry/entry summary and entry summary data through ABI indicating whether payment for a particular entry summary will be by individual check or by using statement processing. If statement processing is indicated, the filer shall designate whether the entry summary is to be grouped by importer or broker, and shall provide a valid scheduled statement date (within 10 days of entry, but not a Saturday, Sunday or holiday).

(2) Customs shall provide a preliminary statement to the ABI filer on the scheduled statement date. The preliminary statement shall contain all entry/entry summaries and entry summaries scheduled for that statement date. The preliminary statement shall be printed by the filer, who will review the statement entries and the statement totals, assemble the required entry summaries as listed in the statement, and present them to Customs with the preliminary statement. This presentation must be made within 10 working days after entry of the merchandise. If a filer elects to perform deletions from the preliminary statement (other than items related to special classes of merchandise provided for in § 142.13(c) of this chaper), the filer shall notify Customs in such manner as designated by Customs Headquarters. Any entry number deleted from a statement may be paid by an individual check or scheduled for another statement by transmitting the entry summary data through ABI with a future payment date.

(3) The ABI filer using statement processing is responsible for ensuring that payment is made within 10 days of the entry of the related merchandise.

(4) When payments are made through ACH, Customs shall, upon acceptance of the ACH payment authorization, identify the preliminary statement as paid and shall post the appropriate amounts to the related entries. The final statement generally shall be available to the filer the day following the acceptance of the ACH payment; this final statement may be utilized as evidence that statement payment has occurred through an ACH transaction. In other instances, a cancelled check may serve as evidence of payment.

(d) *Choice of excluding certain entries from statement processing.* An ABI filer using statement processing, generally, has the right to inform Customs electronically whether he desires that a particular entry summary be paid by individual payment or through statement processing. If a filer opts to use statement processing for entry/entry summaries for quota-class and other special classes of merchandise defined in § 142.13(c) of this chapter, he shall use statement processing in the normal course of business for the largest possible portion of his eligible non-special class entries also; further, he shall pay for these entry/entry summaries through ACH. If a filer opts to use statement processing and, therefore, ACH for entry/entry summaries for special classes of merchandise defined in § 142.13(c) of this chapter, these entry/entry summaries cannot be deleted from a statement. A filer who excludes or deletes entries from the statement process and ACH should be prepared to articulate a sound business reason why these exclusions or deletions have occurred. If Customs believes that a broker is using ACH for his quota-class entries and not using statement processing and ACH for the largest possible portion of his eligible non-special class entries, the ABI participant may be consulted by Customs as to why he has not used statement processing and ACH for certain entries. If Customs is not satisfied, after such consultation, that there were sound articulable business reasons for the exclusion or deletion of non-special class entries, Customs may disqualify the participant from using statement processing/ACH for quota-class entries.

(e) *Scheduled statement date.* Entry/entry summaries and entry summaries must be designated for statement processing within 10 working days after the date of entry. It is the responsibility of the ABI filer using statement processing to ensure that the elected scheduled statement date is within that 10-day timeframe. Customs will not warn the filer if the scheduled statement date given is late.

PART 132—QUOTAS

1. The authority citation of part 132, Customs Regulations (19 CFR part 132), continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624.

2. Section 132.1(d) is revised to read as follows:

§ 132.1 Definitions.

* * * * *

(d) *Presentation.* "Presentation" is the delivery in proper form to the appropriate Customs officer of:

(1) An entry summary for consumption, which shall serve as both the entry and the entry summary, with estimated duties attached (see § 141.0a(b)); or

(2) An entry summary for consumption, which shall serve as both the entry and the entry summary, without estimated duties attached, if the entry/entry summary information and a valid scheduled statement date (pursuant to § 24.25 of this chapter) have been successfully received by Customs via the Automated Broker Interface; or

(3) A withdrawal for consumption with estimated duties attached.

* * * * *

3. The text of § 132.11(b) is revised to read as follows:

§ 132.11 Quota priority and status.

* * * * *

(b) *Documentation and deposit of duties in proper form required.* Merchandise covered by an entry summary for consumption, which serves as both the entry and entry summary, or by a withdrawal for consumption, shall be regarded as entered for purposes of quota priority and shall acquire quota status if:

(1) The entry summary or withdrawal for consumption is in proper form, and duties have been attached to the entry summary or withdrawal for consumption in proper form; or

(2) The entry summary for consumption is in proper form, and the entry/entry summary information and a valid scheduled statement date (pursuant to § 24.25 of this chapter) have been successfully received by Customs via the Automated Broker Interface.

* * * * *

4. Section 132.11a is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 132.11a Time of presentation.

(a) *General rule.* Except as provided in paragraph (b) of this section, the time of presentation of an entry/entry summary for quota purposes shall be the time of delivery in proper form of:

(1) An entry summary for consumption, which serves as both the entry and the entry summary, with estimated duties attached; or

(2) An entry summary for consumption, which shall serve as both the entry and the entry summary without estimated duties attached, if the entry/entry summary information and a valid scheduled statement date have been successfully received by Customs via the Automated Broker Interface (see § 132.1(d)(2); payment must be subsequently made by the statement processing method as set forth in § 24.25 of this chapter); or

(3) A withdrawal for consumption with estimated duties attached.

* * * * *

(c) *Failure to use statement processing method.* If presentation is chosen to be made pursuant to § 132.11a(a)(2) and payment is not made as required through the statement processing method, the district director may require filing of an entry summary for consumption with estimated duties attached as described in § 132.11(a)(1) for future filings.

§ 132.14 [Amended]

5. The first sentences of paragraphs (a) (1), (2), (3), (4)(i) introductory text and (4)(ii) introductory text in § 132.14 are amended by inserting the word "proper" before the words "presentation of an entry summary for consumption, or withdrawal for consumption."

6. The first sentences of paragraphs (a) (1), (2), (3), (4)(i) introductory text and (4)(ii) introductory text in § 132.14 are amended by removing the words "with estimated duties attached" following the words "presentation of an entry summary for consumption, or a withdrawal for consumption" and replacing them with "pursuant to § 132.1 of this part."

PART 141—ENTRY OF MERCHANDISE

1. The general and relevant specific authority for part 141, Customs Regulations, 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. The introductory paragraph of § 141.101 is revised to read as follows:

§ 141.101 Time of deposit.

Estimated duties shall either be deposited with the Customs officer designated to receive the duties at the time of the filing of the entry documentation or the entry summary documentation when it serves as both the entry and entry summary, or be transmitted to Customs according to the statement processing method as described in § 24.25 of this chapter, except in the following cases:

* * * * *

2. The second sentence of § 141.62(b)(2)(ii) is amended by inserting the words "or without the estimated duties attached, if the entry/entry summary information and a scheduled statement date have been successfully received by Customs via the Automated Broker Interface," between the words "with the estimated duties attached," and "shall be the time of presentation for quota purposes."

§ 141.68 [Amended]

3. Section 141.68(b) is amended by deleting the period at the end of the paragraph and adding, "except as provided in § 142.13(c)."

4. Section 141.68(d) is amended by inserting between the words "with estimated duties attached," and "as provided in § 132.11a of this chapter," the words "or if the entry/entry summary information and a valid scheduled statement date (pursuant to § 24.25 of this chapter) have been successfully received by Customs via the Automated Broker Interface, without the estimated duties attached,".

PART 142—ENTRY PROCESS

1. The authority citation for part 142 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. Section 142.13 (c)(1) and (c)(2) are revised to read as follows:

§ 142.13 When entry summary must be filed at time of entry.

* * * * *

(c) *Special classes of merchandise*—(1) *Quota-class merchandise.* Quota-class merchandise shall not be released upon delivery of entry documentation before presentation of:

(i) An entry summary for consumption with estimated duties attached; or

(ii) A withdrawal for consumption with estimated duties attached; or

(iii) An entry summary for consumption, without the estimated duties attached, if the entry/entry summary information and a valid scheduled statement date have been successfully received by Customs via the Automated Broker Interface. (See part 132 and § 24.25 of this chapter.)

(2) *Other classes of merchandise.* Entry summary documentation, with estimated duties attached, or a withdrawal for consumption with estimated duties attached, or an entry summary for consumption, without the estimated duties attached if the entry/entry summary information and a valid scheduled statement date have previously been transmitted to Customs via the Automated Broker Interface (see § 24.25 of this chapter) shall be filed at the time of entry before release of any other merchandise of a class designated by Customs Headquarters.

* * * * *

3. Section 142.21(e) is revised to read as follows:

§ 142.21 Merchandise eligible for special permit for immediate delivery.

* * * * *

(e) *Quota-class merchandise*—(1) *Tariff rate.* At the discretion of the district director, merchandise subject to a tariff-rate quota may be released under a special permit for immediate delivery provided the importer has on file a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter. An entry summary shall be properly presented pursuant to § 132.1 of this chapter within the time specified in § 142.23, or within the quota period, whichever expires first. If proper presentation is not made until after the tariff-rate quota is filled, the merchandise shall not be entitled to the quota rate of duty, and the importer shall pay duties at the over-quota rate.

(2) *Absolute.* At the discretion of the district director, perishable merchandise of a class approved by Customs Headquarters which is subject to an absolute quota may be released under a special permit for immediate delivery for removal to the importer's premises, or to any other location approved by the district director, until an entry summary is properly presented pursuant to § 132.1 of this chapter. A proper entry summary must be presented for merchandise so released within the time specified in § 142.23, or within the quota period, whichever expires first. If the absolute quota is filled before the importer has properly presented an entry summary, he may either present an entry summary for warehouse or, under Customs supervision, export or destroy the merchandise.

* * * * *

4. Section 142.22(b)(1) is revised to read as follows:

§ 142.22 Application for special permit for immediate delivery.

* * * * *

(b) *Customs custody.* * * *

(1) An entry summary for consumption, with estimated duties attached; an entry summary for consumption without estimated duties attached, if entry/entry summary information and a valid scheduled statement date (pursuant to § 24.25 of this chapter) have successfully been received by Customs via the Automated Broker Interface; an entry summary for warehouse; or an entry summary for entry temporarily under bond, which may be filed in any of the circumstances under § 142.21 of this part except for merchandise released from warehouse under § 142.21(f) of this part;

* * * * *

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

1. The authority citation of part 143 continues to read as follows:

Authority: 19 U.S.C. 66, 1481, 1484, 1498, 1624.

2. The first sentence of § 143.28 is revised to read as follows:

§ 143.28 Deposit of duties and release of merchandise.

Unless statement processing and ACH are used pursuant to § 24.25 of this chapter, the estimated duties and taxes, if any, shall be deposited at the time the entry is presented and accepted by a Customs Officer, whether at the customhouse or elsewhere. * * *

Approved: November 30, 1989.

Michael H. Lane,

Acting Commissioner of Customs.

Salvatore R. Martoche,

Assistant Secretary of the Treasury.

[FR Doc. 89-28513 Filed 12-6-89; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 89F-0078]

Indirect Food Additives: Adhesives and Components of Coatings

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 a mixture of *cis* and *trans*-1,4-cyclohexanedimethanoldibenzoate as a component of adhesives used in the manufacture of packaging intended to contact food. This action responds to a petititon filed by Velsicol Chemical Corp.

DATES: Effective December 7, 1989. Written objections and requests for a hearing by January 8, 1990.

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: Andrew D. Laumbach, 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 April 6, 1989 (54 FR 13951), FDA announced that a food additive petition (FAP 9B4139) had been filed by Velsicol Chemical Corp., 5600 North River Rd., Rosemont, IL 60018-5119, proposing that § 175.105 Adhesives (21 CFR 175.105) be amended to provide for the safe use of a mixture of *cis* and *trans*-1,4-cyclohexanedimethanoldibenzoate as a component of adhesives used in the manufacture of packaging intended to contact food.

FDA has evaluated in the petition and other relevant material. The agency concludes that the proposed food additive use is safe. Therefore, the agency is amending § 175.105(c)(5) by adding a new entry to the table. The agency also concludes that use of the CAS Registry Number for this additive specifies the additive as a mixture, precluding the necessity to list the terms *cis* and *trans*.

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 January 8, 1990 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).

2. Section 175.105 is amended in paragraph (c)(5) by alphabetically adding a new entry in the table to read as follows:

§ 175.105. Adhesives

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
1,4-Cyclohexanedimethanoldibenzoate (CAS Reg. No. 35541-81-2).	
* * * * *	

Dated: November 29, 1989.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-28571 Filed 12-6-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD7 89-56]

Special Local Regulations: City of Pompano Beach, FL, Christmas Boat Parade

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the City of Pompano Beach Christmas Boat Parade. The event will be held on December 10, 1989, from 6:30 p.m. to 9:00 p.m. The regulations are needed to promote the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations will become effective on December 10, 1989, at 5:30 p.m. e.s.t. and will terminate on December 10, 1989, at approximately 10:00 p.m. e.s.t.

FOR FURTHER INFORMATION CONTACT: Contact LTJG R. Malcolm, Jr., (305) 535-4304.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical as there was insufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information: The drafters of this regulation are LCDR David G. Dickman, Project Attorney, Seventh Coast Guard District Legal Office, and LTJG Ralph Malcolm, Jr., Project Officer, USCG Group Miami Beach, FL.

Discussion of Regulations: The Pompano Beach Christmas Boat Parade is a night time parade of vessels ranging in length from 23 feet to 125 feet, decorated with holiday lights and ornaments. The parade will form in the staging area at Lake Santa Barbara then proceed north up the Intracoastal Waterway (ICW) to Hillsboro Boulevard Bridge where it will disband. 150 vessels are expected to participate in the parade and over 100 spectator vessels are expected along the parade route. The regulations establish a moving regulated area of 1000 feet ahead and 1000 feet astern of the string of parade vessels. The regulated area also includes an area 50 feet east and west along the north-south axis of the regulated area as the participating vessels navigate north in the ICW.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35-0756 is added as follows:

§ 100.35-0756 Pompano Beach Christmas Parade, FL.

(a) *Regulated Area:* A regulated area is established surrounding the parade participants as they transit the parade route. Nonparticipating vessels will be prohibited from entering an area encompassing 50 feet on either side of the north-south axis of the parade. The axis extends from 1000 feet ahead of the lead vessel in the parade to 1000 feet astern of the last participating vessel in the parade as the parade transits north in the Intracoastal Waterway (ICW) in the vicinity of Pompano Beach, Florida. The parade starts at Lake Santa Barbara, then proceeds north to Hillsboro Boulevard Bridge, where the parade will disband.

(b) *Special Local Regulations:* (1) Entry into the regulated area is prohibited unless authorized by the Patrol Commander. After the passage of the parade participants and the regulated area, all vessels may resume normal operations.

(2) A succession of not fewer than 5 short whistle or horn blasts from a patrol vessel will be the signal for any