all LOX trades, both prior to their execution and after their completion.

A contract market's program should include both floor and record surveillance of LOX trades. In particular, a contract market should take steps to deter possible frontrunning, including setting requirements that member firms establish and enforce internal rules, procedures, and controls to prevent communication of information relating to LOX orders within member firms other than for the purpose of effectuating LOX procedures.[41] The Commission also expects that contract market rules would provide for the separate designation or separate audit trail of LOX trades and establish "upstairs" recordkeeping requirements. Surveillance measures directed to LOX procedures also should be designed to detect potential manipulation. Finally, the Commission expects that exchanges will include surveillance measures which provide for the review of LOX execution prices to assure that such prices are economically meaningful.[42]

VII. Related Matters

A. Regulatory Flexibility Act

The RFA, 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing regulations, consider the impact of those regulations on small businesses. The proposed amendments to Regulation 1.39 could affect contract markets. The Commission, however, previously has determined that contract markets are not "small entities" for purposes of the RFA, and that the Commission, therefore, need not consider the effect of a proposed amendment on contract markets for purposes of the RFA. 47 FR 18618, 18619 (April 30, 1982). As noted above, the Commission also has determined that, for this regulation, the RFA does not require an analysis of the effect of the amendment upon customers and contract market members. The rule is permissive rather than obligatory. A contract market would not need to petition for exemption unless it submitted to the Commission a proposed large order execution rule and this rule were inconsistent with Regulation 1.39(a).

Accordingly, pursuant to section 3(a) of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1168 (5 U.S.C. 605(b)), and based on currently available information, the Chairman, on behalf of the Commission, certifies that this rule, if promulgated, would not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 ("Act"), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. In compliance with the Act, the Commission previously submitted this regulation in proposed form and its associated information collection requirements to the Office of Management and Budget. The Office of Management and Budget approved the collection of information associated with this regulation on June 29, 1990 and assigned OMB control number 3038–0022 to the regulation. While this proposed regulation has no burden, the group of regulations of which this is a part has the following burden:

Average Burden Hours Per Response—80.83
Number of Respondents—339
Frequency of Response—On Occasion

Copies of the OMB approved information collection package associated with this rule may be obtained from Gary Waxman, Office of Management and Budget, room 3228, NEOB, Washington, DC 20503, (202) 395–7340.

List of Subjects in 17 CFR Part 1

Commodity futures, Commodity options, Contract markets, Customers, Large order execution procedures, Futures commission merchants, Members of contract markets, Cross trades, Exemptions, Petitions.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4, 4b, 4c, 4d, 4e, 5, 5a, and 8a, thereof, 7 U.S.C. 6, 6b, 6c, 6d, 6e, 7, 7a, and 12a, the Commission hereby amends part 1, chapter I of title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 19, 21, 23, and 24, unless otherwise stated.

2. In § 1.39, paragraph (b) is redesignated as paragraph (c) and revised, and new paragraph (b) is added to read as follows:

§ 1.39 Simultaneous buying and selling orders of different principals; execution of, for and between principals.

* * * * *

(b) *Large Order Execution Procedures.* A member of a contract market may execute simultaneous buying and selling orders of different principals directly between the principals in compliance with large order execution procedures established by written rules of the contract market that have been approved by the Commission: *Provided,* That, to the extent such large order execution procedures do not meet the conditions and requirements of paragraph (a) of this section, the contract market has petitioned the Commission for, and the Commission has granted, an exemption from the conditions and requirements of paragraph (a) of this section. Any such petition must be accompanied by proposed contract market rules to implement the large order execution procedures. The petition shall include:

(1) An explanation of why the proposed large order execution rules do not comply with paragraph (a) of this section; and

(2) A description of a special surveillance program that would be followed by the contract market in monitoring the large order execution procedures.

The Commission may, in its discretion and upon such terms and conditions as it deems appropriate, grant such petition for exemption if it finds that the exemption is not contrary to the public interest and the purposes of the provision from which exemption is sought. The petition shall be considered concurrently with the proposed large order execution rules.

(c) *Not deemed filling orders by offset nor cross trades.* The execution of orders in compliance with the conditions herein set forth will not be deemed to constitute the filling of orders by offset within the meaning of paragraph (D) of section 4b of the Act, nor to constitute cross trades within the meaning of paragraph (A) of section 4c of the Act.

Issued in Washington, DC, on March 19, 1991.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91–6938 Filed 3–22–91; 8:45 am]

BILLING CODE 6351-01-M

[41] *See, e.g.*, securities market "Chinese wall" requirements. 17 CFR 240.14e–3(b)(2) (1990).

[42] For a brief discussion of economically meaningful prices, see note 15.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 91-26]

Customs Regulations Amendment Extending Reciprocal Privileges to Vessels of the United Arab Emirates

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

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by adding the United Arab Emirates to the list of nations whose vessels may transport empty cargo vans, empty lift vans, and empty shipping tanks between points embraced within the coastwise laws of the United States. The Department of State has supplied Customs with evidence that the United Arab Emirates place no restrictions on the carriage of empty cargo vans, empty lift vans, empty shipping tanks, equipment for use with cargo vans, lift vans, or shipping tanks; empty barges specifically designed for carriage aboard a vessel and equipment, excluding propulsion equipment, for such barges; and empty instruments for international traffic; and stevedoring equipment and material by vessels of the United States between ports in the United Arab Emirates. This amendment recognizes the United States granting reciprocal privileges for vessels registered in the United Arab Emirates.

DATES: The reciprocal privileges for vessels registered in the United Arab Emirates became effective on February 4, 1991. This amendment is effective March 25, 1991.

FOR FURTHER INFORMATION CONTACT: Kristina Ver Steeg, Carrier Rulings Branch (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. app. 883), (the "Act"), provides generally that no merchandise shall be transported by water, or by land and water, between points in the United States except in vessels built in and documented under the laws of the United States and owned by U.S. citizens. However, the 6th proviso of the Act, as amended, states that, upon a finding by the Secretary of the Treasury (pursuant to information obtained and furnished by the Secretary of State) that a foreign nation does not restrict the transportation of certain articles between its ports by vessels of the United States, reciprocal privileges will be accorded to vessels of that nation, and the prohibition against the transportation of those articles between points in the United States will not apply to its vessels.

Section 4.93(b)(1), Customs Regulations (19 CFR 4.93(b)(1)), lists those nations found to extend reciprocal privileges to vessels of the United States for the transportation of empty cargo vans, empty lift vans, and empty shipping tanks. Section 4.93(b)(2), Customs Regulations (19 CFR 4.93(b)(2)), lists those nations found to extend reciprocal privileges to vessels of the United States for transportation of empty barges specifically designed for carriage aboard a vessel and equipment, excluding propulsion equipment, for use with such barges; empty instruments of international traffic; and stevedoring equipment and material.

On September 18, 1990, the Department of State advised the Chief, Carrier Rulings Branch, Customs Service Headquarters, that the United Arab Emirates places no restrictions on the transportation of empty cargo vans, empty lift vans, empty shipping tanks, equipment for use with cargo vans, lift vans, or shipping tanks; empty barges specifically designed for carriage aboard a vessel and equipment, excluding propulsion equipment, for such barges; empty instruments for international traffic; and stevedoring equipment and material by vessels of the United States between ports in that country.

The authority to amend this section of the Customs Regulations has been delegated to the Chief, Regulations and Disclosure Law Branch.

Finding

On the basis of the information received from the Department of State, it has been found that the United Arab Emirates places no restrictions on the transportation of empty cargo vans, empty lift vans, empty shipping tanks, equipment for use with cargo vans, lift vans, or shipping tanks; empty barges specifically designed for carriage aboard a vessel and equipment, excluding propulsion equipment, for such barges; empty instruments for international traffic; and stevedoring equipment and material by vessels of the United States between ports in that country. Therefore, appropriate reciprocal privileges are accorded to vessels registered in the United Arab Emirates as of February 4, 1991.

Inapplicability of Public Notice and Delayed Effective Date Requirements, the Regulatory Flexibility Act and Executive Order 12291

Because this amendment merely implements a statutory requirement and confers a benefit upon the public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary; further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d) (1) and (3). Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This amendment does not meet the criteria for a "major rule" as defined in E.O. 12291, and accordingly, a regulatory impact analysis is not required.

Drafting Information

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

List of Subjects in 19 CFR Part 4

Cargo vessels, Coastwise trade, Maritime carriers, Vessels.

Amendment to the Regulations

To reflect the reciprocal privileges granted to vessels registered in the United Arab Emirates, part 4, Customs Regulations (19 CFR part 4), is amended as set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The authority for part 4 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. App. 3;

* * * * *

§ 4.93 also issued under 19 U.S.C. 1322(a), 46 U.S.C. App. 883;

* * * * *

§ 4.93 [Amended]

2. Section 4.93 (b)(1) and (b)(2) are amended by adding "the United Arab Emirates" in appropriate alphabetical order to the list of nations entitled to reciprocal privileges.

Dated: March 19, 1991.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

[FR Doc. 91-7013 Filed 3-22-91; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Parts 122 and 178

[T.D. 91-25]

RIN 1515-AA78

The Air Carrier Smuggling Prevention Program

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

ACTION: Final rule.

SUMMARY: This document adopts final regulations concerning the Air Carrier Smuggling Prevention Program, implemented through interim regulations. The Anti-Drug Abuse Act of 1988 directed that the Customs Service implement this program in regulations.

The program is a logical extension of the Customs expanded interdiction program, and will exist for a 2-year test period commencing December 18, 1989. The regulations make the program available at the Miami, Dallas, and Los Angeles International Airports. Participation in the program is optional for carriers. In order to be considered for the program, a carrier has to provide Customs with its comprehensive security plan designed to assist in preventing illicit drugs from entering the United States. Those carriers which apply for, are accepted into, and adhere to the terms of the program will be deemed to have exercised the highest degree of care and diligence should any contraband violation occur. Accordingly, a participating carrier will be exempted from seizure and penalties should illegal drugs be found on its aircraft if the participating carrier establishes that it was not grossly negligent or did not engage in willful misconduct. The program is intended to increase the cooperative effort which prevails between Customs and the carriers. Because the amendment requires the submission of information to Customs, part 178, the list of sections which contain approved collections of information, is also being amended.

EFFECTIVE DATE: April 24, 1991.

FOR FURTHER INFORMATION CONTACT: Ron Griffith, Office of Inspection and Control, U.S. Customs Service (202) 566–2140.

SUPPLEMENTARY INFORMATION:

Background

On November 17, 1989, the Customs Service published an Interim Rule which implemented the Air Carrier Smuggling Prevention Program (ACSPP) in the **Federal Register** (54 FR 47761). Although the interim regulation was effective 30 days after publication, the document invited comments from the public on the interim regulation.

The ACSPP is the result of section 7369 of the Anti-Drug Abuse Act of 1988 (19 U.S.C. 1584 Note), in which 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. Customs determined that the 2-year demonstration of the ACSPP would 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.

Participation in the program is optional for carriers. In order to be considered for the program, a carrier has to develop a comprehensive security plan designed to assist in preventing illicit drugs from entering the United States. Three copies of this plan will have to be submitted to Customs for review. Those carriers which apply for, are accepted into, and adhere to the terms of the program will be deemed to have exercised the highest degree of care and diligence. Should any contraband violation occur on a participating carriers aircraft, the ACSPP carrier will be exempted from seizure and penalties if the participating carrier establishes that it was not grossly negligent or did not engage in willful misconduct.

In response to its invitation for comments on the interim regulation, the Customs Service received several replies. The significant points raised in those comments are addressed below.

Analysis of Comments

Comment: As currently phrased, the regulation appears to require a carrier which wishes to participate in the program to provide the same level of intensive security to all its flights which may arrive at any of the test airports, regardless of their point of origin. The commentor states that the program should provide carriers the option of designating only those flights which arrive from "high risk" areas as participating in the program. There should also be the option of limiting the number of airports at which a carrier participates.

Response: Customs agrees with the concept that the degree of smuggling threat differs according to the point of origin of a flight and that resources should be allocated accordingly. Therefore, the regulations are being modified to allow carriers more options. Prospective participants will be permitted to designate those flights and airports which they wish to have included within the program in their applications. Actual routes and participation will be subject to Customs approval of the carrier's application. Carriers should be aware that the penalty and forfeiture protections accorded to flights which are included within the ACSPP will not be available to those flights which are not included within the ACSPP. Carriers will still be subject to the existing law and procedure should narcotics be discovered aboard those flights.

Comment: The Customs requirement that the carrier perform background security checks is excessive and should be confined to the points and routes that the program covers.

Response: Customs has reviewed the interim regulation and agrees that not all carrier employees hold sensitive positions. The final rule has been modified to reflect this situation. However, Customs stands firm on its position that positive security background checks be performed on all carrier employees who have access to aircraft, baggage or cargo anywhere along a carrier's participating route to the extent permitted by law. Because inbound international cargo has the capability of moving to inward airports to be cleared by Customs, thorough background checks of all carrier employees with acess to potentially sensitive areas will lessen the risk of internal conspiracies. The regulation will not require such background checks be performed on airline personnel who do not have such access.

Comment: Comments expressed concern that Customs might use different criteria in evaluating carrier applications and requested assurances that all applications be uniformly judged.

Response: It was never Customs intention that different criteria would be used in reviewing applications. However, to remove unnecessary concerns, specific language is included in the final rule to specify that uniform criteria will be used by the Assistant Commissioner in evaluating not only applications, but also carriers performance questions and issues of carrier removal or suspension from the program.

Comment: The requirement that carriers employ a system to assure that no unmanifested cargo is placed on board is impracticable in view of the volume of cargo carried aboard aircraft. The commentor suggests that a carrier be allowed to use a "good faith effort" to properly manifest cargo placed on board its aircraft.

Response: Historically, statutes and regulation have placed the burden of proper manifesting on the carrier. The carrier must know what is aboard its aircraft and is only asked to take a basic approach by assuring that air waybills have properly detailed documentation, each box or container is properly marked, the weight of all cargo is verified against the exporter's claim, and that the piece count is correct before loading the aircraft. Allowing a "good faith effort" approach would contradict Customs efforts to ensure accurate manifests, current FAA initiatives and open the door to internal conspirators within the airline to smuggle drugs as long as they made a good faith effort to manifest properly.

Comment: Use of the term "mismanifested" in the proposed regulation to indicate errors in identifying cargo on a manifest is incorrect.

Response: Customs agrees that the term is misleading. Customs intent is to have the carriers advise Customs of cargo or baggage that is not manifested as cargo, unaccompanied checked baggage, or unaccompanied baggage when the carrier discovers the item and has modified the regulation accordingly.

Comment: Concern was raised over the requirement that carriers assure that thorough security measures are implemented at foreign locations. The commentor states that the degree to which a carrier can exercise control over security at foreign locations will vary and requests that Customs recognize this situation.

Response: Customs does realize that in some cases the carrier will have limited control over the total security of the airport complex. However, in such instances where the carrier has no control over the airport, it must establish and maintain security over its airplane. Customs expects the carrier to at least have control and knowledge of the baggage, cargo, passengers and other materials placed on board the aircraft. Customs points out that the carrier's inability to achieve this level of securiy would also violate FAA regulations.

Comment: Concern was expressed concerning shipper-loaded containers, palletized and shrink-wrapped consolidated shipments, or other shipper-assembled cargo. The comment stated that carriers should not be responsible for verifying the contents of such shipper prepared cargo. In such instances, the comment states that reliance on the shipper's load and count notation should be sufficient to relieve the carrier of liability.

Response: Pursuant to Customs Regulations, an air carrier is responsible for all cargo and baggage placed aboard its aircraft. Consolidated shipments remain the responsibility of the carrier. The burden is removed from the carrier only when cargo is received in a locked and sealed air container and when the weight and seal number are verified and properly manifested. All other palletized, shrink wrapped or other type of non-sealable/lockable container cargo remains the responsibility of the air carrier.

Comment: Concern was raised over several elements which were identified in the proposal which could be grounds for removal for automatic removal of a carrier if an officer was convicted of a felony.

Response: Customs agrees with the comment and has modified that portion of the regulation to clarify that the conviction would have to be for a crime performed in the individual's official capacity, unless the underlying violation was Customs-related, for the removal to be automatic. As with all other grounds for removal, the regulations provide the carrier with an opportunity to appeal the decision of the Assistant Commissioner and demonstrate that the removal is unwarranted.

Determination

After consideration of all the comments received in response to the publication of the interim regulations, and further review of the matter, it has been determined to adopt the regulations in final form with the modifications discussed.

Consultation With Secretary of Transportation

This regulation is being issued after consultation with the Secretary of Transportation.

Regulatory Flexibility Act

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

Executive Order 12291

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

Paperwork Reduction Act

The collection of information contained in this final regulation has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1515–0171. The estimated burden associated with this collection of information is 1,800 hours, per respondent or recordkeeper, depending on circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing the burden should be directed to the U.S. Customs Service, Paperwork Management Office, 1301 Constitution Avenue NW., Washington, DC 20229, or the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

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

19 CFR Part 122

Air carriers, Air transportation, Aircraft, Airports.

19 CFR Part 178

Reporting and recordkeeping requirements, Paperwork requirements, Collections of information.

Amendment to the Regulations

The interim rule amending part 122 of the Customs Regulations (19 CFR part 122) which was published at 54 FR 47761 on November 17, 1989, is adopted as a final rule as set forth below. Part 178 of the Customs Regulations (19 CFR part 178), is also amended as set forth below:

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122, Customs Regulations (19 CFR 122), continues 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 revising subpart R consisting of §§ 122.171 through 122.176, to read as follows:

Subpart R—Air Carrier Smuggling Prevention Program

Sec.
122.171 Description of Program.
122.172 Eligibility.
122.173 Application procedures.
122.174 Operational procedures.
122.175 Exemption from penalties.
122.176 Removal from ACSPP.

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, as defined in 19 U.S.C. 1584 note, in Customs efforts to prevent the smuggling of controlled substances. If carriers develop and implement thorough and complete internal security procedures at ACSPP designated terminals and foreign departure and intermediate points, the opportunity for their conveyances being used for transportation of controlled substances will be greatly reduced. Participation in the program is voluntary, and may be limited to specific routes. Should a controlled substance be introduced into the United States on a conveyance owned or operated by a participating carrier however, the carrier will be exempt from seizure and penalties 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 air 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.* An air carrier which wishes to participate in the ACSPP shall submit an application to the Assistant Commissioner, Office of Inspection and Control, in which it:

(1) Identifies specific routes and designated departure points and ACSPP airports for which application is made;

(2) Certifies that it has developed and will continue to maintain standard operating procedures (SOP) which are designed to safeguard the integrity of its employees, cargo and conveyances. The application shall be accompanied by three (3) copies of the SOP developed by the air carrier.

(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 apply uniform standards and 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, who have access to baggage, cargo or secure areas on participating routes, 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 is placed on board the conveyance or brought 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 improperly manifested 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 on ACSPP participating routes which will assure that the carrier has control and knowledge of the baggage, cargo, passenger and other materials placed on board its aircraft.

(c) *Acceptance and notification.* Upon verification by Customs that a carrier's SOP meets all the criteria outlined in § 122.173(b) of this part, 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 develop and adhere to procedures whereby they will:

(1) Provide security personnel for every international arrival participating in the ACSPP 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 which is participating in ACSPP 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, on a route identified by the carrier as one participating in the ACSPP and which has been approved by Customs, 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 from ACSSPP.* The Assistant Commissioner, Inspection and Control, may revoke or supend the privilege of operating as a member of the ACSPP if:

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

(2) The carrier refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation relative to its cooperation within the program;

(3) An officer of the carrier or corporation which has been accepted into the program is convicted of a felony or misdemeanor involving theft, smuggling, or other theft-connected crime which was committed in his or her official capacity as an officer of the

carrier, or is convicted of any Customs-related crime;

(4) The carrier fails to retain merchandise which has been designated for examination;

(5) The carrier does not provide secure facilities or properly safeguard merchandise within its area of control; or

(6) The carrier fails to observe any of the procedures which it had set forth in the SOP which served as the basis for the carrier's acceptance into the program; and

(7) The carrier has been notified in writing that it has been found in noncompliance with a provision of the program and has failed to correct such noncompliance after having been given a reasonable opportunity to correct such noncompliance.

(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 to the office of the Assistant Commissioner, Inspection and Control, and shall set forth response of the carrier to the statement of the Assistant Commissioner.

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

(d) *Use of uniform criteria.* When making any determination regarding a carrier's participation or continuation in the ACSPP, the Assistant Commissioner, Office of Inspection and Control, shall employ a uniform standard of performance and evaluation.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by inserting the following in the appropriate numercial sequence according to the section number in the column indicated:

§ 178.2 Listing of OMB Control Numbers.

19 CFR Section	Description	OMB Control No.
*	* *	*
§ 122.173	Application for Entry Into the Air Carrier Smuggling Prevention Program.	1515-0171
*	* *	*

Carol Hallett,
Commissioner of Customs.

Approved: March 5, 1991.

Peter K. Nunez,
Assistant Secretary of the Treasury.

[FR Doc. 91-7012 Filed 3-22-91; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Maduramicin Ammonium (CYGRO) With Roxarsone or Bacitracin Methylene Disalicylate; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that amended the animal drug regulations to remove those portions reflecting approval of two new animal drug applications (NADA's) held by American Cyanamid Co. This document corrects an oversight which failed to remove all affected regulations.

EFFECTIVE DATE: December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Richard P. Lehmann, Center for Veterinary Medicine (HFV-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3134.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 30, 1990 (55 FR 49615 and 49705), FDA published the withdrawal of NADA's 140-821 and 140-823 held by American Cyanamid Co., Agricultural Research Division, Box 400, Princeton, NJ 08540. The document failed to remove all the affected portions in 21 CFR part 558 to reflect the withdrawal of approval of the NADA's. This document corrects that oversight.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.76 [Amended]

2. Section 558.76 *Bacitracin methylene disalicylate* is amended by removing paragraph (d)(3)(xiv).

§ 558.530 [Amended]

3. Section 558.530 *Roxarsone* is amended by removing paragraph (d)(3)(xxiv).

Dated: March 18, 1991.

Richard H. Teske,
Deputy Director, Center for Veterinary Medicine.

[FR Doc. 91-6961 Filed 3-22-91; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 1481-91]

Office of Special Counsel for Immigration Related Unfair Employment Practices

AGENCY: Office of the Attorney General, Department of Justice.

ACTION: Final rule.

SUMMARY: This order will amend part 0 of title 28, Code of Federal Regulations, to designate the Assistant Attorney General for the Civil Rights Division as the person through whom the Special Counsel for the Office of Special Counsel for Immigration Related Unfair Employment Practices will report. This order updates the Code of Federal Regulations to accurately reflect the Department's internal management structure. The Department of Justice will continue to treat the Office of Special Counsel as a separate component of the Department for budgetary and personnel purposes.

EFFECTIVE DATE: March 25, 1991.

FOR FURTHER INFORMATION CONTACT: Gaylord D. Draper, Executive Officer, Office of Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice,