milliliter solution in chickens as in paragraph (d)(3) of this section.

* * * * *

(4) See No. 050604 for use of 100 milligrams-per-milliliter solution in chickens as in paragraph (d)(3) of this section.

* * * * *

Dated: May 22, 1995.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 95–13828 Filed 6–6–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 1220

[Docket No. 95N–0120]

Regulations Under the Tea Importation Act; Tea Standards

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing the establishment of tea standards for the year beginning May 1, 1995, and ending April 30, 1996. The tea standards are provided for under the Tea Importation Act (the Act). The Act prohibits the importation of a tea that is inferior to the annual tea standard. Under the Act, the importation of a tea may be withheld until FDA examines the tea and is sure that it complies with the annual standard.

DATES: Effective May 1, 1995; written comments by July 7, 1995.

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

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFS–158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5099.

SUPPLEMENTARY INFORMATION: Because of the unique nature of the decisionmaking process for establishing annual standards for tea, the procedural protections that are part of this process, and the short period within which standards must be set, FDA has never, since the enactment in 1897 of the Act (21 U.S.C. 41), used notice and comment rulemaking for tea standards.

Each final rule setting the standards is based on the recommendations of the Board of Tea Experts (the board), which is comprised of tea experts who are representative of the tea trade. The board selects standards each year according to the provisions of the Act. The board bases its selection on tea samples submitted by members of the tea trade to the board. Relying primarily on organoleptic examination, the board selects one tea to represent the standard for each major type of tea imported into the United States. In choosing a standard, the board tries to select one at least equal in quality to that of the previous year. The Act prohibits the importation of a tea that is inferior to the annual tea standard. Under the Act, the importation of a tea may be withheld until FDA examines the tea and is sure that it complies with the annual standard.

The annual meeting of the board is open to the public and is announced in advance in the **Federal Register**. At the annual meeting any interested person may present data, information, or views orally or in writing regarding new standards.

The annual tea standards are prepared and submitted to the Secretary of Health and Human Services by the board (21 CFR 1220.41).

Should a tea importer be dissatisfied with an FDA tea examiner's rejection of a shipment of tea, the importer can refer its complaint to the U.S. Board of Tea Appeals and then to the U.S. Court of Appeals. FDA is unaware of any complaints or arguments having ever occurred concerning a designated standard, despite the many years since the enactment of the Act.

FDA concludes that notice and comment rulemaking to set tea standards is impracticable, contrary to the public interest, and unnecessary by virtue of the factors discussed above, i.e., the unique, longstanding procedures that apply to establishing a standard, the fact that standards are based principally on organoleptic examinations by tea experts, the public participation opportunities already provided, and the timeframes required for issuing annual standards. Hence, the agency is not following notice and comment rulemaking procedures in establishing the final tea standards for 1995.

Environmental Impact

The agency has determined under 21 CFR 25.24(b)(1) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the tea standards, used by buyers for the U.S. market, protect consumers, importers, and sellers from acceptance of teas that are inferior in purity, quality, and fitness for consumption, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

Interested persons may, on or before July 7, 1995, submit to the Dockets Management Branch (address above) written comments regarding this regulation. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

List of Subjects in 21 CFR Part 1220

Administrative practice and procedure, Customs duties and inspection, Imports, Public health, Tea.

Therefore, under the authority delegated to the Secretary of Health and Human Services by the Tea Importation Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 1220 is amended as follows:

PART 1220—REGULATIONS UNDER THE TEA IMPORTATION ACT

1. The authority citation for 21 CFR part 1220 continues to read as follows:

Authority: 21 U.S.C. 41–50; 19 U.S.C. 1311.

2. Section 1220.40 is amended by revising paragraph (a) to read as follows:

§ 1220.40 Tea standards.

(a) Samples for standards of the following teas, prepared, identified, and submitted by the Board of Tea Experts on February 28, 1995, are hereby fixed and established as the standards of purity, quality, and fitness for consumption under the Tea Importation Act for the year beginning May 1, 1995, and ending April 30, 1996:

(1) Black Tea (for all teas except those from the People's Republic of China (China), Taiwan (Formosa), Iran, Japan, Russia, Turkey, and Argentina).

(2) Black Tea (for Argentina teas).

(3) Black Tea (for teas from the People's Republic of China (China), Taiwan (Formosa), Iran, Japan, Russia, and Turkey).

(4) Green Tea (of all origins).

(5) Formosa Oolong.

(6) Canton Oolong (for all Canton types from the People's Republic of China (China) and Taiwan (Formosa)).

(7) Scented Black Tea.

(8) Spiced Tea.

These standards apply to tea shipped from abroad on or after May 1, 1995.

* * * * *

Dated: May 31, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–13885 Filed 6–6–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF STATE

22 CFR Part 21

[Pub. Not. 2210]

Office of the Legal Adviser; Indemnification of Department of State Employees

AGENCY: Department of State.

ACTION: Final rule and statement of policy.

SUMMARY: This statement announces a Department of State policy to permit payment of Department funds to indemnify Department employees who suffer adverse money judgments as a result of acts within the scope of their employment and to settle personal damages claims involving such acts, as determined by the Under Secretary for Management or his or her designee. This rule is similar to regulations adopted by other Federal agencies, including the Department of Justice (28 CFR part 50), the Department of the Treasury (31 CFR part 3) and the Agency for International Development (22 CFR part 207).

EFFECTIVE DATE: June 7, 1995.

FOR FURTHER INFORMATION CONTACT: Jean Bailly, Attorney-Adviser, Office of the Assistant Legal Adviser for Legislation and Management, U.S. Department of State, (202) 647–5154.

SUPPLEMENTARY INFORMATION: Lawsuits against federal employees in their individual capacities have proliferated since the 1971 Supreme Court decision in *Bivens* v. *Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388. These suits personally attack officials at all levels of government and target many federal activities, particularly law enforcement. The Federal Liability Reform and Tort Compensation Act of 1988, Public Law 100–694, permits substitution of the Government in many personal liability tort suits against officials. However, substitution is not possible in some cases, notably claims arising under the Constitution and claims arising under foreign law. Although the Department has had few such cases, the risk of personal liability and the burden of defending suits for money damages is clearly present for Department employees. An adverse judgment in such a case has detrimental consequences to the employee, both monetary and otherwise. Fear of personal liability also has potentially adverse consequences for State Department operations, decisionmaking, and policy determinations. The prospect of personal liability, and even the uncertainty as to what conduct may result in a lawsuit against an employee personally, may tend to intimidate employees and stifle initiative and decisive action.

The Department believes a policy with respect to indemnification in such cases will serve to minimize this impediment to Department operations and would accord Department employees the same protection now enjoyed by most state and local government employees as well as those of most corporate employers. This policy is supported by the general principle that an agency has the authority to expend appropriated funds to further the mission of the agency and the objectives underlying the appropriation. Pursuant to this principle, the Department of State believes that indemnification is related both to the Department's mission and to the objectives underlying its general appropriations.

The indemnification policy will permit, but does not require, the Department to indemnify a Department employee who faces an adverse verdict, judgment or other monetary award, provided that the actions giving rise to the judgment were taken within the scope of employment and that such indemnification is in the interest of the United States, as determined by the Under Secretary for Management or his or her designee.

Absent exceptional circumstances, the Department will not agree either to indemnify or to settle a case before entry of an adverse judgment. This approach is intended to discourage the filing of lawsuits against federal employees in their individual capacities solely in order to pressure the Government into settlement. In the usual case, the Department will not settle a case before trial and judgment merely because a dispositive motion filed on behalf of the employee has been denied.

Personal services contractors are considered employees for purposes of this policy. This policy is applicable to any actions pending against Department employees as of its effective date.

In addition to the general indemnification provisions contained in these proposed regulations, the Department will follow its more specific indemnification policy with respect to damages awarded against Department health care personnel for malpractice claims within the scope of 22 U.S.C. 2702. The Department anticipates publishing regulations relating to this policy of indemnification.

Paperwork Reduction Act

This regulation is not subject to the Paperwork Reduction Act because it deals solely with internal Department rules governing personnel.

Cost/Regulatory Analysis

Because this rule relates solely to agency management and personnel, it is not subject to the notice and delayed effective date provisions of the Administrative Procedure Act (5 U.S.C. 553). It is likewise exempt from the procedures of E.O. 12866 (Regulatory Planning and Review). Because no notice of proposed rulemaking is required for this rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601–612) do not apply.

List of Subjects in 22 CFR Part 21

Administrative practice and procedure, Government employees, Tort claims.