final rule that halves the comment period on consent agreements.[1]

One might respond to my concern with the argument that since the public comment period itself is for the benefit of the Commission and not of the public, any decision to shorten or eliminate the period should be in the hands of the sole beneficiary of the public comment mechanism—the Commission. To argue thus, however, would be to disregard a core element of our system of government: the public's stake in the decisions reached by government agencies, and our responsibility to take the public's views into account. Although I would not have voted to shorten the comment period to 30 days if I believed that such an action would nullify the public's role, getting public comment beforehand on this very issue would have been valuable.

Instead, the Commission has decided to allow 30 days for public comment after these final rules have been published in the **Federal Register**. I fear that this is not an adequate surrogate for the advance comment that we should have solicited. Once something such as an order or a rule revision is issued ''in final,'' it is often a *fait accompli* that is unlikely to be undone even in the face of inexorable logic.[2] We should have invited public participation before taking these steps.

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[1] The Administrative Procedure Act (''APA'') generally requires that agencies engage in notice-and-comment procedures before issuing a final rule, 5 U.S.C. 553(c), but rules of agency procedure or practice are exempt from this requirement. 5 U.S.C. 553(b)(A). Nevertheless, ''[a]lthough the APA provides this exemption for rules of agency procedure or practice, agency rulemakers should consider providing notice and an opportunity for comment where possible if the rules will affect the public.'' Administrative Conference of the United States, *A Guide to Federal Agency Rulemaking* 51 (2d ed. 1991) (emphasis added); see also American Bar Ass'n, Government and Public Sector Lawyers Division and Section of Administrative Law and Regulatory Practice, *A Guide to Federal Agency Rulemaking* 54–55 (3d ed. 1998). Although I do not believe that the Commission must put every change in its procedural rules out for public comment, doing so is warranted here because the proposed change may significantly affect the public.

[2] The courts have recognized that seeking comment after making a rule change is not usually a substitute for obtaining comment before such a change is made: ''[A]n agency is not likely to be receptive to suggested changes once the agency ''put[s] its credibility on the line in the form of ''final'' rules. People naturally tend to be more close-minded and defensive once they have made a ''final'' determination.''' Air Transport Ass'n of America v. Dept. of Transp., 900 F.2d 369, 379 (D.C. Cir. 1990) (quoting National Tour Brokers Ass'n v. United States, 591 F.2d 896, 902 (D.C. Cir. 1978)), cert. denied, 498 U.S. 1023 (1991).

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 9 and 171

Review of Exchange disciplinary, Access Denial or Other Adverse Actions; Review of NFA Decisions; Corrections

AGENCY: Commodity Futures Trading Commission.

ACTION: Final Rules; technical corrections.

SUMMARY: On October 26, 1995, the Commodity Futures Trading Commission (''Commission'') published in the **Federal Register** (60 FR 54801) final regulations amending its Rules Relating to Review of Exchange Disciplinary, Access Denial or Other Adverse Actions (''Rules''), to reflect changes in office titles, personnel titles and address. The Commission has determined to make certain technical corrections to the Rules to clarify its delegation of authority.

In addition, the Commission has determined to make a similar technical correction to its Rules relating to Review of NFA Decisions, to clarify its delegation of authority.

EFFECTIVE DATE: August 19, 1999.

FOR FURTHER INFORMATION CONTACT: Susan Nathan, Assistant General Counsel, Office of General Counsel, (202) 418–5120.

SUPPLEMENTARY INFORMATION: The Commission recently has undertaken a reexamination of its part 9 and part 171 Rules and has identified those rules that require amendment to effect technical or conforming changes.

I. Rules Being Amended

The following Commission rules are being amended.

A. 17 CFR 9.9

Commission Rule 9.9(b) delegates certain authority to the Deputy General Counsel for Opinions and Review. As adopted, the rule authorizes the Deputy General Counsel for Opinions and Review, or a person under his direction designated by him, to handle particular procedural and technical matters and, in his discretion, to submit any matters otherwise falling within the terms of this rule to the Commission for its consideration. There is no longer a Deputy General Counsel for Opinions and Review. Consequently, references in rule 9.9 to ''the Deputy General Counsel for Opinions and Review'' have been changed to ''the General Counsel.

B. 17 CFR 171.50

Commission rule 171.50 delegates certain authority to the Deputy General Counsel for Opinions. As adopted, the rule authorizes the Deputy General Counsel for Opinions, or a person under his direction designated by him, to perform specific procedural and technical functions and, in his discretion, to submit any matters otherwise falling within the terms of this rule to the Commission for its consideration. There is no longer a Deputy General Counsel for Opinions. Consequently, references in Rule 171.50 to ''the Deputy General Counsel for Opinions'' have been changed to '' the General Counsel.''

C. Administrative Procedure Act

The Commission has determined that the Administrative Procedure Act, 5 U.S.C. 553, does not require notice of proposed rulemaking and an opportunity for public participation in connection with these corrections. In this regard, the Commission notes that such notice and opportunity for comment is unnecessary because these technical corrections are related solely to agency organization, procedure and practice and make technical corrections. Accordingly, the Commission finds good cause to make these corrections effective immediately upon publication in the **Federal Register**. 5 U.S.C. 553(b)(B), 553(d)(3).

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(4) and 2(a)(11), the Commission corrects Chapter I of title 17 of the Code of Federal Regulations as follows:

List of Subjects in 17 CFR Parts 9 and 171

Administrative practice and procedure, Commodity exchanges, Commodity futures.

PART 9—RULES RELATING TO REVIEW OF EXCHANGE DISCIPLINARY, ACCESS DENIAL OR OTHER ADVERSE ACTIONS

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 4a, 6c, 7a, 12a, 16a.

2. Section 9.9 is amended by revising paragraphs (b)(1) introductory text, (b)(3) and (b)(4) to read as follows:

§ 9.9 Waiver of rules; delegation of authority.

* * * * *

(b) *Delegation of authority.* (1) The Commission hereby delegates, until the Commission orders otherwise, to the

General Counsel, or the General Counsel's designee, the authority:

* * * * *

(3) The General Counsel or the General Counsel's designee may submit to the Commission for its consideration any matter which has been delegated pursuant to paragraph (b)(1) of this section.

(4) Nothing in this section will be deemed to prohibit the Commission, at its election, from exercising the authority delegated to the General Counsel under this section.

PART 171—RULES RELATING TO REVIEW OF NATIONAL FUTURES ASSOCIATION DECISIONS IN DISCIPLINARY, MEMBERSHIP DENIAL, REGISTRATION AND MEMBER RESPONSIBILITY ACTIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 7 U.S.C. 4a, 12a and 21.

2. Section 171.50 is amended by revising the heading and paragraphs (a) introductory text, (c) and (d) to read as follows:

§ 171.50 Delegation to the General Counsel.

(a) The Commission hereby delegates, until it orders otherwise, to the General Counsel or the General Counsel's designee, the authority:

* * * * *

(c) The General Counsel or the General Counsel's designee may submit to the Commission for its consideration any matter which has been delegated pursuant to paragraph (a) of this section.

(d) Nothing in this section will be deemed to prohibit the Commission, at its election, from exercising the authority delegated to the General Counsel under this section.

Issued in Washington, D.C. this 19th day of August 1999, by the Commodity Futures Trading Commission.

Catherine D. Dixon,

Assistant Secretary of the Commission.

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BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 96F–0176]

Indirect Food Additives: Polymers

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 Nylon 6/12 copolymer resins as nonfood-contact layers of laminated films and rigid multilaminate constructions with polypropylene outer layers intended for use in contact with food. This action is in response to a petition filed by Toray Industries (America) Inc.

DATES: The regulation is effective August 25, 1999; written objections and requests for a hearing by September 24, 1999.

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: Vivian M. Gilliam, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3167.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 27, 1996 (61 FR 44067), FDA announced that a food additive petition (FAP 6B4505) had been filed by Toray Industries (America) Inc., c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in Part 177 Indirect Food Additives: Polymers (21 CFR part 177) to provide for the safe use of Nylon 6/12 copolymers for use as a non-food contact layer of laminated articles intended for use with food.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive as a non-food contact layer of laminated films and rigid multilaminate constructions where the outer layers are made of polypropylene is safe, (2) the additive will achieve its intended technical effect, and (3) the regulations in §§ 177.1390 and 177.1500 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.

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 collections 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 on or before September 24, 1999, 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 177

Food additives, Food packaging.

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 177 is amended as follows: