silent on potential retroactive application of the rule, retroactive application violates the APA's notice and comment procedures.[6]

Discussion

We will deny PG&E's request for clarification, reconsideration and rehearing.

We disagree with PG&E that the Commission must clarify or reconsider the Final Rule at this time because of retroactivity concerns. In the Final Rule, the Commission did not state that it necessarily would take any particular action. Rather, the Commission merely stated that challenges to affiliate fuel prices recovered through the fuel adjustment clause prior to the effective date of this rule change are best decided on a case-by-case basis. When the Commission is presented with a case involving fuel adjustment clause recovery before the effective date of the Final Rule of the price of affiliate fuel purchases, the Commission can determine at that time how best to proceed.

The Commission Orders

PG&E's request for clarification, reconsideration and rehearing is hereby denied, as discussed in the body of this order.

By the Commission.

(SEAL)

David P. Boergers,

Secretary.

[FR Doc. 98–31960 Filed 11–30–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 94F–0454]

Food Additives Permitted for Direct Addition to Food for Human Consumption; White Mineral Oil, USP

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 white mineral oil as a dust control agent for rough rice at an application rate of 800 parts per million (ppm). This action is in response to a petition filed by Lyondell-Citgo Refining Co., Ltd.

[6] 5 U.S.C. 553 (1994).

DATES: This regulation is effective December 1, 1998; written objections and requests for a hearing by December 31, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, –202–418–3106.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of January 25, 1995 (60 FR 4920), FDA announced that a food additive petition (FAP 5A4440) had been filed by Lyondell-Citgo Refining Co., Ltd., P.O. Box 2451, Houston, TX 77252–2451, proposing that the food additive regulations be amended in § 172.878 *White mineral oil* (21 CFR 172.878), to provide for the safe use of white mineral oil as a dust control agent for rough rice at an application rate of 800 ppm (0.08 percent of the weight of the rice). An application rate of 200 ppm (0.02 percent of the weight of the grain) is currently permitted under § 172.878(c) for use on wheat, corn, soybean, barley, rice, rye, oats, and sorghum as a dust suppressant. On September 17, 1996, the petitioner amended the petition to limit its request to the use of white mineral oil of ISO 100 oil viscosity (100 centistokes (cSt) at 100°F).

II. Comments

The agency has received nine comments from rice warehouses and an oil supply company in support of the proposed application rate of food grade white mineral oil for rough rice indicating that the current regulated rate of 200 ppm does not effectively control rice dust. Because the comments are consistent with the regulation as set forth in the codified section of this document, FDA sees no need to address them.

III. Conclusion

The agency has evaluated all the data in the petition and other information and concludes that the proposed use of white mineral oil of ISO 100 oil viscosity (centistokes (cSt) at 100 °F) is safe for use as a dust control agent for rough rice and that the additive will achieve its technical effect. Therefore, the agency concludes that the food additive regulations should be amended as set forth as follows.

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 § 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.

IV. Environmental Effects

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.

V. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VI. Objections

Any person who will be adversely affected by this regulation may at any time on or before December 31, 1998, 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.

List of Subjects in 21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

2. –Section 172.878 is amended in the table in paragraph (c) by adding an entry under the headings ''Use'' and ''Limitation (inclusive of all petroleum hydrocarbons that may be used in combination with white mineral oil)'' to read as follows:

§ 172.878 White mineral oil.

* * * * *

(c) * * *

Use	Limitation (inclusive of all petroleum hydrocarbons that may be used in combination with white mineral oil)
* * *	* * * *
16. As a dust control agent for rice.	ISO 100 oil viscosity (100 centistokes (cSt) at 100°F) applied at a level of no more than 0.08 percent by weight of the rice grain.

Dated: November 7, 1998.

L. Robert Lake,

Director, Office of Policy, Planning, and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–31845 Filed 11–30–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 98F–0063]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Natamycin (Pimaricin)

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 a dry form of natamycin as an antimycotic in cheeses. This action is in response to a petition filed by Protein Technologies International, Inc.

DATES: This regulation is effective December 1, 1998; written objections and requests for a hearing by December 31, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: JoAnn Ziyad, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3116.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 11, 1998 (63 FR 6945), FDA announced that a food additive petition (FAP 8A4581) had been filed by Protein Technologies International, Checkerboard Sq., St. Louis, MO 63164. The petition proposes to amend the food additive regulations in § 172.155 *Natamycin (pimaricin)* (21 CFR 172.155) to provide for the safe use of a dry form of the food additive for use on the surfaces of cuts and slices of cheese to inhibit mold spoilage, in accordance with various standards of identity for cheeses that allow the use of antimycotics and anticaking agents.

–FDA received two comments from the food industry on the use of the dry mix of natamycin and cellulose on cheese to inhibit mold spoilage. Both comments favored the petitioned use of the additive. One comment listed several reasons for supporting the current petitioned use. They include possible extension of shelf life of shredded cheese, reduction of risks associated with antimycotic suspension spray application and minimal new technology investment by utilizing existing anticaking agent application technology. However, the other comment stated that ''We realize that natamycin is permitted as a spray on the surface of cheese, but we are not comfortable with that method of application on grated cheese. We would like to test the efficacy of the method proposed in the cited petition.''

–FDA finds that the petitioner does not seek approval either for the use of the wet or dry application of the additive on grated cheese. The petitioner requests that FDA amend the food additive regulation for natamycin (pimaricin) found in § 172.155 to allow for the use of a dry form of the food additive only on the surfaces of cuts and slices of cheese to inhibit mold spoilage, and this does not extend to use of the additive on grated or shredded cheese. Therefore, the comments on grated or shredded cheese are outside the scope of this rulemaking.

–Natamycin is currently approved in § 172.155 for use as an antimycotic agent on the surfaces of cuts and slices of cheese(s). Natamycin may be used on surfaces of cuts and slices of a cheese listed in 21 CFR part 133 only if the standards for such cheese provides for or the use of ''safe and suitable'' mold-inhibiting ingredients. The subject additive is defined in § 172.155 and may be applied by dipping or by spraying, using an aqueous solution containing 200 to 300 parts per million (ppm) of the additive. The proposed use is for the application of natamycin to cuts and slices of cheese as a dry mixture with safe and suitable anticaking agents, such as cellulose.

–FDA has evaluated the data in the petition and other relevant material. As part of its review, FDA evaluated data on the technical effect of the additive, its stability, and the change in exposure resulting from the use of a dry mixture of natamycin and cellulose anticaking agent. The petitioner provided data to establish that a level of up to 20 ppm natamycin in the finished product is needed to obtain the same antimycotic effect as from the liquid application.

–The petitioner, by measuring the antimycotic effect of a dry mixture of natamycin and cellulose on several