On March 31, 1998, the Supreme Court in United States v. United States Shoe Corp., 118 S. Ct. 1290, No. 97-372 (March 31, 1998), declared that the Harbor Maintenance Fee was unconstitutional as applied to exports. The Court found that the Harbor Maintenance Fee was a tax imposed on an ad valorem basis and as such, the fee was not a fair approximation of the services, facilities or benefits furnished to the exporter. Therefore, the Court ruled the Harbor Maintenance Fee does not qualify as a permissible user fee for services, facilities or benefits furnished to a vessel for export. As of April 25, 1998, it will no longer be collecting the Harbor Maintenance Fee for cargo loaded on board a vessel for export.

This document amends §24.24 of the Customs Regulations (19 CFR 24.24) to make the regulation consistent with the Supreme Court decision; the document amends the regulation by removing the requirement that an exporter of cargo is liable for the payment of the Harbor Maintenance Fee when cargo is loaded for export at a port subject to the Harbor Maintenance Fee.

**Inapplicability of Notice and Delayed Effective Date**

Because the amendment to the Customs Regulations contained in this document removing exporters from having to pay the Harbor Maintenance Fee is being made in response to a Supreme Court decision, the document amends the regulation by removing the requirement that an exporter of cargo is liable for the payment of the Harbor Maintenance Fee when cargo is loaded for export at a port subject to the Harbor Maintenance Fee. This action is not required pursuant to 5 U.S.C. 553(d)(3).

**Regulatory Flexibility Act**

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

**Executive Order 12866**

This amendment does not meet the criteria of a “significant regulatory action” as described in E.O. 12866.

**Drafting Information**

The principal author of this document was Keith B. Rudich, Esq., Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

**List of Subjects in 19 CFR Part 24**


**Amendment to the Regulations**

Accordingly, § 24.24 of the Customs Regulations (19 CFR 24.24) is amended as follows:

**PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURES**

1. The general authority for part 24, Customs Regulations (19 CFR Part 24) and the specific relevant authority citation for § 24.24 Customs Regulations (19 CFR 24.24), continue to read as follows:

   **Authority:** 5 U.S.C. 301, 19 U.S.C. 58a–58c, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1450, 1624; 31 U.S.C. 9701.

   * * * * * * * *

Section 24.24 also issued under 19 U.S.C. 4461, 4462;

* * * * * * * *

**§ 24.24 [Amended]**

2. Section 24.24 is amended by removing paragraph (d)(3)(ii) and redesignating paragraph (d)(3)(iii) as (d)(3)(ii); by removing paragraph (e)(2) and redesignating paragraphs (e)(3), (4) and (5) as paragraphs (e)(2), (3), and (4) respectively; by removing the word “exporter,” in paragraph (g); by removing the word “exporter,” in paragraph (h); and by removing the words “exporting” and “the SED,” in paragraph (i).

**William F. Riley,**

Acting Commissioner of Customs.

Approved: July 8, 1998.

**John P. Simpson,**

Deputy Assistant Secretary of the Treasury.

[FR Doc. 98–20456 Filed 7–30–98; 8:45 am ]

**BILLING CODE 4820–02–P**

**DEPARTMENT OF THE TREASURY**

**Customs Service**

**19 CFR Part 101**

[T.D. 98–65]

**Geographical Description of Kodiak, Alaska Customs Port of Entry**

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

**ACTION:** Final rule.

**SUMMARY:** Customs published in the Federal Register of March 17, 1998, a final rule establishing a Customs port of entry at Kodiak, Alaska. This document corrects the geographical description of the port limits of Kodiak to include the Womens Bay port facilities and Kodiak State Airport as well as the city limits of Kodiak.

**EFFECTIVE DATE:** July 31, 1998.

**FOR FURTHER INFORMATION CONTACT:** Harry Denning, Office of Field Operations, 202–927–0196.

**SUPPLEMENTAL INFORMATION:**

**Background**

Section 123 of the Treasury and General Appropriations Act, 1998 (Pub. L. 105–61 of October 10, 1997) provides that the Secretary of the Treasury shall establish the port of Kodiak, Alaska, as a port of entry. In a document published as T. D. 98–24 in the Federal Register (63 FR 12994) on March 17, 1998, Customs amended its regulations to designate Kodiak as a port of entry. That document described the port limits of Kodiak as the Kodiak city limits. Since that publication, it has come to Customs attention that the port limits of Kodiak encompass more than the city limits.

The port limits encompass both the Womens Bay port facilities and the Kodiak State Airport. This document sets forth the accurate port limits of Kodiak, Alaska.

**Port Limits**

The port limits of Kodiak, Alaska are the Kodiak city limits; the adjacent Womens Bay port facilities located approximately 7 miles from downtown Kodiak on Rezanof Drive West which is a state highway; and the Kodiak State Airport located approximately 4.5 miles from downtown Kodiak and 3 miles from the south boundary of the City of Kodiak corporate boundary on the Rezanof Drive West which is a state highway. The Womens Bay port facilities parcel is 5 miles from the south boundary of the corporate city limits of the City of Kodiak. The site includes tidelands and the adjacent...
uplands of Womens Bay and is
generally located in Section 21,
Township 28 South, Range 20 West,
Seward Meridian according to the USGS
1:63360 scale quadrangle maps of
Kodiak (C±2 and D±2) Alaska. The
Kodiak State Airport site includes the
developed and undeveloped lands and
is generally located within Section 15,
Township 28 South, Range 20 West,
Seward Meridian according to the USGS
1:63360 scale quadrangle map of Kodiak
(D±2) Alaska.

Inapplicability of Public Notice and
Comment and Delayed Effective Date

Because this document relates to
agency organization and management and
merely corrects the geographical
description of a port, the establishment of
which was directed by Congress, it is
not subject to the notice and public
procedure requirements of 5 U.S.C. 553.
For the same reasons, pursuant to 5
U.S.C. 553(d)(3), a delayed effective
date is not required.

Regulatory Flexibility Act

Because 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.).

Executive Order 12866

Agency organization matters such as
this are exempt from consideration
under Executive Order 12866.

List of Subjects in Part 101

Customs duties and inspection,
Customs ports of entry, Exports, Foreign
trade, Harbors, Imports, Reporting and
recordkeeping requirements, Shipments,
Vessels.

Amendments to the Regulations

For the reasons set forth in the
preamble, Part 101 of the Customs
Regulations is amended as follows:

PART 101±GENERAL PROVISIONS

1. The general authority citation for
part 101 and the specific authority
citation for §§ 101.3 and 101.4 continue
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), 1623, 1624.

§ 101.3 [Amended]

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

§ 101.3 [Amended]

2. Section 101.3(b)(1) is amended by
removing the reference “T.D. 98±24” in
the “Limits of port” column adjacent to the
entry for “Kodiak” in the “Ports of
entry” column under Alaska and adding in
its place the reference “T.D. 98±65.”


Samuel H. Banks,
Acting Commissioner of Customs.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.

[FR Doc. 98±20455 Filed 7±30±98; 8:45 am]
BILLING CODE 4820±02±P

DEPARTMENT OF HEALTH AND
HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal
Feeds; Bacitracin Methylene
Disalicylate

AGENCY: Food and Drug Administration,
HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug
Administration (FDA) is amending the
animal drug regulations to reflect
approval of a supplemental new animal
drug application (NADA) filed by
Alpharma Inc. The supplemental NADA
provides for using approved bacitracin
methylene disalicylate (BMD) Type A
medicated articles to make a Type C
medicated feed for replacement
chickens.

EFFECTIVE DATE: July 31, 1998.

FOR FURTHER INFORMATION CONTACT:
William T. Flynn, Center for Veterinary
Medicine (HVF±133), Food and Drug
Administration, 7500 Standish Pl.,
Rockville, MD 20852, between 9
a.m. and 4 p.m., Monday through
Friday.

FDA has determined under 21 CFR
25.33(a)(1) that these actions are of a
type that do not individually or
cumulatively have a significant effect on
the human environment. Therefore,
neither an environmental assessment
nor an environmental impact statement
is required.

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:


2. Section 558.76 is amended in
paragraph (d)(1) in the table in items (vi)
and (ix) by adding new entries to reflect
the approval. The basis for approval is
discussed in the freedom of information
summary.

In accordance with the freedom of
information provisions of 21 CFR part
20 and 514.11(e)(2)(ii), a summary of
safety and effectiveness data and
information submitted to support
approval of the application may be seen
in the Dockets Management Branch
(HFA±305), Food and Drug
Administration, 5630 Fishers Lane, rm.
1061, Rockville, MD 20852, between 9
a.m. and 4 p.m., Monday through
Friday.

FDA has determined under 21 CFR
25.33(a)(1) that these actions are of a
type that do not individually or
cumulatively have a significant effect on
the human environment. Therefore,
neither an environmental assessment
nor an environmental impact statement
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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
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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:


2. Section 558.76 is amended in
paragraph (d)(1) in the table in items (vi)
and (ix) by adding new entries to read
as follows:

§ 558.76 Bacitracin methylene disalicylate.

* * * * *

(d) * * *

(1) * * *