

all selling and delivery expenses shall be increased (or reduced as appropriate) by an amount representing the difference between the estimated per hundredweight inland transportation costs which would have been incurred by the processor had all such 1971-72 crop raw sugar been delivered to the bulk sugar terminal to which the area office determines the sugar could have been transported at the lowest inland transportation costs, and the average per hundredweight of all admissible inland transportation costs for all 1971-72 crop raw sugar that was delivered to the mainland. The average of the admissible selling and delivery expenses shall, as provided above, be increased when the estimated inland transportation costs are greater than such average, and be reduced when the estimated inland transportation costs are less than such average.

The statement as required by section 877.27 of the determination shall include the following certification:

CERTIFICATION

I hereby certify that as a result of the audit performed on the books of Central as of _____, the deductions as set forth herein are properly chargeable as selling and delivery expenses for sugar in accordance with the determination of fair and reasonable prices for the 1971-72 crop of Puerto Rican sugarcane.

SCHEDULE C

ADMISSIBLE DEDUCTIONS FOR SELLING AND DELIVERY EXPENSES FOR MOLASSES

Admissible deductions for selling and delivery expenses in connection with the molasses payment provided in section 877.24 of the 1971-72 price determination are limited to the sum of the following expenses actually incurred at each mill operated by a processor, net of any receipts which reduce such expenses:

- (1) Operation of pumps to deliver molasses from mill tank to shipside or other delivery point;
 - (2) Freight incurred or which would have been incurred on direct shipment from tanks located at the mill to shipside, or to a waterfront tank facility, or to local buyers when such molasses is sold on a delivered price basis;
 - (3) Operation of tank barges, tugs, or other marine equipment used in delivering molasses to shipside;
 - (4) Weighing and testing;
 - (5) Wharfage, including charges arising from utilization of waterfront facilities such as pipelines (including fees paid for right of way privileges), pumps, and tanks (a) to store molasses in anticipation of shipment; and (b) to deliver such molasses within the hold of the ship;
 - (6) Shore risk insurance (limited in coverage from mill to shipside);
 - (7) Freight demurrage resulting from causes beyond the control of the shipper;
 - (8) Brokerage paid to a bona fide broker.
- When any of the necessary services included in items (1) through (8) above are furnished by the processor, costs incurred may include for each of the services rendered:

- (1) Direct and immediate supervisory labor;
- (2) Maintenance labor and supplies required for facilities used;
- (3) Taxes and insurance assessed or charged to the processor on such labor and a proportionate share of retirement and pensions, bonuses and vacation expenses properly allocable to such labor;
- (4) Fuel, energy or direct supplies; and
- (5) Depreciation (at rates allowed by the taxing authorities), property taxes and property insurance on the facilities used.

Administrative expenses and interest shall be excluded from the computation of costs. In the event that facilities used in providing the necessary services are also used for other purposes by the processor, only that portion of the maintenance, depreciation, property taxes, and property insurance of such facilities, properly apportionable to the necessary service, shall be allowed.

The Director of the area office may permit the use of the lowest rate charged by a public utility or carrier for comparable service in lieu of the cost incurred by the processor in furnishing the necessary service in the event that the costs incurred therefore cannot be accurately determined.

The statement as required by section 877.27 of the determination shall include the following certification:

CERTIFICATION

I, hereby certify that, as the result of the audit performed on the books of Central as of _____, the gross proceeds from the sales of molasses as herein stated are true and correct and the deductions set forth herein are properly chargeable as selling and delivery expenses for molasses in accordance with the determination of fair and reasonable prices for the 1971-72 crop of Puerto Rican sugarcane.

[FR Doc.72-4261 Filed 3-20-72;8:47 am]

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

[Amdt. 1]

PART 945—POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREG.

Limitation of Shipments

Correction

In F.R. Doc. 72-4037 appearing at page 5483 in the issue of Thursday, March 16, 1972, the introductory text of subdivision (iv) of § 945.330(a)(2) should read as follows:

(iv) When 50 pound containers (except master containers) of long varieties of potatoes are marked with a count, size or similar designation, they must meet the weight, count and average count ranges for the count designation listed below:

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PROHIBITION OF SITE PREPARATION AND RELATED ACTIVITIES

On December 1, 1971, the Atomic Energy Commission published in the FEDERAL REGISTER (36 F.R. 22848) proposed amendments to its regulations in 10 CFR Parts 30, 40, 50, and 70, which would redefine the "commencement of construction," as that term is applied to production or utilization facilities subject to Appendix D of Part 50, and would provide for Commission environmental

review prior to "commencement of construction" (as that term would be defined under these amendments) of plants and facilities in which activities will be conducted which are subject to the materials licensing requirements of Parts 30, 40, and 70 and to Appendix D of Part 50.

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, in the form set forth below.

Significant differences from the amendments published for comment are:

(1) With respect to specified facilities subject to materials licensing, additional amendments to Parts 30, 40, and 70 have been adopted to provide for Commission authorization by specific exemption, upon consideration and balancing of certain specified environment factors, for the continuation of site preparation and construction activities begun prior to the effective date of these amendments, and for the conduct of such activities to be undertaken after that date. Activities authorized under the exemption provisions would have to be conducted in such a manner as to minimize their environmental impact.

(2) Section 70.21 has been amended to conform the time for filing an application for a license to possess and use special nuclear material in a plutonium processing and fuel fabrication plant before commencement of construction of the plant to that required of other materials license applications under these amendments (9 months).

The amendments to Part 50 redefine the "commencement of construction" as that term is applied to production or utilization facilities subject to Appendix D of Part 50 (i.e., nuclear power reactors, testing facilities, fuel reprocessing plants, and such other production or utilization facilities determined by the Commission to have a significant impact on the environment). "Commencement of construction" is defined to include any clearing of land, excavation or other substantial action that would adversely affect the natural environment of a site and construction of nonnuclear facilities (such as turbogenerators and turbine buildings), but would not include (1) changes desirable for the temporary use of the land for public recreational uses, necessary borings to determine foundation conditions, or other preconstruction monitoring to establish background information related to the suitability of the site or to the protection of environmental values; or (2) procurement or manufacture of components of the facility. Among the activities that continue to be permitted prior to the issuance of a construction permit are geologic, seismic, hydrologic, and meteorologic investigations and such clearing and building of

roads and physical structures as are reasonably necessary, and in general conformity with the standard practices of the industry, for the purpose of determining site suitability and for preconstruction environmental monitoring. It is expected that such activities will be conducted in a manner which will keep their environmental impact to a minimum. For example, appropriate erosion control measures should be employed; roads should be located to minimize or reduce environmental impact; and the natural vegetation should be disturbed only to the extent reasonably necessary to enable safe and proper conduct of the foregoing activities. These same general principles also apply with respect to activities deemed desirable for the purpose of making the land temporarily available for public recreational purposes.

In view of the fact that persons may have already begun activities that were permitted pursuant to § 50.10(b) prior to the adoption of these amendments, but which are now prohibited by these amendments, provision has been made whereby the Commission may authorize continuation of those activities upon consideration and balancing of certain specified environmental factors. During the review period and following, if continuation is authorized, such activities are to be conducted so as to minimize or reduce their environmental impact. In making this relief generally available only to those persons who have commenced actual site preparation activities prior to the effective date of these amendments, the Commission realizes that in individual cases, particularly those instances where plants are in an advanced stage of development, but where no site preparation work has yet been started, undue hardship may be incurred. In those situations, relief may be sought by requesting a specific exemption under § 50.12. Although it is expected that specific exemptions will be used only sparingly for this purpose, appropriate relief may be granted in particular cases where the facts so warrant and a favorable determination can be made with respect to the specified environmental considerations listed in the new § 50.12(b).

Section 50.12 has also been amended to require persons presently authorized, under specific exemptions, to conduct certain activities prior to the issuance of a construction permit for a facility subject to Appendix D to Part 50 to show cause why, with reference to specified environmental considerations, the exemptions should not be revoked. As noted earlier, in the event that any exemption under § 50.12 is issued after the effective date of these amendments, it will be only after appropriate conclusions with respect to the specified environmental considerations listed in the new § 50.12(b) have been reached. In addition, any activities conducted under any exemption are to be carried out in such a way as to minimize or reduce their environmental impact.

Amendments to Parts 30, 40, and 70 of the Commission's regulations in Title 10 of the Code of Federal Regulations provide for Commission environmental review prior to commencement of construction of plants and facilities in which activities subject to materials licensing requirements and to Appendix D of Part 50 will be conducted. "Commencement of construction" is defined in the same manner as for facility license cases.

A provision similar in some respects to that contained in the new § 50.10(d) has been added to Parts 30, 40, and 70, so that Commission authorization may be obtained for continuation of activities already begun, but which are now, in effect, precluded by these amendments until the environmental review is complete. Appropriate clarification has been included in footnotes to §§ 30.11(a), 40.14(a), and 70.14(a) to indicate that those persons who have not effected commencement of construction with respect to proposed facilities as of the effective date of these amendments may also seek this exemptive form of relief. It is expected, however, that specific exemptions will be used only sparingly in such cases. Any site preparation or construction activities authorized to be carried out under the amendments to Parts 30, 40, and 70 must be conducted in such a manner as to minimize or reduce their environmental impact.

Applications for the following types of materials licenses are presently subject to the foregoing requirements: (a) Licenses for possession and use of special nuclear materials for processing and fuel fabrication, scrap recovery and conversion of uranium hexafluoride; (b) licenses for possession and use of source material for uranium milling and production of uranium hexafluoride; and (c) licenses authorizing commercial radioactive waste disposal by land burial.

In order to assure that an opportunity is provided for full consideration of environmental effects before site preparation is begun, these amendments require that applications for such materials licenses be filed at least nine months prior to commencement of construction of plants or facilities in which the licensed activities will be conducted. The amendments also add, as a condition of issuance of such licenses, that before construction of such plants and facilities may be commenced, the Director of Regulation must reach a favorable conclusion with respect to environmental considerations after completion of the environmental review required by Appendix D to 10 CFR Part 50.

As stated in the notice of proposed rule making published in the FEDERAL REGISTER on December 1, 1971, the Commission considers these amendments to be consistent with the direction of the Congress, as expressed in section 102 of the National Environmental Policy Act of 1969, that, to the fullest extent possible, the policies, regulations and public laws of the United States shall be

interpreted and administered in accordance with the policies set forth in that Act. Since site preparation constitutes a key point, from the standpoint of environmental impact, in connection with the licensing of nuclear facilities and materials, these amendments will facilitate consideration and balancing of a broader range of realistic alternatives and provide a more significant mechanism for protecting the environment during the earlier stages of a project for which a facility or materials license is being sought.

The Commission has found that because of the provisions in §§ 30.11(b), 40.14(b), 50.10(d), and 70.14(b), advance notice of the amendments would be contrary to the public interest in that such notice might tend to defeat their purpose; therefore, good cause exists for making the amendments effective without the customary 30-day notice. Accordingly, 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 30, 40, 50, and 70 are published as a document subject to codification to be effective upon publication in the FEDERAL REGISTER (3-21-72).

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

1. A new paragraph (w) is added to § 30.4 of 10 CFR Part 30 to read as follows:

§ 30.4 Definitions.

(w) "Commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the natural environment of a site but does not include changes desirable for the temporary use of the land for public recreational uses, necessary borings to determine site characteristics or other preconstruction monitoring to establish background information related to the suitability of a site or to the protection of environmental values.

2. Section 30.11 of 10 CFR Part 30 is amended to read as follows:

§ 30.11 Specific exemptions.¹

(a) The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part and Parts 31-36 of this chapter as it determines are authorized by

¹ Issuance of an exemption by the Atomic Energy Commission for export of byproduct material contained in materials or products does not relieve any person from complying with the licensing requirements and regulations of the Department of Commerce applicable to the export of the materials or the products containing such byproduct materials.

law and will not endanger life or property or the common defense and security and are otherwise in the public interest.²

(b) (1) Each person subject to the provisions of §§ 30.32(f) and 30.33(a) (5), who, prior to (effective date of these amendments), has effected commencement of construction of a plant or facility in which the activity for which a license is sought will be conducted, may furnish to the Commission within 30 days after (effective date of these amendments) or such later date as may be approved by the Commission upon good cause shown, a written statement of any reasons, with supporting factual submission, why, with reference to the factors stated in subparagraph (2) of this paragraph (b), the activities should be continued, pending the completion of the environmental review specified in § 30.33(a) (5). If such written statement has been submitted within the time stated, such activities may continue to be conducted, notwithstanding §§ 30.32(f) and 30.33(a) (5), pending Commission action pursuant to subparagraph (2) of this paragraph (b).

(2) Upon submission of a statement of reasons pursuant to subparagraph (1) of this paragraph (b), the Commission may grant an exemption from the provisions of §§ 30.32(f) and 30.33(a) (5), upon consideration and balancing of the following factors:

- (i) Whether continuation of the activities will give rise to a significant adverse impact on the environment and the nature and extent of such impact, if any;
- (ii) Whether redress of any adverse environmental impact from continuation of the activities can reasonably be effected should such redress be necessary;
- (iii) Whether continuation of the activities would foreclose subsequent adoption of alternatives; and
- (iv) The effect of delay in conducting such activities on the public interest.

Pending Commission action pursuant to this subparagraph (2) and during the period of any exemption granted pursuant to this paragraph (b), any activities conducted shall be carried out in such a manner as will minimize or reduce their environmental impact.

3. Paragraph (f) of § 30.32 of 10 CFR Part 30 is amended to read as follows:

§ 30.32 Applications for specific licenses.

(f) An application for a license to receive and possess byproduct material for

commercial waste disposal by land burial or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment shall be filed at least 9 months prior to commencement of construction of the plant or facility in which the activity will be conducted and shall be accompanied by any Environmental Report required pursuant to Appendix D of Part 50 of this chapter.

4. In § 30.33 of 10 CFR Part 30, paragraph (a) (5) is amended to read as follows:

§ 30.33 General requirements for issuance of specific licenses.

(a) An application for a specific license will be approved if:

(5) In the case of an application for a license to receive and possess byproduct material for commercial waste disposal by land burial or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment, the Director of Regulation or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Appendix D of Part 50 of this chapter, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion may be grounds for denial of a license to receive and possess byproduct material in such plant or facility.

PART 40—LICENSING OF SOURCE MATERIAL

5. A new paragraph (n) is added to § 40.4 of 10 CFR Part 40 to read as follows:

§ 40.4 Definitions.

(n) "Commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the natural environment of a site but does not include changes desirable for the temporary use of the land for public recreational uses, necessary borings to determine site characteristics or other preconstruction monitoring to establish background information related to the suitability of a site or to the protection of environmental values.

6. Section 40.14 of 10 CFR Part 40 is amended to read as follows:

§ 40.14 Specific exemptions.

(a) The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the

regulation in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.¹

(b) (1) Each person subject to the provisions of §§ 40.31(f) and 40.32(e), who, prior to (effective date of these amendments), has effected commencement of construction of a plant or facility in which the activity for which a license is sought will be conducted, may furnish to the Commission within 30 days after (effective date of these amendments) or such later date as may be approved by the Commission upon good cause shown, a written statement of any reasons, with supporting factual submission, why, with reference to the factors stated in subparagraph (2) of this paragraph (b), the activities should be continued, pending the completion of the environmental review specified in § 40.32(e). If such written statement has been submitted within the time stated, such activities may continue to be conducted, notwithstanding §§ 40.31(f) and 40.32(e), pending Commission action pursuant to subparagraph (2) of this paragraph (b).

(2) Upon submission of a statement of reasons pursuant to subparagraph (1) of this paragraph (b), the Commission may grant an exemption from the provisions of §§ 40.31(f) and 40.32(e), upon consideration and balancing of the following factors:

- (i) Whether continuation of the activities will give rise to a significant adverse impact on the environment and the nature and extent of such impact, if any;
- (ii) Whether redress of any adverse environmental impact from continuation of the activities can reasonably be effected should such redress be necessary;
- (iii) Whether continuation of the activities would foreclose subsequent adoption of alternatives; and
- (iv) The effect of delay in conducting such activities on the public interest.

Pending Commission action pursuant to this subparagraph (2) and during the period of any exemption granted pursuant to this paragraph (b), any activities conducted shall be carried out in such a manner as will minimize or reduce their environmental impact.

7. Paragraph (f) of § 40.31 of 10 CFR Part 40 is amended to read as follows:

¹ The provisions of paragraph (b) of this section shall not be deemed to preclude any person, who, prior to (effective date of these amendments), has not effected commencement of construction of proposed facilities subject to the licensing requirements of this part and Appendix D of Part 50 of this chapter, from requesting an appropriate exemption from the provisions of §§ 40.31(f) and 40.32(e). Any such exemption will be granted only after consideration and balancing of the environmental factors specified in paragraph (b), except that the factors will be considered from the standpoint of conducting new activities rather than the continuation of ongoing activities.

² The provisions of paragraph (b) of this section shall not be deemed to preclude any person, who, prior to (effective date of these amendments), has not effected commencement of construction of proposed facilities subject to the licensing requirements of this part and Appendix D of Part 50 of this chapter from requesting an appropriate exemption from the provisions of §§ 30.32(f) and 30.33(a) (5). Any such exemption will be granted only after consideration and balancing of the environmental factors specified in paragraph (b), except that the factors will be considered from the standpoint of conducting new activities rather than the continuation of ongoing activities.

§ 40.31 Applications for specific licenses.

(f) An application for a license to possess and use source material for uranium milling, production of uranium hexafluoride, commercial waste disposal by land burial or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment shall be filed at least 9 months prior to commencement of construction of the plant or facility in which the activity will be conducted and shall be accompanied by any Environmental Report required pursuant to Appendix D of Part 50 of this chapter.

8. Paragraph (e) of § 40.32 of 10 CFR Part 40 is amended to read as follows:

§ 40.32 Requirements for issuance of specific licenses.

An application for a specific license for purposes other than export will be approved if:

(e) In the case of an application for a license to possess and use source material for uranium milling, production of uranium hexafluoride, commercial waste disposal by land burial or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment, the Director of Regulation or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Appendix D of Part 50 of this chapter, has concluded, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion may be grounds for denial of a license to possess and use source material in such plant or facility.

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

9. In § 50.10 of 10 CFR Part 50, a sentence is added to paragraph (b) and new paragraphs (c) and (d) are added to read as follows:

§ 50.10 License required.

(b) * * * This paragraph does not apply to production or utilization facilities subject to paragraph (c) of this section.

(c) Notwithstanding the provisions of paragraph (b) of this section, and subject to paragraph (d) of this section, no person shall effect commencement of construction of a production or utilization facility subject to the provisions of Appendix D on a site on which the facility is to be operated until a construction permit has been issued. As used in this paragraph, the term "commencement of construction" means any clearing of land, excavation or other substan-

tial action that would adversely affect the natural environment of a site and construction of nonnuclear facilities (such as turbogenerators and turbine buildings) for use in connection with the facility, but does not mean:

(1) Changes desirable for the temporary use of the land for public recreational uses, necessary borings to determine foundation conditions or other pre-construction monitoring to establish background information related to the suitability of the site or to the protection of environmental values;

(2) Procurement or manufacture of components of the facility; and

(3) With respect to production or utilization facilities, other than testing facilities, required to be licensed pursuant to section 104a or section 104c of the Act, the construction of buildings which will be used for activities other than operation of a facility and which may also be used to house a facility. (For example, the construction of a college laboratory building with space for installation of a training reactor is not affected by this paragraph.)

(d) (1) Each person subject to the provisions of paragraph (c) of this section, who is, on (effective date of these amendments), conducting activities permitted pursuant to paragraph (b) of this section in effect prior to (effective date of these amendments), may furnish to the Commission within 30 days after (effective date of these amendments) or such later date as may be approved by the Commission upon good cause shown, a written statement of any reasons, with supporting factual submission, why, with reference to the factors stated in subparagraph (2) of this paragraph (d), the activities should be continued, pending the issuance of a construction permit, notwithstanding the provisions of paragraph (c) of this section. If such written statement has been submitted within the time specified, such activities may continue to be conducted pending Commission action pursuant to subparagraph (2) of this paragraph (d).

(2) Upon submission of a statement of reasons pursuant to subparagraph (1) of this paragraph (d), the Commission may authorize the continued conduct of activities permitted by paragraph (b) of this section in effect prior to (effective date of these amendments), upon consideration and balancing of the following factors:

(i) Whether continuation of the activities will give rise to a significant adverse impact on the environment and the nature and extent of such impact, if any;

(ii) Whether redress of any adverse environmental impact from continuation of the activities can reasonably be effected should such redress be necessary;

(iii) Whether continuation of the activities would foreclose subsequent adoption of alternatives; and

(iv) The effect of delay in conducting such activities on the public interest, including the power needs to be served by the proposed facility, the availability of alternative sources, if any, to meet those needs on a timely basis, and delay costs to the applicant and to consumers.

(3) Activities permitted to be continued pursuant to this paragraph (d) shall be conducted in such a manner as will minimize or reduce their environmental impact.

10. The present text of § 50.12 of 10 CFR Part 50 is designated paragraph (a) and a new paragraph (b) is added to read as follows:

§ 50.12 Specific exemptions.

(a) The Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

(b) Each person who, on (effective date of these amendments), pursuant to an exemption granted under paragraph (a) of this section, is authorized to conduct activities prior to the issuance of a construction permit for a facility subject to the provisions of Appendix D shall show cause to the Commission within 30 days after (effective date of these amendments) or such later date as may be approved by the Commission why, with reference to the matters in subparagraphs (1) through (4) of this paragraph (b), the exemption should not be revoked:

(1) Whether conduct or continuation of the activities will give rise to a significant adverse impact on the environment and the nature and extent of such impact, if any;

(2) Whether redress of any adverse environmental impact from conduct or continuation of the activities can reasonably be effected if necessary;

(3) Whether conduct of continuation of the activities would foreclose subsequent adoption of alternatives; and

(4) The effect of delay in conducting the activities on the public interest, including the power needs to be served by the proposed facility, the availability of alternative sources, if any, to meet those needs on a timely basis, and delay costs to the applicant and to consumers.

Upon consideration and balancing of those factors, the Commission may continue the exemption. Continuation of such an exemption shall not be deemed to constitute a commitment to issue a construction permit. In addition, any activities authorized under such an exemption shall be conducted in such a manner as will minimize or reduce their environmental impact.

11. Paragraph (f) of § 50.30 of 10 CFR Part 50 is amended to read as follows:

§ 50.30 Filing of applications for licenses, oath or affirmation.

¹In acting upon an application for an exemption permitting the conduct of activities prior to the issuance of a construction permit prohibited by § 50.10, the Commission will consider and balance the environmental factors described in paragraph (b) of this section.

(f) *Environmental report.* An application for a construction permit or an operating license for a nuclear power reactor, testing facility, fuel reprocessing plant, or such other production or utilization facility whose construction or operation may be determined by the Commission to have a significant impact on the environment shall be accompanied by any Environmental Report required pursuant to Appendix D.

PART 70—SPECIAL NUCLEAR MATERIAL

12. A new paragraph (s) is added to § 70.4 of 10 CFR Part 70 to read as follows:

§ 70.4 Definitions.

(s) "Commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the natural environment of a site but does not include changes desirable for the temporary use of the land for public recreational uses, necessary borings to determine site characteristics or other preconstruction monitoring to establish background information related to the suitability of a site or to the protection of environmental values.

13. Section § 70.14 of 10 CFR Part 70 is amended to read as follows:

§ 70.14 Specific exemptions.

(a) The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.¹

(b) (1) Each person subject to the provisions of §§ 70.21(f) and 70.23(a) (7), who, prior to (effective date of these amendments), has effected commencement of construction of a plant or facility in which the activity for which a license is sought will be conducted, may furnish to the Commission within 30 days after (effective date of these amendments) or such later date as may be approved by the Commission upon good cause shown, a written statement of any reasons, with supporting factual submission, why, with reference to the factors

¹ The provisions of paragraph (b) of this section shall not be deemed to preclude any person, who, prior to (effective date of these amendments), has not effected commencement of construction of proposed facilities subject to the licensing requirements of this part and Appendix D of Part 50 of this chapter from requesting an appropriate exemption from the provisions of §§ 70.21(f) and 70.23(a) (7). Any such exemption will be granted only after consideration and balancing of the environmental factors specified in paragraph (b), except that the factors will be considered from the standpoint of conducting new activities rather than the continuation of ongoing activities.

stated in subparagraph (2) of this paragraph (b), the activities should be continued, pending the completion of the environmental review specified in § 70.23 (a) (7). If such written statement has been submitted within the time stated, such activities may continue to be conducted notwithstanding §§ 70.21(f) and 70.23(a) (7), pending Commission action pursuant to subparagraph (2) of this paragraph (b).

(2) Upon submission of a statement of reasons pursuant to subparagraph (1) of this paragraph (b), the Commission may grant an exemption from the provisions of §§ 70.21(f) and 70.23(a) (7), upon consideration and balancing of the following factors:

(i) Whether continuation of the activities will give rise to a significant adverse impact on the environment and the nature and extent of such impact, if any;

(ii) Whether redress of any adverse environmental impact from continuation of the activities can reasonably be effected should such redress be necessary;

(iii) Whether continuation of the activities would foreclose subsequent adoption of alternatives; and

(iv) The effect of delay in conducting such activities on the public interest.

Pending Commission action pursuant to this subparagraph (2) and during the period of any exemption granted pursuant to this paragraph (b), any activities conducted shall be carried out in such a manner as will minimize or reduce their environmental impact.

14. In § 70.21 of 10 CFR Part 70, paragraph (g) is deleted, the first sentence of paragraph (a), and paragraph (f) are amended to read as follows:

§ 70.21 Filing.

(a) Applications for licenses should be filed in sextuplicate, provided that 25 copies of an application for a license to possess and use special nuclear material in a plutonium processing and fuel fabrication plant shall be filed, with the Director, Division of Material Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545; except that applications for export licenses should be filed with the Director, Division of State and Licensee Relations. * * *

(f) An application for a license to possess and use special nuclear material for processing and fuel fabrication, scrap recovery or conversion of uranium hexafluoride, commercial waste disposal by land burial or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment shall be filed at least 9 months prior to commencement of construction of the plant or facility in which the activity will be conducted, and shall be accompanied by an Environmental Report required under Appendix D of Part 50 of this chapter.

15. In § 70.23 of 10 CFR Part 70, the prefatory language and subparagraph (7) are amended to read as follows:

§ 70.23 Requirements for the approval of application.

(a) An application for a license, other than a license for export, will be approved if:

(7) Where the proposed activity is processing and fuel fabrication, scrap recovery, conversion of uranium hexafluoride, commercial waste disposal by land burial, or any other activity which the Commission determines will significantly affect the quality of the environment, the Director of Regulation or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Appendix D of Part 50 of this chapter, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion may be grounds for denial of a license to possess and use special nuclear material in such plant or facility.

(Sec. 102, 83 Stat. 853; secs. 101, 161, 185, 68 Stat. 936, 948, 955, as amended; 42 U.S.C. 2131, 2201, 2235)

Dated at Germantown, Md., this 14th day of March 1972.

For the U.S. Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc. 72-4345 Filed 3-20-72; 8:51 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ANTIOXIDANTS AND/OR STABILIZERS FOR POLYMERS

The Commissioner of Food and Drugs, having evaluated the data in a petition (1B2587) filed by Geigy Industrial Chemicals, Division of Geigy Chemical Corp., Ardsley, N.Y. 10502, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of tetrakis [methylene (3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane as

an antioxidant and/or stabilizer in certain polymers authorized for use in the manufacture of articles or component of articles intended for food contact use, as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C.

§ 121.2566 Antioxidants and/or stabilizers for polymers.

(b) List of substances:

Tetrakis [methylene (3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane.

Limitations

For use only:

1.
2.
3. At levels not to exceed 0.5 percent by weight of the following polymers when used in articles that contact nonalcoholic food: polystyrene and rubber-modified polystyrene complying with § 121.2510; ethylene-acrylic acid copolymers complying with § 121.2564; ethylene-vinyl acetate copolymers complying with § 121.2570; ethylene-methacrylic acid copolymers, ethylene-methacrylic acid-vinyl acetate copolymers, and their partial salts complying with § 121.2582; isobutylene polymers complying with § 121.2590; and styrene butadiene copolymers used in compliance with regulations in this subpart.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (3-21-72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: March 14, 1972.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.72-4280 Filed 3-20-72; 8:48 am]

348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2566(b) is amended by adding an additional limitation to the item, tetrakis [methylene (3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane as follows:

PART 121—FOOD ADDITIVES
Subpart G—Radiation and Radiation Sources Intended for Use in the Production, Processing, and Handling of Food

IODINE 125

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP OM2510) filed by Anyl-Ray Corp., 7910 North Tamiami Trail, Sarasota, Fla. 33580, and other relevant material, concludes that the food additive regulations should be amended as set forth below to provide for the safe use of the radioactive isotope iodine 125 as a source in a control device for determining the fat content of meat.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.3001 is amended by revising paragraph (a)(2) as follows:

§ 121.3001 Sources of radiation used for inspection of food, for inspection of packaged food, and for controlling food processing.

(a)

(2) Sealed units producing radiations at energy levels of not more than 2.2 million electron volts from one of the following isotopes: Americium-241, cesium-137, cobalt-60, iodine-125, krypton-85, radium-226, and strontium-90.

Any person who will be adversely affected by the foregoing order may at

any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (3-21-72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: March 13, 1972.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.72-4258 Filed 3-20-72; 8:47 am]

Title 26—INTERNAL REVENUE
Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

[T.D. 7176]

PART 201—DISTILLED SPIRITS PLANTS
Conversion of Specially Denatured Alcohol

On October 15, 1971, a notice of proposed rule making to amend 26 CFR Part 201, with respect to conversion of denatured alcohol, was published in the FEDERAL REGISTER (36 F.R. 20045). In accordance with the notice, interested persons were afforded an opportunity to submit written comments or suggestions pertaining thereto. No comments or suggestions were received within the 30-day period prescribed in the notice and the amendments as published in the FEDERAL REGISTER are hereby adopted.

This Treasury decision shall become effective on the first day of the first month which begins not less than 30 days after the date of its publication in the FEDERAL REGISTER (3-21-72).

(Sec. 7805, Internal Revenue Code, 68A Stat. 917; 26 U.S.C. 7805)

JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.
Approved: March 15, 1972.

FREDERIC W. HICKMAN,
Acting Assistant
Secretary of the Treasury.

In order to liberalize the requirements respecting conversion of specially denatured alcohol to other formulas, § 201.411 of regulations in 26 CFR Part 201 is amended to read as follows:

§ 201.411 Conversion of specially denatured alcohol.

(a) *Conversion to Formula No. 1.* Any specially denatured alcohol, except Formulas No. 3-A and No. 30, may be converted to specially denatured alcohol, Formula No. 1, in accordance with the formulation prescribed in § 212.16 of this chapter or in accordance with other formulations as may otherwise be provided for by the Director under the provisions of § 212.65 of this chapter.

(b) *Conversion to Formula No. 29.* Any specially denatured alcohol may be converted to specially denatured alcohol, Formula No. 29, by the addition of acet-aldehyde or ethyl acetate, in accordance with the formulations prescribed in § 212.39(a) of this chapter.

(c) *Conditions governing conversion and use.* The quantities of denaturants required for conversions authorized in paragraphs (a) and (b) of this section shall be determined on the basis of the alcohol in the formulations. Specially denatured alcohol resulting from such conversions shall be manufactured into articles or used in processes by the proprietor who converted it, or by his controlled or wholly owned subsidiaries (as defined in § 201.206), unless its use by another manufacturer or user (as defined in Part 211 of this chapter) is authorized by the Director. Specially denatured alcohol converted to Formula No. 29 may be used as authorized in § 212.39(b) of this chapter except that it shall not be used in the manufacture of vinegar, drugs, or medicinal chemicals, and the conditions governing use provided in § 212.39(c) of this chapter shall apply.

(d) *Conversion to completely denatured alcohol.* Any specially denatured alcohol not containing methanol or wood alcohol may be converted to any one of the completely denatured alcohol formulas, prescribed in Part 212 of this chapter, by adding the required denaturants.

(72 Stat. 1369; 26 U.S.C. 5242)

[FR Doc. 72-4264 Filed 3-20-72; 8:47 am]

[T.D. 7175]

PART 211—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Miscellaneous Amendments

On September 25, 1971, a notice of proposed rule making to amend 26 CFR Part 211 was published in the FEDERAL REGISTER (36 F.R. 19033). In accordance with the notice, interested persons were afforded an opportunity to submit written comments or suggestions pertaining thereto. After consideration of all relevant matter presented and further study of the proposed amendments, the regulations in 26 CFR Part 211 as so published, are hereby adopted, subject to the clarifying change below:

PARAGRAPH 1. Paragraph 9 is changed by deleting the heading of paragraph (b) of § 211.265 and by inserting in lieu thereof a new heading to read, "Persons using specially denatured spirits for other purposes."

This Treasury decision shall become effective on the first day of the first month which begins not less than 30 days after the date of its publication in the FEDERAL REGISTER.

(Sec. 7805, Internal Revenue Code, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: March 15, 1972.

FREDERIC W. HICKMAN,
Acting Assistant
Secretary of the Treasury.

In order to (1) provide for the production of rubbing alcohol base, the shipment thereof, and the production of rubbing alcohol therefrom, (2) reduce the number of samples of articles and perfume oils to be submitted to the Director, (3) make less restrictive the requirement pertaining to the maximum alcohol content of solvents made from a special industrial solvent, and (4) make it clear that users of specially denatured spirits producing products not containing specially denatured spirits in the finished product shall keep the records specified in 26 CFR 211.265, the regulations in 26 CFR Part 211 are amended as follows:

PARAGRAPH 1. Section 211.11 is amended to insert, in alphabetical order, a definition for rubbing alcohol base. The new definition in § 211.11 reads as follows:

§ 211.11 Meaning of terms.

* * * * *

Rubbing alcohol base. An article which, except for the addition of water, is manufactured with specially denatured alcohol in accordance with the formulas for rubbing alcohol provided in this part.

* * * * *

PAR. 2. Section 211.23 is amended to authorize the assistant regional commissioner to approve formulas for rubbing alcohol base. As amended, § 211.23 reads as follows:

§ 211.23 Formulas and processes.

Except as otherwise provided in this section, the Director is authorized to approve all formulas and processes submitted on Form 1479-A. The assistant regional commissioner is authorized to approve all formulas for rubbing alcohol and rubbing alcohol base submitted on Form 1479-A.

(72 Stat. 1372; 26 U.S.C. 5273)

PAR. 3. Section 211.102 is amended to provide for the submission of quantitative formulas by permittees producing rubbing alcohol base and by persons producing rubbing alcohol from such base. As amended, § 211.102 reads as follows:

§ 211.102 Formulas for rubbing alcohol.

A person desiring to produce rubbing alcohol or rubbing alcohol base shall submit a quantitative formula on Form 1479-A to the assistant regional commissioner for each such product to be

produced by him. The label to be used on bottles of rubbing alcohol shall be attached to each copy of the Form 1479-A. (72 Stat. 1372; 26 U.S.C. 5273)

PAR. 4. Section 211.107 is amended to provide that samples of rubbing alcohol base need not be submitted with Form 1479-A covering its proposed manufacture, and to reduce the number of samples of various articles and ingredients submitted to the Director. As amended, § 211.107 reads as follows:

§ 211.107 Samples of articles and ingredients.

In connection with the submission of Form 1479-A covering the proposed manufacture of an article (except a rubbing alcohol, a rubbing alcohol base, a proprietary solvent, or a special industrial solvent) containing specially denatured spirits, the applicant shall submit to the Director an 8-ounce sample of the article (except that a 4-ounce sample will be sufficient for a perfume which contains more than 6 ounces of perfume oils per gallon). For all toilet preparations containing specially denatured spirits, the applicant shall also submit a 1-ounce sample of the perfume oils (or of purchased mixtures consisting of perfume oils with other ingredients) to be used. The Director may at any time require the submission of samples of (a) any ingredients included in a formula, and (b) proprietary antifreeze solutions containing completely denatured alcohol.

(72 Stat. 1372; 26 U.S.C. 5273)

PAR. 4a. Section 211.169 is amended to include a reference to "rubbing alcohol base." As amended, § 211.169 reads as follows:

§ 211.169 General.

Uses of specially denatured spirits shall be as authorized under Part 212 of this chapter. Specially denatured spirits shall not be used until Form 1479-A showing the intended use, process, formula, or article has been approved, as required by Subpart G of this part: *Provided*, That Form 1479-A will not be required to cover the use of specially denatured alcohol Formulas No. 3-A and No. 30, by a permittee on his permit premises, exclusively for laboratory purposes not involving the development of a product and for mechanical purposes, if the quantity to be so used during a 12-month period will not exceed 60 gallons. Specially denatured spirits shall not be used in the manufacture of medicinal preparations or flavoring extracts for internal human use where any of the spirits remain in the finished product. Liquid products containing specially denatured spirits shall be unfit for beverage or internal human use. The essential oils and chemicals used in their manufacture shall make the finished products conform to the samples and formulas for such products submitted by the applicant with Form 1479-A and approved by the Director or, in the case of rubbing alcohol or rubbing alcohol base, by the assistant regional commissioner. Whenever the assistant regional commissioner has reason to believe that the spirits in any articles