

SEC. 3. The Federal Council for Science and Technology in consultation with the Department of Justice shall prepare at least annually a report concerning the effectiveness of this policy, including recommendations for revision or modification as necessary in light of the practices and determinations of the agencies in the disposition of patent rights under their contracts. The Federal Council for Science and Technology shall continue to

(a) develop by mutual consultation and coordination with the agencies common guidelines for the implementation of this policy, consistent with existing statutes, and to provide overall guidance as to disposition of inventions and patents in which the Government has any right or interest; and

(b) acquire data from the Government agencies on the disposition of patent rights to inventions resulting from federally financed research and development and on the use and practice of such inventions to serve as bases for policy review and development; and

(c) make recommendations for advancing the use and exploitation of Government-owned domestic and foreign patents.

Each agency shall record the basis for its actions with respect to inventions and appropriate contracts under this statement.

SEC. 4. Definitions: As used in this policy statement, the stated terms in singular and plural are defined as follows for the purposes hereof:

(a) *Government agency*—includes any executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(b) *States*—means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam and the Trust Territory of the Pacific Islands.

(c) *Invention, or Invention or discovery*—includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(d) *Contractor*—means any individual, partnership, public or private corporation, association, institution, or other entity which is a party to the contract.

(e) *Contract*—means any actual or proposed contract, agreement, grant, or other arrangement, or subcontract entered into with or for the benefit of the Government where a purpose of the contract is the conduct of experimental, developmental, or research work.

(f) *Made*—when used in relation to any invention or discovery means the conception or first actual reduction to practice of such invention in the course of or under the contract.

(g) *To the point of practical application*—means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

[FR Doc.71-12623 Filed 8-25-71;10:41 am]

Rules and Regulations

Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 51—FRESH FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

Subpart—U.S. Standards for Grades of Fresh Cranberries¹

On page 13396 of the FEDERAL REGISTER of July 21, 1971 there was published a notice of proposed rule making to revise these grade standards by revising the definitions of damage by bruises and by moisture in § 51.2781, and by changing the title of the standards from U.S. Consumer Standards for Fresh Cranberries to U.S. Standards for Grades of Fresh Cranberries. The grade name U.S. Grade A is changed to U.S. No. 1. These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621-1627), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers and consumers. Official grading services are also provided under this Act upon request of any financially interested party and upon payment of a fee to cover the cost of such services.

Interested persons were given until August 15, 1971 to submit written data, views, or arguments regarding the proposal. No comments have been received and the proposed revised standards are hereby adopted without change and are set forth below.

It is hereby found that good cause exists for not postponing the effective date of this revision beyond the date of publication hereof in the FEDERAL REGISTER, in that: (1) The 1971 packing season for fresh cranberries will begin early in September and it is in the interest of the public and the industry that this revision be placed in effect at the earliest possible date; and (2) no special preparation is required for compliance with this revision on the part of members of the cranberry industry or of others.

Accordingly these standards shall become effective upon publication in the FEDERAL REGISTER (8-26-71) and will

¹Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

thereupon supersede the U.S. Consumer Standards for Fresh Cranberries which have been in effect since August 7, 1956 (7 CFR 51. 2775-51.2784).

Dated: August 23, 1971.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

GENERAL	
Sec.	
51.2775	General.
GRADES	
51.2776	U.S. No. 1.
DEFINITIONS	
51.2777	Similar varietal characteristics.
51.2778	Clean.
51.2779	Mature.
51.2780	Damage.
51.2781	Fairly well colored.
51.2782	Fairly uniform in color.
51.2783	Diameter.
METRIC CONVERSION TABLE	
51.2784	Metric conversion table.

AUTHORITY: The provisions of this subpart issued under secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

GENERAL

§ 51.2775 General.

(a) These standards apply only to the commonly cultivated cranberry (*Vaccinium macrocarpon*).

(b) Compliance with these standards is determined by analyzing samples of 100 berries each drawn at random from individual containers representative of the lot. The tolerances for off-size and defective berries apply to the lot and there is no restriction on the percentage that may occur in individual samples or containers: *Provided*, That the averages for the entire lot are within the tolerances specified for the grade.

GRADES

§ 51.2776 U.S. No. 1.

"U.S. No. 1" consists of cranberries which meet the following requirements:

- (a) Basic requirements:
 - (1) One variety or similar varietal characteristics;
 - (2) Clean;
 - (3) Mature;
 - (4) Firm; and,
 - (5) Not soft or decayed.
- (b) Free from damage caused by:
 - (1) Moisture;
 - (2) Bruises;
 - (3) Freezing;
 - (4) Smothering;
 - (5) Scarring;
 - (6) Sunscald;
 - (7) Foreign material;
 - (8) Disease;
 - (9) Insects; or,
 - (10) Mechanical or other means.

(c) Color: Individual cranberries shall be at least fairly well colored, and the cranberries in the container shall be fairly uniform in color.

(d) Size: Unless otherwise specified, the diameter of each cranberry shall be not less than thirteen thirty-seconds of an inch.

(e) Tolerances: In order to allow for variations incident to proper grading and handling in this grade, the following tolerances, by count, in any lot are provided:

(1) 3 percent for cranberries which fail to meet the size requirements;

(2) 5 percent for cranberries which fail to meet the remaining requirements of the grade, but not more than three-fifths of this amount, or 3 percent, shall be allowed for cranberries which are soft or decayed at shipping point: *Provided*, That an additional tolerance of 2 percent, or a total of not more than 5 percent, shall be allowed for soft or decayed berries en route or at destination; and,

(3) 5 percent for containers in which the cranberries fail to meet the requirements of fairly uniform in color.

DEFINITIONS

§ 51.2777 Similar varietal characteristics.

"Similar varietal characteristics" means that the cranberries in the container are similar in color and shape.

§ 51.2778 Clean.

"Clean" means that the cranberries are practically free from dirt, dust, spray residue, or other foreign material.

§ 51.2779 Mature.

"Mature" means that the cranberry has reached the stage of development which will insure the proper completion of the ripening process. Cranberries which show more than a slight amount of green color shall be considered immature.

§ 51.2780 Damage.

"Damage" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the individual cranberry or the general appearance of the cranberries in the container. The following specific defects shall be considered as damage:

(a) Moisture when the cranberries in the container are wet from the juice from crushed, leaking, or decayed berries. Cranberries which are moist from condensation or which have been cleaned by water shall not be considered damaged by moisture;

(b) Bruises when the affected area is soft and watery beneath the skin;

(c) Scarring which detracts from the appearance of the individual cranberry to a greater extent than scars aggregating the area of a circle one-fourth inch in diameter on a cranberry eighteen thirty-seconds of an inch in diameter;

(d) Insects when any larvae or holes caused by them are present or when feeding injury exceeds the area of a circle one-eighth inch in diameter; and,

(e) Foreign material which materially detracts from the appearance of the cranberries in the container.

§ 51.2781 Fairly well colored.

"Fairly well colored" means that 75 percent of the surface of the individual cranberry, in the aggregate, shows pink or red color characteristic of the variety.

§ 51.2782 Fairly uniform in color.

"Fairly uniform in color" means that the berries in the individual containers do not show sufficient variation in color to materially detract from the general appearance of the berries in the container.

§ 51.2783 Diameter.

"Diameter" means the greatest dimension measured at right angles to a line from stem to blossom end of the berry.

METRIC CONVERSION TABLE

§ 51.2784 Metric conversion table.

Inches	Milli- meters (mm)	Inches	Milli- meters (mm)
1/8	3.175	1 1/2	14.288
1/4	6.350	1 3/4	15.881
3/8	9.525	1 7/8	15.875
1/2	10.319	2 1/8	16.669
5/8	11.112	2 3/8	17.462
3/4	11.906	2 1/2	18.256
7/8	12.700	2 5/8	19.050
1 1/8	13.494		

[FR Doc. 71-12551 Filed 8-25-71; 8:50 am]

PART 55—VOLUNTARY INSPECTION AND GRADING OF EGG PRODUCTS

Laboratory Analysis Fees

Correction

In F.R. Doc. 71-8599 appearing at page 11795 in the issue of Saturday, June 19, 1971, the first entry in the table under § 55.550(b) should read as follows:

Solids \$5.50

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 363]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.663 Valencia Orange Regulation 363.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in

order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 24, 1971.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period August 27, 1971, through September 2, 1971, are hereby fixed as follows:

- (i) District 1: 132,000 cartons;
- (ii) District 2: 468,000 cartons;
- (iii) District 3: Unlimited.

(2) As used in this section, "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: August 25, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and
Vegetable Division, Consumer
and Marketing Service.

[FR Doc. 71-12626 Filed 8-25-71; 11:30 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

CIVIL PENALTIES

On December 17, 1970, the Atomic Energy Commission published in the FEDERAL REGISTER (35 F.R. 19122) proposed amendments to 10 CFR Part 2, "Rules of Practice", regarding civil penalties.

The proposed amendments set out the procedures which the Commission proposed to follow in imposing civil penalties authorized under section 234 of the Atomic Energy Act of 1954, as amended (the Act). Conforming amendments to 10 CFR Parts 20, 30, 40, 50, 55, 70, 71, 73, and 150 were also proposed.

Interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within 60 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. After consideration of the comments received and other factors involved, the Commission has adopted the proposed amendments with certain modifications.

Significant differences from the amendments published for comment are:

(1) Section 2.700, which describes the scope of Subpart G, governing procedure in Commission adjudications, has

been amended to cover specifically hearings held on civil penalties.

(2) The provision in proposed § 2.205 for requesting a hearing in connection with the assessment of a civil penalty has been revised to make clear that a request for a hearing need not be made until after an answer to a notice of violation has been filed and an order imposing a civil penalty entered by the Director of Regulation.

(3) The provision in proposed § 2.205 for reference of unpaid civil penalty orders to the Attorney General for collection has been clarified to cover specifically situations in which no answer is filed or an answer is filed but no hearing is requested, as well as situations in which the order is issued after a hearing.

(4) Section 2.203, which requires approval of the presiding officer of a stipulation for settlement in other enforcement proceedings (such as modification, suspension or revocation of a license) has been amended to include also compromise of civil penalties. Since a monetary penalty would be assessed as a deterrent to actions which affect such important matters as the public health and safety and the common defense and security, it appears that, once the matter has been set for hearing, the compromise of a civil penalty, like the settlement of a matter involving a situation such as license suspension or revocation imposed for the same reasons, should not be effected without the approval of the presiding officer. The provision in proposed § 2.205 to the effect that the Director of Regulation may compromise any civil penalty has been revised to reflect the amendment of § 2.203.

Editorial and organization changes have also been made.

Several comments noted the absence of criteria to be used by the Commission in defining the types of cases in which civil penalties will be used and the size of civil penalties likely to be imposed. Although subject to modification, as experience is gained, the Commission's plans for utilization of civil penalties are described below.

Civil penalties, as a method of enforcement, are believed to be appropriate in cases where the illegal acts do not involve an immediate serious threat to public health and safety or the common defense and security (such as the diversion of nuclear materials), but the circumstances of the case indicate that an enforcement measure more severe than a notice of violation is appropriate. Civil penalties, where appropriate, will provide suitable remedial action without the undesirable side effects of suspension or revocation, such as depriving a licensee or his employees of their means of livelihood or the public of an essential service.

Cases involving an immediate serious threat to public health and safety or the common defense and security (such as the diversion of nuclear materials) will continue to be handled by immediate steps as necessary to remove the threat, and by enforcement action such as license suspension or revocation, cease

and desist order, or other appropriate action.

Civil penalties and other enforcement methods are, however, not necessarily mutually exclusive and may in appropriate cases be cumulative. For example, rather than a lengthy suspension, a brief suspension coupled with a civil penalty might be best adapted to the enforcement situation.

The Commission believes that the following cases are typical of those that would be appropriate for imposition of a civil penalty, when the violations represent a threat to public health and safety or the common defense and security (such as the diversion of nuclear materials), but the threat is not of an immediate nature:

(1) Those in which a licensee is found to have repeated violations of license requirements.

(2) Those in which a licensee has willfully violated the provisions of the Commission's rules or regulations or conditions of the license.

(3) Those cases in which a licensee fails to take timely corrective action on matters which may affect public health and safety or the common defense and security (such as the diversion of nuclear materials), and which have previously been brought to the attention of the licensee.

(4) Certain cases in which a person has violated the various requirements for a license in the Act and in the Commission's regulations.

In addition, violations which do not represent a threat to public health and safety or the common defense and security (such as the diversion of nuclear materials) will be subject to a civil penalty if it is determined that the violations are willful.

In determining the amount of a suitable penalty, the Commission will consider all relevant factors including, among others, the nature and number of the violations (i.e., the significance from the standpoint of health and safety of the public or of the common defense and security such as safeguarding of special nuclear material), the steps taken by the person to correct the violations, the licensee's history of previous violations and his demonstrated good faith in correcting them promptly, and the appropriateness of the penalty to the size of the licensee's business conducted under license. Where a person is found to have multiple violations, the amount of the penalty would be multiplied by the number of violations. Furthermore, section 234 of the Act provides that if any violation is a continuing one, each day of violation shall constitute a separate violation for the purpose of computing the applicable civil penalty. In a case where, despite the exercise of reasonable diligence, a licensee was not aware of the violation until brought to its attention by the Commission, the computation of the period of violation would normally begin at that time or after the time allowed the licensee for corrective action. On the other hand, if the evidence

showed that a licensee had knowingly permitted violations to continue, the computation of the period of violation might begin at the time the licensee permitted the violations to continue.

In summary, a penalty of up to \$5,000 may be imposed for each violation and for each day that the violation exists, up to a maximum total penalty of \$25,000 during a 30-day period. Generally, however, the notice of violation will specify the total penalty being assessed, which will include consideration of the number of violations and the number of days the violations have existed. The notice of violation could also impose a daily penalty which would accrue, if the violations are not corrected as of a prescribed date.

The Commission plans to assess civil penalties in amounts ranging up to a maximum of \$5,000 per violation. Such factors, among others, as the extent of the threat to public health and safety or the common defense and security resulting from the violation, the willfulness of the violation and the number of similar violations by the person charged will be considered in fixing the amount of the civil penalty. As experience in the use of civil penalties for enforcement purposes is gained, the Commission may develop and publish additional criteria for the determination of the amounts of civil penalties for specific types of violations.

Several of the comments expressed concern about such matters as the failure of the proposed amendments to provide specifically for informal conferences with the regulatory staff or the Director of Regulation with respect to the subject matter of the notice of violation or the amount of the proposed penalty either before or after the notice of violation is sent; the use of the term "notice of violation" rather than "notice of alleged violation"; the fact that the Director of Regulation has been delegated authority by the Commission to institute the notice of violation and proposed penalty and also has been delegated authority to consider the answer and revise the penalty thereafter; and the failure to provide specifically for alternative actions such as cease and desist orders.

Most of the above comments would apply equally to the other provisions of Subpart B of Part 2 dealing with other types of enforcement action. It has not proved necessary in the past to refer to "alleged violations" rather than "violations" or provide specifically in the regulation for such matters as informal conferences on the subject matter of the violation or the proposed enforcement action, which are, of course, available to persons charged with violation of AEC regulations. No persuasive reason has been presented for making such changes in Part 2 with respect to civil monetary penalties, which are less drastic than other available enforcement actions such as suspension or revocation of a license.

The Commission considers that the provisions of §§ 2.205 and of 2.203, which have been specifically made applicable to civil penalty proceedings, are sufficient

to permit the informal disposition of proceedings for imposition of civil penalties.

The Commission does not view as unfair or otherwise inappropriate the fact that the Director of Regulation will have authority to institute the proceeding for the imposition of a civil penalty and will also have authority to consider the answer to the charges and thereafter revise, impose or mitigate the penalty, particularly in view of the opportunity provided for an administrative hearing before an officer other than the Director of Regulation and for a trial de novo in a civil action to collect a civil penalty under section 234c of the Act.

Under the Commission's organization, inspectors and first-line supervisory personnel would not be authorized to impose civil penalties. The pertinent delegations of authority from the Director of Regulation to the Directors of the Divisions of Compliance and Nuclear Materials Safeguards, and delegations from the Directors to their staffs will be available for inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

The Commission does not view a decision to institute proceedings for the imposition of a civil penalty as precluding the use of other kinds of enforcement action, if such other action later appears desirable. However, it is not deemed necessary to provide specifically for such alternatives.

The comments exhibited disparate views on the matter of whether the notice pertaining to the proposed imposition of civil penalties should be included in the notice of violation issued pursuant to § 2.201. Ordinarily, such notices will be combined wherever practicable. The amendments set forth below, however, do not require a combined notice. There may be occasions when the Commission will wish to issue a notice of proposed imposition of civil penalty if no answer, or an inadequate answer, is received to a notice of violation issued under § 2.201 (a). Conversely, if it is initially determined that the imposition of a civil penalty is appropriate in a particular case of violation, it would be appropriate to inform the person charged with violation of the intended enforcement action at the time the notice of violation is issued.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 2, 20, 30, 40, 50, 55, 70, 71, 73, and 150, are published as a document subject to codification effective thirty (30) days after publication in the FEDERAL REGISTER.

PART 2—RULES OF PRACTICE

1. Section 2.1 of 10 CFR Part 2 is amended to read as follows:

§ 2.1 Scope.

This part governs the conduct of all proceedings under the Atomic Energy Act of 1954, as amended, for (a) granting, suspending, revoking, amending, or

taking other action with respect to any license, authorization, construction permit, or application to transfer a license; (b) imposing civil penalties under section 234 of the Act; (c) public rulemaking; and (d) declaring a patent to be affected with the public interest, and the granting of a patent license under section 153 of the Act, but excluding all other patent matters.

2. The heading of Subpart B of 10 CFR Part 2 is amended to read as follows:

Subpart B—Procedure for Imposing Requirements by Order, or for Modification, Suspension, or Revocation of a License, or for Imposing Civil Penalties

3. Section 2.200 of 10 CFR Part 2 is amended to read as follows:

§ 2.200 Scope of subpart.

(a) This subpart prescribes the procedure in cases initiated by the regulatory staff to impose requirements by order on a licensee or to modify, suspend, or revoke a license, or for such other action as may be proper.

(b) This subpart also prescribes the procedures in cases initiated by the regulatory staff to impose civil penalties pursuant to section 234 of the Act.

4. Section 2.203 of 10 CFR Part 2 is amended to read as follows:

§ 2.203 Settlement and compromise.

At any time after the issuance of an order designating the time and place of hearing in a proceeding to modify, suspend, or revoke a license or for other action, the regulatory staff and a licensee or other person may enter into a stipulation for the settlement of the proceeding or the compromise of a civil penalty. The stipulation or compromise shall be subject to approval by the designated presiding officer or, if none has been designated, by the Chief Hearing Examiner, according due weight to the position of the regulatory staff. The presiding officer, or if none has been designated, the Chief Hearing Examiner, may order such adjudication of the issues as he may deem to be required in the public interest to dispose of the proceeding. If approved, the terms of the settlement or compromise shall be embodied in a decision or order settling and discontinuing the proceeding.

5. A new § 2.205 is added to 10 CFR Part 2 to read as follows:

§ 2.205 Civil penalties.

(a) Before instituting any proceeding to impose a civil penalty under section 234 of the Act, the Director of Regulation shall serve a written notice of violation upon the person charged. This notice may be included in a notice issued pursuant to § 2.201. The notice of violation shall specify the date or dates, facts, and the nature of the alleged act or omission with which the person is charged, and shall identify specifically the particular provision or provisions

of the law, rule, regulation, license, permit, or cease and desist order involved in the alleged violation and shall state the amount of each penalty which the Director of Regulation proposes to impose. The notice of violation shall also advise the person charged that the civil penalty may be paid in the amount specified therein, or the proposed imposition of the civil penalty may be protested in its entirety or in part, by a written answer, either denying the violation, or showing extenuating circumstances. The notice of violation shall advise the person charged that upon failure to pay a civil penalty subsequently determined by the Commission, if any, the penalty may, unless compromised, remitted or mitigated, be collected by civil action pursuant to section 234c of the Act.

(b) Within twenty (20) days of the date of a notice of violation or other time specified in the notice, the person charged may either pay the penalty in the amount proposed or answer the notice of violation. The answer to the notice of violation shall state any facts, explanations, and arguments, denying the charges of violation, or demonstrating any extenuating circumstances, error in the notice of violation, or other reason why the penalty should not be imposed and may request remission or mitigation of the penalty.

(c) If the person charged with violation fails to answer within the time specified in paragraph (b) of this section, the Director of Regulation will issue an order imposing the civil penalty in the amount set forth in the notice of violation described in paragraph (a) of this section.

(d) If the person charged with violation files an answer to the notice of violation, the Director of Regulation, upon consideration of the answer, will issue an order dismissing the proceeding or imposing, mitigating, or remitting the civil penalty. The person charged may, within twenty (20) days of the date of the order or other time specified in the order, request a hearing.

(e) If the person charged with violation requests a hearing, the Commission will issue an order designating the time and place of hearing.

(f) If a hearing is held, an order will be issued after the hearing by the presiding officer or the Commission dismissing the proceeding or imposing, mitigating, or remitting the civil penalty.

(g) The Director of Regulation may compromise any civil penalty, subject to the provisions of § 2.203.

(h) If the civil penalty is not compromised, or is not remitted by the Director of Regulation, the presiding officer or the Commission, and if payment is not made within ten (10) days following either the service of the order described in paragraph (c) or (f) of this section, or the expiration of the time for requesting a hearing described in paragraph (d) of this section, no such request having been made, the Director of Regulation may refer the matter to the Attorney General for collection.

(i) Except when payment is made after compromise or mitigation by the

Department of Justice or as ordered by a court of the United States, following reference of the matter to the Attorney General for collection, payment of civil penalties imposed under section 234 of the Act shall be made by check, draft, or money order payable to the Treasurer of the United States, and mailed to the Director of Regulation.

6. 2700 of 10 CFR Part 2 is amended to read as follows:

§ 2700 Scope of subpart.

The general rules in this subpart govern procedure in all adjudications initiated by the issuance of an order to show cause, an order pursuant to § 2.205 (e), or a notice of hearing.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

7. Section 20.601 of 10 CFR Part 20 is amended to read as follows:

§ 20.601 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Act for violation of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Act or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Act. Any person who willfully violates any provision of the Act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BY-PRODUCT MATERIAL

8. Section 30.63 of 10 CFR Part 30 is amended to read as follows:

§ 30.63 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Act for violation of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Act or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Act. Any person who willfully violates any provision of the Act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

PART 40—LICENSING OF SOURCE MATERIAL

9. Section 40.81 of 10 CFR Part 40 is amended to read as follows:

§ 40.81 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Act for violation of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107 or 109 of the Act or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Act. Any person who willfully violates any provision of the Act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

PART 50—LICENSING OF PRODUCTION AND UTILIZATION OF FACILITIES

10. Section 50.110 of 10 CFR Part 50 is amended to read as follows:

§ 50.110 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Act for violation of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107 or 109 of the Act or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Act. Any person who willfully violates any provision of the Act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

PART 55—OPERATORS' LICENSES

11. Section 55.50 of 10 CFR Part 55 is amended to read as follows:

§ 55.50 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued by the Commission under the Act. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Act for violation of sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Act or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Act. Any person who willfully

violates any provision of the Act or of the regulations in this part may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

PART 70—SPECIAL NUCLEAR MATERIAL

12. Section 70.71 of 10 CFR Part 70 is amended to read as follows:

§ 70.71 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Act for violation of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Act or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Act. Any person who willfully violates any provision of the Act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

PART 71—PACKAGING OF RADIOACTIVE MATERIAL FOR TRANSPORT

13. Section 71.64 of 10 CFR Part 71 is amended to read as follows:

§ 71.64 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Act for violation of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Act or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Act. Any person who willfully violates any provision of the Act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

PART 73—PHYSICAL PROTECTION OF SPECIAL NUCLEAR MATERIAL

14. An undesignated centerhead "Enforcement" is added to 10 CFR Part 73 following § 73.42.

15. A new § 73.51 is added to 10 CFR Part 73 to read as follows:

§ 73.51 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. A court

order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Act for violation of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Act or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Act. Any person who willfully violates any provision of the Act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SEC. 274

16. Section 150.30 of 10 CFR Part 150 is amended to read as follows:

§ 150.30 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Act for violation of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Act or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Act. Any person who willfully violates any provision of the Act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

(Secs. 161, 234, 68 Stat. 948, 83 Stat. 444; 42 U.S.C. 2201, 2282)

Dated at Washington, D.C., this 6th day of August 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc. 71-12491 Filed 8-25-71; 8:48 am]

EXEMPT QUANTITY OF BARIUM-133

On May 25, 1971, the Atomic Energy Commission published in the FEDERAL REGISTER (36 F.R. 9468) proposed amendments to Parts 20, 30, and 31 of its regulations. The proposed amendments would (a) add a listing of 10 microcuries for barium-133 to the schedule of exempt quantities of byproduct material, § 30.71, Schedule B, 10 CFR Part 30; (b) add a similar listing to Appendix C, 10 CFR Part 20; (c) revoke § 31.4, 10 CFR Part 31 which sets forth the existing general license for small quantities of byproduct material that was extended to accommodate the petition from Nuclear-Chicago Corp.; and (d) amend § 30.18(b), 10 CFR Part 30, to reference the new date of revocation of that general license.

Interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within 30 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. After consideration of the comments received on the notice of proposed rule making and other factors involved, the Commission has adopted the proposed amendments without modification, as set forth below.

The addition of a listing for barium-133 to § 30.71, Schedule B, 10 CFR Part 30, accommodates two of three items for which Nuclear-Chicago Corp., requested exemption from regulatory control, i.e., a sealed source of barium-133 contained within a Liquid Scintillation Counting System for the purpose of internal calibration and standardization, and a unit identified as a "Thyroid Phantom" containing barium-133 and cesium-137, used to educate medical students and practitioners in the identification of thyroid maladies. A third item was withdrawn from consideration by the petitioner. The Commission considers the "Thyroid Phantom" marketed by Nuclear-Chicago Corp., to be an encapsulated source which, with the inclusion of barium-133 in § 30.71, Schedule B, falls within the specification of items which may be transferred in accordance with a license issued under § 32.18, 10 CFR Part 32, "Specific Licenses to Manufacture, Distribute, or Import Exempted and Generally Licensed Items Containing Byproduct Material", to persons exempt pursuant to § 30.18, 10 CFR Part 30. Following addition of barium-133 to § 30.71, Schedule B, existing § 30.15(a) (9), 10 CFR Part 30, will provide exemption from licensing requirements for such sources in liquid scintillation counters.

Under the amendments and the provision of § 150.15(a) (6), 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States Under Section 274", a producer, packager, repackager, or importer who intends to distribute, on a commercial basis, quantities of byproduct material for use under the exemption, even if licensed to manufacture, process, or produce such quantities by an Agreement State, would be required to obtain a specific license from the Commission authorizing the import or commercial distribution of such quantities. To obtain a license, the applicant must meet the criteria of § 32.18, 10 CFR Part 32. Likewise, a person who intends to incorporate byproduct material into ionizing radiation measuring instruments or to import such products containing byproduct material for sale or distribution to persons exempt pursuant to § 30.15(a) (9), 10 CFR Part 30, would be required to obtain a specific license from the Commission pursuant to § 32.14, 10 CFR Part 32.

The Commission has found that the exemption from licensing of 10 microcuries of barium-133 under the conditions set forth in the regulations will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 20, 30, and 31, are published as a document subject to codification, to be effective thirty (30) days after publication in the FEDERAL REGISTER.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. Appendix C of 10 CFR Part 20 is amended by adding a value of 10 microcuries for barium-133, to be inserted between the listings for barium-131 and barium-140, as follows:

APPENDIX C	
Material	Microcuries
Barium-133	10

PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BY-PRODUCT MATERIAL

2. Section 30.18(b) is amended to read as follows:

§ 30.18 Exempt quantities.

(b) Any person who possesses byproduct material received or acquired prior to September 25, 1971 under the general license then provided in § 31.4 of this chapter is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in Parts 30-34 of this chapter to the extent that such person possesses, uses, transfers, or owns such byproduct material.

3. Section 30.71, Schedule B, is amended by adding a value of 10 microcuries for barium-133, to be inserted between the current listings for barium-131 and barium-140, to read as follows:

§ 30.71 Schedule B.	
Byproduct material	Microcuries
Barium-133 (Ba 133)	10

PART 31—GENERAL LICENSES FOR BYPRODUCT MATERIAL

§ 31.2 [Amended]

§§ 31.4, 31.100 [Revoked]

4. Sections 31.2(b), 31.4 and 31.100 of 10 CFR Part 31 are revoked.

(Sec. 81, 68 Stat. 935; 42 U.S.C. 2111; sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 18th day of August 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

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