PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

1. The authority citation for part 354 continues to read as follows:

Authority: 7 U.S.C. 2260; 21 U.S.C. 136 and 136a; 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 354.2 is amended by removing and adding in the table, in alphabetical order, the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
[Remove]			
* *	*	*	*
Delaware:			
Claymont	Dover	.....	4
Claymont	Wilmington	.....	2
Delaware City	Wilmington	.....	2
Delaware City	Dover	.....	3
Dover	.....	2	.....
Slaughter Beach.	Dover	.....	2
Wilmington (including marine terminal and airport).	.....	2	.....
Wilmington (including marine terminal and airport).	Carlisle, PA	.....	6
Wilmington (including marine terminal and airport).	Chestertown, MD.	.....	4
Wilmington (including marine terminal and airport).	Dallas, PA	.....	6
Wilmington (including marine terminal and airport).	Dover	.....	4
Wilmington (including marine terminal and airport).	Gap, PA	.....	4
* *	*	*	*
[Add]			

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan area	
		Within	Outside
* *	*	*	*
Delaware:			
* *	*	*	*
Dover	.....	1	.....
Dover	Wilmington	.....	3½
* *	*	*	*
Wilmington (including NCCA, Delaware City, and Claymont).	.....	2	.....
Wilmington (including NCCA, Delaware City, and Claymont).	Dover	.....	3
* *	*	*	*

Done in Washington, DC, this 27th day of February 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–5284 Filed 3–2–95; 8:45 am]

BILLING CODE 3410–34–P

9 CFR Part 77

[Docket No. 94–053–3]

Tuberculosis in Cattle and Bison; State Designation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the tuberculosis regulations concerning the interstate movement of cattle and bison by reducing the designation of Virginia from an accredited-free (suspended) State to a modified accredited State. We have determined that Virginia no longer meets the criteria for designation as an accredited-free (suspended) State but meets the criteria for designation as a modified accredited State. This change was necessary to prevent the spread of tuberculosis in cattle and bison.

EFFECTIVE DATE: April 3, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Mitchell A. Essey, Senior Staff Veterinarian, Animal and Plant Health Inspection Service, Veterinary Services, Cattle Diseases and Surveillance, 4700 River Road Unit 36, Riverdale, MD 20737–1231; (301) 734–8715.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the Federal Register on November 29, 1994 (59 FR 60885–60886, Docket No. 94–053–2), we amended the tuberculosis regulations in 9 CFR part 77 by removing Virginia from the list of accredited-free (suspended) States in § 77.1 and adding it to the list of modified accredited States in that section.

Comments on the interim rule were required to be received on or before January 30, 1995. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

The action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

PART 77—TUBERCULOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR 77.1 and that was published at 59 FR 60885–60886 on November 29, 1994.

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, and 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 27th day of February 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–5287 Filed 3–2–95; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 93F–0483]

Secondary Direct Food Additives Permitted in Food for Human Consumption

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 chlorine dioxide to control the microbial population in poultry process water. This action is in response to a petition filed by Rio Linda Chemical Co., Inc.

DATES: The regulation is effective March 3, 1995; written objections and requests for a hearing by April 3, 1995. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of certain publications in new § 173.69, effective March 3, 1995.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3074.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the Federal Register of February 2, 1994 (59 FR 4924), FDA announced that a food additive petition (FAP 4A4408) had been filed by Rio Linda Chemical Co., Inc., 410 North 10th St., Sacramento, CA 95814, proposing that the food additive regulations be amended to provide for the safe use of chlorine dioxide to disinfect waters contacting fresh meat, fresh poultry, processed meat, and processed poultry. Since filing the petition, the agency has concluded that it is more appropriate to replace the term ''disinfect'' with ''control the microbial population'' because ''disinfect'' implies total eradication of microbial contamination.

FDA has completed its review of the use of up to 3 parts per million (ppm) residual chlorine dioxide in process water contacting whole fresh poultry carcasses. The agency is issuing this regulation to permit this use while its review of the other proposed uses of chlorine dioxide continues.

II. Chlorine Dioxide

Chlorine dioxide (CAS Reg. No. 10049–04–4) is a yellow to reddish-yellow gas with a pungent odor similar to that of chlorine. Because chlorine dioxide is explosive when concentrated, it is usually generated at the site where it is used. Chlorine dioxide can be prepared by reaction of chlorine with sodium chlorite, reduction of sodium chlorate, or acidification of sodium chlorite. High yield production of chlorine dioxide (greater than 90 percent) is accomplished by reaction of sodium chlorite with chlorine or by reaction of an acid, sodium hypochlorite, and sodium chlorite (Ref. 1).

Chlorine dioxide is a strong oxidant which is expected to react with microbial contaminants and other organic material present in poultry process water. Oxidation of chlorine dioxide results in the formation of chlorite ion, which is an oxidant that is capable of reacting with organic material in poultry process water. Residual chlorate present as an impurity in chlorine dioxide solutions can also act as an oxidant.

Chlorine dioxide is currently listed in 21 CFR 178.1010(b)(34) as a component of a sanitizer solution. Chlorine dioxide is also listed in 21 CFR 137.105 for use as a bleaching agent for flour and is also approved by the Environmental Protection Agency (EPA) for use in potable water treatment plants (40 CFR part 141, subpart H). The Health Protection Branch of Health and Welfare Canada has stated in a letter to the petitioner that chlorine dioxide is permitted for use in poultry chiller water in Canada (Ref. 2).

Chlorine dioxide is a potential substitute for chlorine, which is currently commonly used in poultry processing. Published studies that were included in the petition show that chlorine dioxide is four to seven times more effective than an equal concentration of chlorine as a bactericide in poultry chiller water (Refs. 3, 4, and 5). Thus, chlorine dioxide can be used at considerably lower levels than chlorine without compromising bactericidal effects. Most of the studies conducted by the petitioner were with residual chlorine dioxide levels in the process water of 3 ppm.

III. Safety

Data from the gas chromatographic-mass spectroscopic analysis of poultry process water containing 3 ppm of chlorine dioxide were provided in the petition. These data show that organic reaction byproducts, such as the potentially toxic trihalomethanes (e.g., chloroform), are not present in poultry process water at the 0.2 parts per billion (ppb) limit of detection when the method for detecting chloroform is used. (EPA proposed a drinking water standard (59 FR 38668 at 38670, July 29, 1994) that permits a maximum contaminant level of up to 80 ppb (400 times the amount detectable by the analytical method) of ''total trihalomethanes'' (chloroform, bromoform, dibromochloromethane and bromodichloromethane) in drinking water.) Moreover, FDA's review of the results of an Ames test on poultry process water that was treated with 20 ppm chlorine dioxide revealed no mutagenic activity. The Ames test results support the conclusion that significant levels of harmful organic reactions byproducts will not be formed when chlorine dioxide, at a residual level of 3 ppm, is used as the bacteriocidal agent in poultry process water.

In addition to evaluating the probable formation of organic reaction byproducts from the use of chlorine dioxide in poultry process water, FDA has also evaluated the possible presence of residual chlorine dioxide, chlorite, and chlorate on treated poultry carcasses; the potential for the oxidation of poultry tissue, including sensitive fatty acids; and data from mutagenicity tests.

Based on its evaluation of the information in the petition, the agency has concluded that no detectable residues of chlorine dioxide would remain on poultry carcasses, and that exposure to chlorite and chlorate as a result of this use of chlorine dioxide would be virtually nil. (No chlorite or chlorate could be detected on poultry (raw or cooked) at the limit of detection (50 ppb) for the method used.) The agency also concluded that the very low levels of chlorite and chlorate that may be retained on poultry carcasses as a result of exposure to chlorine dioxide-containing process water would be converted to correspondingly low levels of chloride (a relatively innocuous substance, e.g., chloride in table salt) during cooking (Ref. 6).

FDA also considered potential oxidative effects of chlorine dioxide, chlorite, and chlorate on poultry. The agency reviewed information in the

petition on thiobarbituric acid (TBA) values of raw and cooked poultry exposed to chlorine dioxide-containing process water. A TBA test is commonly used as an indicator of oxidative decomposition (and of rancidity) of meat and fat. The more oxidative decomposition, the higher the TBA values. The agency determined that the TBA values for both raw and cooked poultry exposed to chlorine dioxide-containing process water did not significantly differ from that for poultry exposed to tap water. Thus, the agency concludes that no significant oxidation of poultry exposed to chlorine dioxide-containing process water occurs under the prescribed conditions of use.

FDA also evaluated information in the petition on the levels of oxidation-sensitive fatty acids (e.g., oleic, linoleic, linolenic, and arachidonic acid) in raw untreated poultry and in poultry exposed to chlorine dioxide-containing process water. Fatty acid profiles were comparable for treated and untreated poultry when analyzed by gas chromatography. FDA concludes that exposure to chlorine dioxide at levels 7 to 10 times higher than that prescribed in the proposed regulation does not result in appreciable loss of these fatty acids from poultry.

Based on the above findings, the agency concludes that 3 ppm of residual chlorine dioxide in poultry process water will not result in a measurable increase in oxidation of poultry as compared with poultry exposed to tap water.

The agency also considered the possibility of formation of mutagenic compounds in poultry and poultry process water treated with chlorine dioxide. Ames test information presented in the petition showed no evidence of mutagenic activity in poultry process water treated with chlorine dioxide. Thus, the agency concludes that the use of chlorine dioxide in poultry process water under the conditions prescribed in the regulation should not pose a significant health concern from the formation of mutagenic substances.

IV. Conclusions

FDA has evaluated the data in the petition and other relevant material and has consulted with scientists in the Food Safety and Inspection Service in the U. S. Department of Agriculture concerning the technological and practical aspects of the proposed use of chlorine dioxide. Based upon this evaluation, the agency concludes that the proposed use of the additive is safe and will have the intended technical effect. The agency also concludes that a specification for minimum purity of chlorine dioxide should be included in the regulation to reflect the purity of the chlorine dioxide that it evaluated. Therefore, 21 CFR part 173 is amended as set forth below.

V. Inspection of Documents

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.

VI. Environmental Imapct

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.

VII. Objections

Any person who will be adversely affected by this regulation may at any time on or before April 3, 1995, 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.

VIII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Kirk-Othmer Encyclopedia of Chemical Technology, Vol. 5, pp. 612–632.

2. Letter dated July 30, 1991, to Dr. Richard Higby from J. W. Salminen, Health Protection Branch, Health and Welfare Canada.

3. Lillard, H. S., ''Levels of Chlorine and Chlorine Dioxide of Equivalent Bactericidal Effect in Poultry Processing Water,'' *Journal of Food Science*, 44:1594–1597, 1979.

4. Lillard, H. S., ''Effect on Broiler Carcasses and Water of Treating Chiller Water with Chlorine or Chlorine Dioxide,'' *Poultry Science*, 59:1761–1766, 1980.

5. Thiesson, G. P., W. R. Usborne, and H. L. Orr, ''The Efficacy of Chlorine Dioxide in Controlling Salmonella Contamination and Its Effect on Product Quality of Chicken Broiler Carcasses,'' *Poultry Science* 63:647–653, 1984.

6. Gordon, G., R. G. Kieffer, and D. H. Rosenblatt, ''The Chemistry of Chlorine Dioxide'' in *Progress in Inorganic Chemistry*, Vol. 15, pp. 201–286, S. J. Lippard, ed., Wiley-Interscience, New York, 1972.

List of Subjects in 21 CFR Part 173

Food additives, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

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

2. New section 173.69 is added to read as follows:

§ 173.69 Chlorine dioxide.

Chlorine dioxide (CAS Reg. No. 10049–04–4) may be safely used in food in accordance with the following prescribed conditions:

(a) The additive is generated by treating an aqueous solution of sodium chlorite with either chlorine gas or a mixture of sodium hypochlorite and hydrochloric acid. The generator effluent contains at least 90 percent (by weight) of chlorine dioxide with respect

to all chlorine species as determined by Method 4500–ClO_2 E in the ''Standard Methods for the Examination of Water and Wastewater,'' 18th ed., 1992, or an equivalent method. Method 4500–ClO_2 E is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the Division of Petition Control, Center for Food Safety and Applied Nutrition (HFS–215), Food And Drug Administration, 200 C St., SW., Washington, DC 20204–0001 and The American Public Health Association, 1015 Fifteenth St., NW., Washington, DC 20005, or may be examined at the Office of the Federal Register, 800 North Capitol St., NW., suite 700, Washington, DC.

(b) The additive may be used as an antimicrobial agent in water used in poultry processing in an amount not to exceed 3 parts per million (ppm) residual chlorine dioxide as determined by Method 4500–ClO_2 E referenced above or an equivalent method.

Dated: February 23, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–5275 Filed 3–2–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 15

[Docket R–95–1682; FR–3282–F–01]

RIN 2501–AB47

Freedom of Information Act Procedures

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule amends 24 CFR part 15, which implements the Freedom of Information Act and sets forth the procedures to be followed by the Department in responding to requests from the public for documents. The rule fashions certain in-house administrative and procedural changes in the processing of requests for documents and appeals from denials of requests for documents, and is necessary to reflect current organizational responsibilities of the various offices within the Department. The rule also implements the Department's FOIA Handbook procedures for notifying business submitters and affording them an opportunity to object to disclosure of their business information.

EFFECTIVE DATE: April 3, 1995.

FOR FURTHER INFORMATION CONTACT: Yvette Magruder, Assistant Director, Freedom of Information Unit, Room 10139, Department of Housing and Urban Development, 451 Seventh Street SW., Washington DC 20410; telephone (202) 708–3054, or 1–800–877–8339 (TDD). (Only the ''800'' TDD number is toll-free.)

SUPPLEMENTARY INFORMATION:

Justification for Final Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 does provide for an exception for rules governing the Department's organization or its own internal practices or procedures. Because the provisions contained in this rule relate to the manner in which the Department will administer its responsibilities under the Freedom of Information Act and related technical amendments, notice-and-comment rulemaking would not benefit the public and is not required.

Background

The Department's regulations implementing the Freedom of Information Act (5 U.S.C. 552) (FOIA) were published at 40 FR 48123 (October 14, 1975), and were amended at 52 FR 12160 (April 15, 1987) and 53 FR 37549 (September 27, 1988). This rule is being issued to reflect organizational changes relating to the manner in which the Department administers the disclosure of public documents.

Under Exemption 4 of the FOIA (5 U.S.C. 552(b)(4)) Federal agencies have a responsibility to protect sensitive business information from disclosure. Under Executive Order 12600 (3 CFR, 1987 Comp., p. 235), in meeting this responsibility agencies must notify business submitters that their information has been requested under the FOIA and must afford them an opportunity to object to disclosure of the requested information. By this rule, a new § 15.54, updating the Department's current business submitter notification procedures in HUD Handbook 1327.1 REV–1, Freedom of Information Act, is being added to title 24 of the Code of Federal Regulations (CFR).

In addition, the rule updates language in § 15.21 on the protections available for law enforcement records. The new language duplicates statutory language in the Freedom of Information Reform Act of 1986 (Pub. L. 99–570, subtitle N, approved October 27, 1986; 100 Stat. 3207–48), which modified the terms of the exemption as provided in the FOIA.

Section-by-Section Analysis

Section 15.1(f) currently defines ''information center'' as any place, reading room, desk, or other area or facility, established and maintained by the Department where the public may request and obtain information and records concerning the Department's operations and business. This rule clarifies the means by which the public may obtain access to those resources that are maintained in a combination of locations within the Department. The rule corrects any perception that all records are maintained in a single location within the Department.

Section 15.13(b) currently provides that the Department will request records that have been stored in the National Archives or other record centers of the General Services Administration. This rule deletes reference to the General Services Administration, because the Federal Record Centers are now administered by the National Archives and Records Administration. The rule establishes that records that have been accessioned by the National Archives and Records Administration may be requested directly from the National Archives and Records Administration.

Section 15.14 addresses the payment of fees for search time and the copying of documents. Those fees currently established in § 15.14(a) are inadequate to defray the Government's own reasonable direct costs in processing requests and copying documents. Accordingly, this rule increases those fees. In addition, § 15.14(c) currently does not include a separate schedule of fees for computer search time. This rule provides for charges to be assessed on the basis of the direct cost of running the computer, plus the programming cost attributable to the search. Section 15.14(e) places restrictions on the assessment of fees against noncommercial requesters. The rule simplifies those restrictions by eliminating confusing language. Section 15.14(f) currently provides that fees may be paid in cash, by check, or by money order. This rule removes approval of cash payments, except when a cash payment is made in person, and identifies to whom the fees should be directed.

The changes to § 15.14 will help defray the direct reasonable cost to the Government of compliance with the FOIA and will simplify fee projections for certain computer searches.

Section 15.21 currently reflects the statutory exemptions to the Freedom of Information Act, with the exception of