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**Jean A. Webb,**

*Secretary to the Commission.*

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## DEPARTMENT OF THE TREASURY

### Customs Service

#### 19 CFR Parts 101 and 122

[T. D. 95-62]

#### Establishment of New Port-Rockford, Illinois

**AGENCY:** Customs Service, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations pertaining to Customs field organization by establishing a new port of entry in the Customs District of Chicago, Illinois, North Central Region at Rockford, Illinois, and by deleting Greater Rockford Airport from the list of user fee airports. The new port of entry will include Greater Rockford Airport, which is currently operated as a user fee airport. This change will assist the Customs Service in its continuing efforts to achieve more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

**EFFECTIVE DATE:** September 13, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. Brad Lund, Office of Field Operations, 202-927-0192.

#### SUPPLEMENTARY INFORMATION:

##### Background

In order to achieve more efficient use of its personnel, facilities, and resources, and in order to provide better service to carriers, importers, and the public in the North Central Region, Customs is amending its regulations to include Rockford, Illinois, as a port of entry. The new port of entry will include Greater Rockford Airport, which is currently, but will no longer be, a user fee airport. Section 101.3, Customs Regulations (19 CFR 101.3) is amended to add Rockford, Illinois to the list of Customs ports, and § 122.15, Customs Regulations (19 CFR 122.15) is amended by removing Greater Rockford Airport from the list of user fee airports.

In a Notice of Proposed Rulemaking published in the **Federal Register** on

October 5, 1994 (59 FR 50717), Customs proposed these regulatory changes because it believes that there is sufficient justification for the establishment of a new port of entry at Rockford, Illinois.

#### Analysis of Comments

In its Notice of Proposed Rulemaking, Customs invited the public to comment on the proposed establishment of Rockford as a new port. One comment was received. The commenter stated that importer costs were reduced and that the time for Customs clearance and delivery of goods was reduced from 3 or 4 days to 1 day once Rockford became a user fee airport. He predicted that once Rockford becomes a full port of entry, the perceived permanency of the operation would encourage more companies to clear their imports at Rockford, thereby reducing the workload at other ports. He concluded that Rockford's new port status would benefit both Rockford and the Customs Service.

#### Conclusion

Inasmuch as the only comment received from the public was a positive one, the proposed amendments are adopted.

#### Description of Port Limits

The geographical limits of the new port of Rockford, Illinois, which include Greater Rockford Airport, are as follows:

Bounded to the north by the Illinois/Wisconsin border; bounded to the west by Illinois State Route 26; bounded to the south by Illinois State Route 72; and bounded to the east by Illinois State Route 23 north to the Wisconsin/Illinois border.

#### Regulatory Flexibility Act and Executive Order 12866

Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Thus, although a Notice of Proposed Rulemaking was issued with notice for public comment, because this matter relates to agency management and organization it is not subject to the notice and public procedure requirements of 5 U.S.C. 553. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Because this document relates to agency organization and management, it is not subject to Executive Order 12866.

#### Drafting Information

The principal author of this document was Janet L. Johnson, Regulations Branch. However, personnel from other offices participated in its development.

#### Lists of Subjects

##### 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

##### 19 CFR Part 122

Air carriers, Aircraft, Airports, Customs duties and inspection, Freight.

#### Amendments to the Regulations

For the reasons set forth above, parts 101 and 122 of the Customs Regulations (19 CFR parts 101 and 122) are amended as set forth below.

#### PART 101—GENERAL PROVISIONS

1. The general authority citation for part 101 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624.

##### § 101.3 [Amended]

2. Section 101.3(b) containing the list of Customs regions, districts and ports of entry is amended by adding "Rockford, Ill. (T.D. 95-62)" in the appropriate alphabetical order in the "Ports of Entry" column in the Chicago, Illinois district of the North Central Region.

#### PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1459, 1590, 1594, 1623, 1624, 1644; 49 U.S.C. App. 1509.

2. The list of user fee airports in § 122.15(b) is amended by removing the words "Rockford, Ill." from the "Location" column and by removing the words "Greater Rockford Airport" on the same line from the adjacent "Name" column.

**George J. Weise,**

*Commissioner of Customs.*

Approved: July 31, 1995.

**John P. Simpson,**

*Deputy Assistant Secretary of the Treasury.*

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration****21 CFR Part 73**

[Docket No. 87C-0316]

**Listing of Color Additives Exempt From Certification; Astaxanthin; Objection and Request for a Hearing; Staying Portions of the Regulation; Confirmation of Effective Date****AGENCY:** Food and Drug Administration, HHS.**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that it has received one objection to the final rule for astaxanthin as a color additive in the feed of salmonid fish to enhance the color of their flesh. The objection concerns a specification and the requirement for labeling of the color additive. The objection requests a hearing on the two issues. The submission of the objection stays the effective date of two paragraphs of the astaxanthin regulation until the agency can rule on them. FDA is confirming the effective date of May 16, 1995, for the remainder of this regulation that appeared in the **Federal Register** of April 13, 1995 (60 FR 18736).

**DATES:** Effective date confirmed: May 16, 1995, except for 21 CFR 73.35(b) for the specification for total carotenoids other than astaxanthin and 21 CFR 73.35(d)(3) for the labeling requirements.

**FOR FURTHER INFORMATION CONTACT:** James C. Wallwork, Center for Food Safety and Applied Nutrition (HFS-217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204-0001, 202-418-3078.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of April 13, 1995 (60 FR 18736), FDA amended part 73 (21 CFR part 73) of its regulations to provide for the safe use of astaxanthin as a color additive in the feed of salmonid fish to enhance the color of their flesh.

FDA gave interested persons until May 15, 1995, to file objections and requests for a hearing on § 73.35 (21 CFR 73.35). The agency received from one color additive manufacturer objections to two provisions of the final rule. The objector requested a hearing on two issues: The specification for total carotenoids other than astaxanthin of not more than 4 percent under § 73.35(b) and the labeling requirement for the presence of the color additive in

salmonid fish under § 73.35(d)(3). Under section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)(2)) the objection stays the effect of these two paragraphs of the astaxanthin regulation until the agency has ruled on the objections. Apart from § 73.35(b) and (d)(3), FDA is confirming the effective date of May 16, 1995, for the final rule that amended the color additive regulations to provide for the use of astaxanthin as a color additive in the feed of salmonid fish to enhance the color of their flesh. The objections are on file in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, under the docket number found in the heading of this document.

**List of Subjects in 21 CFR Part 73**

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 401, 402, 403, 409, 501, 502, 505, 601, 602, 701, 721 (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that because of the objection and request for a hearing on the specification for total carotenoids other than astaxanthin of not more than 4 percent in § 73.35(b) and the labeling requirement for the presence of the color additive in salmonid fish in § 73.35(d)(3), these provisions are stayed until further notice. Accordingly, the amendments to § 73.35 issued on April 13, 1995 (60 FR 18736), became effective May 16, 1995, except for §§ 73.35(b) and (d)(3), which are stayed until further notice.

Dated: August 7, 1995.

**William K. Hubbard,***Acting Deputy Commissioner for Policy.*

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**OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION****29 CFR Part 2200****Rules of Procedure****AGENCY:** Occupational Safety and Health Review Commission.**ACTION:** Final rule.

**SUMMARY:** The Occupational Safety and Health Review Commission has determined that it is in the public interest to adopt procedures that will permit the small employer who challenges an OSHA citation before the

Commission to do so with minimal complexity and cost. Accordingly, it has decided to initiate a pilot E-Z Trial program for a one year period, beginning October 1, 1995. After the test period, the Commission will evaluate the results and determine whether it should continue the E-Z Trial program and, if so, what modifications should be made. The evaluation will involve surveying employers and employer representatives regarding their satisfaction with the fairness and efficiency of the process and analyzing data on the rate at which E-Z Trial cases go to a hearing, the length and cost of hearings and the cycle times of these cases as compared to those of conventional cases. We will also gather information from our Judges and the Solicitor of Labor and OSHA personnel regarding how well the process is working and how it might be changed or improved.

As the name implies, E-Z Trial is designed to simplify and accelerate adjudication for cases that warrant a less formal, less costly process. To ensure that the program is used sufficiently to enable the Commission to determine its success or failure, as well as its strengths and weaknesses, cases will be assigned to E-Z Trial by the Chief Administrative Law Judge. The Commission will also include explanatory materials on E-Z Trial in its Notice of Docketing to employers to make sure that (1) employers are well aware of the availability of the E-Z Trial option early in the process and (2) employers are clear on how they can apply for E-Z Trial. Together these mechanisms should encourage the use of E-Z Trial whenever appropriate. Parties who believe that an assigned case is inappropriate for E-Z Trial can present their reasons to the presiding Judge who, upon consultation with the Chief Judge, may order the case to proceed under conventional proceedings. In addition, a Judge assigned to a case could unilaterally direct that case to be tried under E-Z Trial proceedings. The Commission has also adopted certain rules and procedures designed to shorten the length of the proceedings. For example, the parties are required to disclose certain information to each other. Discovery, while not prohibited, is allowed only under the terms set by the presiding Judge. Interlocutory appeals are prohibited and, where practicable, the Judge is encouraged to render his or her decision from the bench. Any party dissatisfied with the disposition of the case may seek review of that decision as in conventional proceedings.