

registered investment company is diversified pursuant to section 5(b)(1) of the Investment Company Act of 1940, 15 U.S.C. 80a-5(b)(1). The Directors of the Division of Investment Management and the Office of Compliance Inspections and Examinations, in consultation with the Office of the General Counsel, shall determine in writing whether Senior Executive Service positions in their respective Division or Office whose duties do not include fund matters also may invest in nondiversified registered investment companies.

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By the Commission.

Dated: September 29, 1995.

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 95-80]

Customs Service Field Organization— San Jose, CA

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

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations pertaining to the field organization of the Customs Service by designating San Jose, California, as a port of entry. This change is made as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

EFFECTIVE DATE: November 9, 1995.

FOR FURTHER INFORMATION CONTACT: Harry Denning, Office of Field Operations, (202) 927-0196.

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public, Customs published a document in the *Federal Register* (60 FR 25176) on May 11, 1995, proposing to amend § 101.3, Customs Regulations (19 CFR 101.3) by designating a four county area surrounding San Jose, California, as a port of entry for Customs purposes and

to amend § 101.4, Customs Regulations (19 CFR 101.4) by removing Monterey as a Customs station. Monterey, which is part of the four county area encompassed within San Jose, is presently listed in § 101.4(c), Customs Regulations, as a Customs station under the supervision of the San Francisco port of entry. San Jose is presently part of the port of entry of San Francisco.

As the proposal stated, the city of San Jose requested designation as a port of entry stating that the efficiency in having a port of entry located in San Jose would represent a considerable saving of time and cost for the business community.

The request for port of entry status stated that there will be several Federal Government benefits if the port of entry is approved. Approval will support the national goal of United States competitiveness by strengthening the economic competitiveness of one of the nation's most critical high technology areas. It will increase the efficiency of the regional Customs service by improving the distribution of entries which must be cleared through the San Francisco-Oakland port and the San Jose port. It will decrease congestion on the Bay Area's freeways due to shipments going directly to San Jose International Airport. Finally, it will further the Customs goal of increased automation, since San Jose International Airport has provided the equipment necessary to supply a fully automated, highly efficient Customs port.

The proposal stated that the San Jose port of entry will be served by three major modes of transportation (air, rail and highway) and that San Jose has a population of 2,167,000.

The City of San Jose has committed to the optimal use of electronic data input equipment and software to permit integration with any Customs system for electronic processing of commercial entries. San Jose International Airport has provided, at no cost to the Federal Government, computer equipment and systems which are needed to comply with the goals of the National Customs Automation Program.

Based on the information provided to Customs, the proposal set forth Customs belief that San Jose meets the current standards for port of entry designation set forth in T.D. 82-37, as revised by T.D. 86-14 and T.D. 87-65.

Analysis of Comments

Two entities responded to the proposal. One, an airline, responded favorably to the proposal. One, a Customs broker, responded negatively to the proposal.

The Customs broker is concerned with how shipments subject to Food and Drug Administration (FDA) processing will be handled. The current procedure for handling cargo which is subject to FDA examination and/or holding will continue, that is, FDA-related entries currently filed in San Francisco or Oakland for goods located in San Jose are forwarded first to the FDA office in Alameda, and their determination is forwarded or faxed to the San Jose FDA office. FDA has informed Customs that the procedure will not change once San Jose becomes a separate port. The time required to clear an FDA-related entry should not change at all.

Most of the broker's other comments related to the relative staffing between the ports of San Francisco and San Jose and to entry submission at both ports. San Jose is currently being staffed with six positions (five inspectors and one supervisor) funded by COBRA user fees. This staffing will not change in the near future. Customs believes the current staffing at San Jose is sufficient to process both passengers and cargo. The staffing will remain constant through the year 2000.

Regarding the commenter's concern that there will be inconvenience or added processing time when San Jose becomes a port, Customs notes that brokers will be able to file their entries at San Francisco International Airport or San Jose International Airport, whichever they choose.

Determination

After consideration of the comments and further review, Customs has determined to amend § 101.3 to establish San Jose as a port of entry and to amend § 101.4 to remove Monterey as a Customs station.

Limits of Port of Entry

The geographical limits of the port of entry of San Jose are as follows:

All of Santa Clara, Santa Cruz, Monterey and San Benito Counties in the State of California.

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. Although this document was issued for public comment, it is not subject to the notice and public procedure requirements of 5 U.S.C. 553 because it relates to agency management and organization. Accordingly, this document is not subject to the

provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Agency organization matters such as this are exempt from consideration under 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.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Harbors, Organization and functions (Government agencies), Seals and insignia, Vessels.

Amendments to the Regulations

For the reasons set forth in the preamble, part 101 of the Customs Regulation is amended as set forth below.

PART 101—GENERAL PROVISIONS

1. The general authority citation for part 101 and the specific authority citations for §§ 101.3 and 101.4 continue to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 2, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624.

Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

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§ 101.3 [Amended]

2. Section 101.3(b) is amended by adding "San Jose" to the list of ports of entry in appropriate alphabetical order in the State of California and by adding "T.D. 95-80" in the adjacent "Limits of Port" column.

§ 101.4 [Amended]

3. Section 101.4(c) is amended by removing "Monterey" from the "Customs station" column and "San Francisco-Oakland" from the adjacent "Supervisory Port of Entry" column.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: September 20, 1995.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.
[FR Doc. 95-24705 Filed 10-6-95; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 95C-0091]

Listing of Color Additives Exempt From Certification; Fruit Juice Color Additive and Vegetable Juice Color Additive

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use in food of dried fruit juice color additive, dried vegetable juice color additive, and vegetable juice color additive prepared by water infusion of the dried vegetable. This action is in response to a petition filed by GNT Gesellschaft für Nahrungsmitteltechnologie mbH.

DATES: Effective November 13, 1995, except as to any provisions that may be stayed by the filing of proper objections; written objections and request for a hearing by November 9, 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: Aydin Örstan, Center for Food Safety and Applied Nutrition (HFS-217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3076.

SUPPLEMENTARY INFORMATION: In a notice published in the *Federal Register* of April 28, 1995 (60 FR 20997), FDA announced that a color additive petition (CAP 5C0245) had been filed by GNT Gesellschaft für Nahrungsmitteltechnologie mbH c/o Burditt & Radzius, Chtd., 333 West Wacker Dr., suite 2600, Chicago, IL 60606-1218. The petition proposed to amend the color additive regulations in § 73.250 *Fruit juice* (21 CFR 73.250) to provide for the safe use of dried fruit juice color additive and in § 73.260 *Vegetable juice* (21 CFR 73.260) to provide for the safe use of dried vegetable juice color additive and vegetable juice color additive prepared by water infusion of the dried vegetable. The petition was filed under section 721(b)(5) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 379e(b)(5)). The agency now notes that this action is more accurately covered under section 721(d) of the act (21

U.S.C. 379e(d)). The agency finds that because the regulatory action was described properly in the filing notice, however, the error in citation was not misleading, and thus, an amended notice is not necessary.

In two notices published in the *Federal Register* of May 18, 1965 (30 FR 6735), FDA proposed to list fruit juice color additive and vegetable juice color additive for food use. The proposed fruit juice regulation provided for the preparation of fruit juice color additive either by expression of fresh fruits or by water infusion of the dried fruit; the proposed vegetable juice regulation provided for the preparation of vegetable juice color additive only by expression of fresh vegetables. In the *Federal Register* of January 27, 1966 (31 FR 1063), FDA published a final rule permanently listing fruit juice color additive and vegetable juice color additive for food use. In the preamble to the final rule, the agency indicated that it had received a comment that the regulation for vegetable juice color additive also provide for the use of a water infusion of vegetables. However, the agency declined to revise the proposed rule for the vegetable juice regulation as suggested because the comment presented no evidence that water infusions of vegetables were being manufactured or distributed in the United States for coloring purposes or that authorization for such water infusions was needed. The current color additive petition (CAP 5C0245) contains information that shows that water infusions of dried vegetables are being manufactured and that authorization for use of water infusions of dried vegetables to color food is needed.

FDA has evaluated the data in the petition and other relevant information and concludes that the petitioned uses of the color additives fruit juice and vegetable juice in food are safe. Therefore, the agency is amending § 73.250 to provide for the safe use of dried fruit juice color additive and § 73.260 to provide for the safe use of dried vegetable juice color additive and of vegetable juice color additive prepared by water infusion of the dried vegetable. Also, to prevent any potential misunderstanding of the amended identity statements in §§ 73.250 and 73.260, the agency is revising the wording of these statements.

In accordance with § 71.15(a) (21 CFR 71.15(a)), 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