those standards require implementation or application of a specific technology or technical specification. Under the Electronic Signatures Act, such performance standards must: (1) Serve an important governmental objective; and (2) be substantially related to the achievement of that objective.[44] Even if the electronic storage requirements of Rule 17a–4(f) must be evaluated under Section 104(b)(3)(A) of the Electronic Signatures Act, they serve an important governmental objective and are substantially related to achieving that objective.

1. The Electronic Storage Requirements of Rule 17a–4(f) Serve an Important Governmental Interest

Section 17(a)(1) of the Exchange Act authorizes the Commission to issue rules requiring broker-dealers to make and keep for prescribed periods, and furnish copies thereof, such records as necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Exchange Act.[45] This grant of authority recognizes the importance of broker-dealer recordkeeping to the Commission's regulatory function and investor protection objective. Rule 17a–4, adopted by the Commission pursuant to this authority, sets forth the requirements for keeping and furnishing broker-dealer records. In so doing, the rule serves the important governmental interest of assisting adequate supervision of broker-dealers by the Commission and the SROs. During the debate on the Electronic Signatures Act, the importance of accurate recordkeeping in regulated industries was noted. To quote a statement by Senators Hollings, Wyden and Sarbanes, ''bank and other financial regulators need to require that records be retained in order that their examiners can insure the safety and soundness of the institutions and compliance with all relevant regulatory requirements.'' [46]

Investor protection depends on the examination process, which, in turn, relies on the records that broker-dealers are required to make and maintain. The electronic storage requirements of Rule 17a–4(f) are designed to ensure that broker-dealers will meet their obligation under Section 17(a)(1) and Rule 17a–4 to promptly furnish legible, true and complete copies of such records as are requested by the Commission or its representatives. This is crucial to the Commission's mandate to protect investors. Accordingly, the Commission's regulatory function is undermined to the extent that these records are inaccurate, retained in a non-accessible manner, or capable of alteration. The Commission's enforcement record against unscrupulous broker-dealers that have changed or destroyed records demonstrates how such conduct can harm investors and the public interest.[47]

2. The Electronic Storage Requirements of Rule 17a–4(f) Are Substantially Related to the Important Governmental Interest

The electronic storage requirements are designed to ensure that the Commission can promptly obtain legible, true, and complete records. Because the Commission relies on this ability to fulfill its responsibilities, the requirements are substantially related to the Commission's regulatory function. The Commission, in the release adopting the electronic storage requirements of Rule 17a–4, noted the ''importance for recordkeeping of ready access, reliability, and permanence of records.'' [48] Therefore, the release made clear that the electronic storage requirements were intended as ''safeguards against data erasure'' and to ''facilitate full access to the records during examinations.'' [49] As noted by Senator Leahy, the Electronic Signatures Act specifically authorizes agencies ''to set performance standards to assure the accuracy, integrity, and accessibility of records that are required to be retained.'' [50] Statements of Senators Hollings, Wyden and Sarbanes, and of Representative Dingell indicate that the intent behind this section of the Electronic Signatures Act was to allow agencies to have standards designed to, among other things, prevent companies from retaining materials in an easily alterable form.[51] The electronic storage requirements of Rule 17a–4(f), such as WORM, are designed for this purpose.

IV. Conclusion

For the foregoing reasons, we find that the electronic storage requirements of Rule 17a–4(f) meet, and are consistent with, the requirements of the Electronic Signatures Act.

List of Subjects in 17 CFR Part 241

Securities.

Amendments to the Code of Federal Regulations

For the reasons set forth in the preamble, the Commission is amending title 17, chapter II of the Code of Federal Regulations as set forth below:

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

1. Part 241 is amended by adding Release No. 34–44238 and the release date of May 1, 2001 to the list of interpretive releases.

Dated: May 1, 2001.
By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–11333 Filed 5–4–01; 8:45 am]

BILLING CODE 8010–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 00F–1487]

Secondary Direct Food Additives Permitted in Food for Human Consumption

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 acidified sodium chlorite solutions as a component of a post-chill carcass spray or dip when applied to poultry meat, organs, or related parts or trim. This action is in response to a petition filed by Alcide Corp.

DATES: This rule is effective May 7, 2001. Submit written objections and requests for a hearing by June 6, 2001.

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: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, Washington, DC 20204–0001, 202–418–3074.

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[44] *Id.*

[45] 15 U.S.C. 78q(a)(1).

[46] 146 Cong. Rec. S5230 (daily ed. June 14, 2000) (statement of Sens. Hollings, Wyden, and Sarbanes).

[47] *See e.g., In the Matter of Del Mar Financial Services, Inc., et al.,* Exchange Act Release No. 42421 (Feb. 14, 2000); *In the Matter of A.S. Goldmen & Co., Inc., et al.,* Exchange Act Release No. 41601 (July 7, 1999).

[48] Adopting Release, 62 FR at 6470.

[49] *Id.*

[50] 146 Cong. Rec. S5221 (daily ed. June 15, 2000) (statement of Sen. Leahy).

[51] *See* 146 Cong. Rec. S5230 (daily ed. June 15, 2000) (statement of Sens. Hollings, Wyden and Sarbanes); 146 Cong. Rec. H4358 (daily ed. June 14, 2000) (statement of Rep. Dingell).

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 11, 2000 (65 FR 54855), FDA announced that a food additive petition (FAP 0A4722) had been filed by Alcide Corp., 8561 154th Ave., NE., Redmond, WA 98052. The petition proposed to amend the food additive regulations in § 173.325 *Acidified sodium chlorite solution* (21 CFR 173.325) to provide for the safe use of acidified sodium chlorite solutions as a component of a post-chill carcass spray or dip when applied to poultry meat, organs, or related parts or trim.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and, therefore, that the regulation in § 173.325 should be amended as set forth below.

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.

In the notice of filing, FDA gave interested parties an opportunity to submit comments on the petitioner's environmental assessment. FDA received no comments in response to that notice.

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.

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

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by June 6, 2001. 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 are to be submitted and are to 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 173

Food additives.

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 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

2. Section 173.325 is amended by removing ''or'' at the end of paragraph (b)(1)(iii), removing the period at the end of paragraph (b)(1)(iv) and adding ''; or'' in its place, and adding paragraph (b)(1)(v) to read as follows:

§ 173.325 Acidified sodium chlorite solutions.

* * * * *

(b)(1) * * *

(v) As a component of a post-chill carcass spray or dip solution when applied to poultry meat, organs, or related parts or trim.

* * * * *

Dated: April 27, 2001.

L. Robert Lake,

Director of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 01–11330 Filed 5–4–01; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 45–216; FRL–6924–3]

Approval and Promulgation of Implementation Plans; New York; Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is announcing the approval of a State Implementation Plan revision submitted by New York. This revision consists of New York's demonstration of the effectiveness of the enhanced motor vehicle inspection and maintenance (I/M) program decentralized testing network which satisfies the requirements of section 348 of the National Highway Systems Designation Act (NHSDA). In addition, EPA is approving New York's test method, NYTEST, and its effectiveness in relation to the IM240 test method and the regulations implementing the program. The intended effect of this action is to fully approve New York's enhanced I/M program, a requirement of the Clean Air Act.

EFFECTIVE DATE: This rule will be effective June 6, 2001.

ADDRESSES: Copies of the State submittals are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866; New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233; and Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Judy-Ann Mitchell, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

I. Background

On October 2, 2000 (65 FR 58698), EPA published a notice of proposed rulemaking for the State of New York. The notice proposed approval of revisions to the State Implementation Plan (SIP) for New York's enhanced inspection and maintenance (I/M)