

Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "pears" and any words and statements required or authorized to appear with such name by paragraph (a)(2) of this section.

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 21, 1982 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

**Effective date.** Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin November 22, 1982, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985, shall fully comply. Notice of the filing of objections or lack thereof will be published in the *Federal Register*. (Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: September 14, 1982.

William F. Randolph,  
Acting Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 82-25711 Filed 9-20-82; 8:45 am]

BILLING CODE 4150-01-M

## 21 CFR Part 145

[Docket No. 78P-0147]

### Canned Pears; Standards of Identity and Quality

**AGENCY:** Food and Drug Administration.  
**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the standards of identity and quality to provide for a new style of pears designated as "chunky" and to define the styles already provided for in the standard of identity. This action will promote honesty and fair dealing in the interest of consumers.

**DATES:** Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may begin November 22, 1982. Objections by October 21, 1982.

**ADDRESS:** Written objections are to be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

**SUPPLEMENTARY INFORMATION:** In the *Federal Register* of June 1, 1979 (44 FR 31669), FDA published a proposal to amend the standards of identity and quality for canned pears to provide for a new optional style of pears designated as "chunky". The proposal was based on a petition submitted by Libby, McNeill and Libby, Inc. The agency also proposed, on its own initiative, to define the styles already provided for in the standard of identity for canned pears, to be consistent with those currently provided for in the standard of identity for canned peaches in § 145.170 (21 CFR 145.170) and in the Recommended International Standards (Codex standards) for canned pears and for other canned fruits.

Three letters, each containing one or more comments, were received in response to the proposal. One comment supported the proposal. The remaining comments and FDA's responses are as follows:

1. Two comments recommended eliminating the dimension requirements from the definition of "chunky" style pears. One comment suggested that the style be defined as "consisting of peeled pears, with cores removed, and cut into random size pieces." The comment added that this would make clear the

distinction between "chunky" style and other styles. A second comment recommended defining chunky style pears as "consisting of peeled pears, with cores removed, and cut into pieces, other than provided in paragraphs (ii), (iii), (iv), and (v) of this section, which may or may not be symmetrical or uniform in shape and size, and conforms to § 145.175(b)(1)(viii)." Paragraph (a)(2)(ii), (iii), (iv), and (v) refers to halves, quarters, slices, and dice styles, respectively. The comment asserts that this is intended for clarification and to provide a definition of the style "chunky" which conforms to the generic-type definition of the other styles of canned pears. The comment also stated the purpose of referencing the styles halves, quarters, slices, and dice is to distinguish clearly "chunky" from the more uniform styles.

FDA does not agree with these suggested changes. FDA advises that establishing dimension requirement in the definition of "chunky" style pears is consistent with a comparable style, "chunks", provided for in the standard of identity for canned pineapple (21 CFR 145.180(a)). FDA believes that the style "chunky" pears would not be clearly defined in relation to the style "pieces or irregular pieces" as provided for in § 145.175(a)(2)(vi) without size specifications. The generic-type definition referred to in the comments seems applicable only to such clearly identifiable styles as halves, quarters, slices, and dice. Therefore, FDA concludes that the proposed dimension requirements are reasonable and is so providing in § 145.175(a)(2)(vii).

2. Two comments recommended that the regulation state that not more than 25 percent of the drained weight of the contents of the container consists of units that will pass through an opening 13 millimeters (0.51 inch) wide or that are more than 44 millimeters (1.75 inches) along the longest cut edge. The purpose of this suggested change is to base compliance on the weighing of units that will pass through a one-half inch wide linear opening "when presented to the opening from all possible orientations or profiles."

FDA agrees with this suggestion and has incorporated the recommended change in § 145.175(b)(1)(iii)(b).

FDA is renumbering proposed paragraphs (b)(1)(viii) and (b)(3)(viii) to provide for "chunky" style pears in (b)(1)(iii)(b) and (b)(4)(iii)(b), respectively. This action will incorporate "chunky" pears into the format of a final regulation considering the quality provisions of the Recommended International Standard

for Canned Pears which is published elsewhere in this issue of the **Federal Register**. FDA notes that the provision for "chunky" style pears under crushed or broken units was inadvertently omitted from the proposal of June 1, 1979. Therefore, FDA has provided for "chunky" style pears in § 145.175(b)(1)(vii).

In consideration of the petition by Libby, McNeill and Libby, together with comments received in response to the proposal, FDA concludes that it will promote honesty and fair dealing in the interest of consumers to amend the standards of identity and quality for canned pears.

#### List of Subjects in 21 CFR Part 145

Canned fruit, Canned pears, Food standards, Fruits.

#### PART 145—CANNED FRUITS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 145 is amended in § 145.175 by revising paragraph (a)(2), revising the first three sentences and adding a new sentence in paragraph (a)(4)(ii), adding new paragraph (b)(1)(iii)(b), revising paragraph (b)(1)(vii), and adding new paragraph (b)(4)(iii)(b), to read as follows:

##### § 145.175 Canned pears.

(a) \* \* \*

(2) *Styles and forms of units.* The optional pear styles and forms of units referred to in paragraph (a)(1) of this section are:

(i) *Whole*—consisting of peeled or unpeeled pears with cores removed or left in.

(ii) *Halves*—consisting of peeled or unpeeled pears with cores removed and cut into two approximately equal parts.

(iii) *Quarters*—consisting of peeled pears with cores removed and cut into four approximately equal parts.

(iv) *Slices*—consisting of peeled pears with cores removed and cut into wedge-shaped sectors.

(v) *Dice*—consisting of peeled pears with cores removed and cut into cube-like parts.

(vi) *Pieces or irregular pieces*—consisting of peeled pears with cores removed and cut into parts of irregular shapes and sizes.

(vii) *Chunky*—consisting of peeled pears with cores removed and cut into parts 13 millimeters (0.51 inch) or greater in the smallest dimension and 44

millimeters (1.75 inches) or less in the largest dimension.

\* \* \* \* \*

(4) \* \* \*

(ii) The style and forms of units of the pear ingredient as provided in paragraph (a)(2) of this section and the name of the packing medium specified in paragraph (a)(3) (i) and (ii) of this section, preceded by "In" or "Packed in" or the words "Solid pack", where applicable, shall be included as part of the name or in close proximity to the name of the food, except that "Halves" may be alternatively designated as "Halved", "Quarters" as "Quartered", "Slices" as "Sliced", and "Dice" as "Diced". "Pieces" or "Irregular pieces" shall be designated as "Pieces", "Irregular pieces", or "Mixed pieces of irregular sizes and shapes". "Chunky" may be designated as "Chunks". The style of the pear ingredient shall be preceded or followed by "Unpeeled" when the units are whole or halves and are unpeeled. \* \* \*

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iii) \* \* \*

(b) *Chunky.* In the case of chunky style, not more than 25 percent of the drained weight of the contents of the container consists of units that will pass through an opening 13 millimeters (0.51 inch) wide or that are more than 44 millimeters (1.75 inches) along the longest cut edge.

\* \* \* \* \*

(vii) *Crushed or broken units.* In the case of whole, halves, quarter, slices, dice, and chunky styles, not more than 10 percent by count of the units in containers of 10 or more units and not more than 1 unit in containers of less than 10 units are crushed or broken. A unit that lost its normal shape because of ripeness and bears no mark of crushing shall not be considered to be crushed or broken.

\* \* \* \* \*

(4) \* \* \*

(iii) \* \* \*

(b) "Undersized and/or oversized pieces";

\* \* \* \* \*

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 21, 1982 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made.

Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

*Effective date.* Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin November 22, 1982, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985, shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register**.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: September 14, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25717 Filed 9-20-82; 8:45 am]

BILLING CODE 4160-01-M

#### 21 CFR Part 177

[Docket No. 82F-0079]

#### Indirect Food Additives: Polymers; Ethylene-Vinyl Acetate-Vinyl Alcohol Copolymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ethylene-vinyl acetate-vinyl alcohol copolymers as articles or components of articles in contact with food. This action is based on a petition filed by Kuraray Co., Ltd.

**DATES:** Effective September 21, 1982, objections by October 21, 1982.

**ADDRESS:** Written objections to the Dockets Management Branch (HFA-

305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

#### FOR FURTHER INFORMATION CONTACT:

Clyde A. Takeguchi, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** In a notice published in the Federal Register of April 9, 1982 (47 FR 15413), FDA announced that a food additive petition (FAP 7B 3320) had been filed by Kuraray Co., Ltd., 8, Umeda, Kita-Ku, Osaka, Japan, proposing that § 177.1360 *Ethylene-vinyl acetate-vinyl alcohol copolymers* (21 CFR 177.1360) be amended to provide for the safe use of ethylene-vinyl acetate-vinyl alcohol copolymers containing a minimum of 20 percent ethylene, such that the finished copolymer will contain no more than 80 percent vinyl alcohol units by weight, as articles or components of articles in contact with food.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below in new § 177.1360(a)(3) and (d). In addition to adding the new paragraphs, FDA is revising the current regulation to include metric units, to separate the types of copolymers covered by this regulation, and to ensure consistency in language.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will remove from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the Federal Register. No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

#### List of Subjects in 21 CFR Part 177

Food additives, Polymeric food packaging.

#### PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drug (21 CFR 5.10), Part 177 is amended by revising § 177.1360, to read as follows:

##### § 177.1360 Ethylene-vinyl acetate-vinyl alcohol copolymers.

Ethylene-vinyl acetate-vinyl alcohol copolymers (CAS Reg. No. 26221-27-2) may be safely used as articles or components of articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) Ethylene-vinyl acetate-vinyl alcohol copolymers are produced by the partial or complete alcoholysis or hydrolysis of those ethylene-vinyl acetate copolymers complying with § 177.1350.

(1) Those copolymers containing a minimum of 55 percent ethylene and a maximum of 30 percent vinyl alcohol units by weight may be used in contact with foods as described in paragraph (b) of this section.

(2) Those copolymers containing a minimum of 55 percent ethylene and a maximum of 15 percent vinyl alcohol units by weight may be used in contact with foods as described in paragraph (c) of this section.

(3) Those copolymers containing 20 to 40 percent ethylene and 60 to 80 percent vinyl alcohol units by weight may be used in contact with foods as described in paragraph (d) of this section.

(b) The finished food-contact article shall not exceed 0.013 centimeter (0.005 inch) thickness and shall contact foods only of the types identified in Table 1 of § 176.170(c) of this chapter in categories I, II, IV-B, VI, VII-B, and VIII under conditions of use D through G described in Table 2 of § 176.170(c) of this chapter. Film samples of 0.013 centimeter (0.005 inch) thickness representing the finished article shall meet the following extractive limitation when tested by ASTM method F34-63T, "Exposing Flexible Barrier Materials to Liquids for Extraction" (issued 1963), which is incorporated by reference. Copies are available from University Microfilms International, 300 N. Zeeb Rd., Ann Arbor, MI 48106, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(1) The film when extracted with distilled water at 21° C (70° F) for 48 hours yields total extractives not to exceed 0.0047 milligram per square

centimeter (0.03 milligram per square inch) of food-contact surface.

(2) The film when extracted with 50 percent ethyl alcohol at 21° C (70° F) for 48 hours yields total extractives not to exceed 0.0062 milligram per square centimeter (0.04 milligram per square inch) of food-contact surface.

(c) The finished food-contact article shall not exceed 0.0076 centimeter (0.003 inch) thickness and shall contact foods only of the types identified in Table 1 of § 176.170(c) of this chapter in categories III, IV-A, VII-A, and IX under conditions of use F and G described in Table 2 of § 176.170(c) of this chapter. Film samples of 0.0076 centimeter (0.003 inch) thickness representing the finished articles shall meet the following extractive limitation when tested by ASTM method F34-63T, "Exposing Flexible Barrier Materials to Liquids for Extraction" (issued 1963), which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b) of this section. The film when extracted with *n*-heptane at 38° C (100° F) for 30 minutes yields total extractives not to exceed 0.0078 milligram per square centimeter (0.05 milligram per square inch) of food-contact surface, after correcting the total extractives by dividing by a factor of five.

(d) The finished food-contact article shall not exceed 0.018 centimeter (0.007 inch) thickness and may contact all foods except those containing more than 8 percent alcohol under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter. Film samples of 0.018 centimeter (0.007 inch) thickness representing the finished articles shall meet the following extractive limitation when tested by ASTM method F34-63T, "Exposing Flexible Barrier Materials to Liquids for Extraction" (issued 1963), which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b) of this section. The film when extracted with distilled water at 100° C (212° F) for 30 minutes yields total extractives not to exceed 0.023 milligram per square centimeter (0.15 milligram per square inch) of food-contact surface.

(e) The provisions of this section are not applicable to ethylene-vinyl acetate-vinyl alcohol copolymers used in the food-packaging adhesives complying with § 175.105 of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 21, 1982 submit to the Dockets Management Branch (address above) written objections thereto and may make a

written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

**Effective date.** This regulation shall become effective September 21, 1982.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: September 13, 1982.

**William F. Randolph,**  
Acting Associate Commissioner for  
Regulatory Affairs.

**Note.**—Incorporation by reference provisions were approved by the Director of the Office of the Federal Register on March 31, 1982, and are on file at the Office of the Federal Register.

[FR Doc. 82-25712 Filed 9-20-82; 8:45 am]

**BILLING CODE 4160-01-M**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 6a

[T.D. 7832]

### Income Tax; Temporary Income Tax Regulations Under Subtitle C of Title XI of the Omnibus Reconciliation Act of 1980; Foreign Investment in United States Real Property

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Temporary regulations.

**SUMMARY:** This document concerns the taxation of foreign investment in United States real property interests. It contains temporary regulations concerning the information returns which must be filed with respect to foreign investment in U.S. real property interests by certain

corporations, partnerships, trusts, estates, and nonresident alien individuals. It also contains temporary regulations concerning procedures for establishing that corporation is not a U.S. real property holding corporation and temporary regulations concerning the election by a foreign corporation to be treated as a domestic corporation. This document also contains temporary regulations defining relevant terms.

These temporary regulations are necessary to provide the public with the immediate guidance needed to comply with the Foreign Investment in Real Property Tax Act of 1980 (subtitle C of title XI of the Omnibus Reconciliation Act of 1980) and section 831 of the Economic Recovery Tax Act of 1981. In addition, the text of the temporary regulations set forth in this document serves as the text of the proposed regulations cross referenced in the proposed rules section of today's Federal Register.

**DATES:** The temporary regulations are generally effective with respect to dispositions of U.S. real property interests after June 18, 1980. The temporary regulations are also effective with respect to dispositions of U.S. real property interests to related parties during the period after December 31, 1979, and before June 19, 1980.

**FOR FURTHER INFORMATION CONTACT:** Diane L. Renfro, Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains additions to the Temporary Income Tax Regulations under Subtitle C of Title XI of the Omnibus Reconciliation Act of 1980 (26 CFR Part 6a) under sections 897 and 6039C of the Internal Revenue Code of 1954, as added by sections 1122 and 1123 of the Foreign Investment in Real Property Tax Act of 1980 (94 Stat. 2682), and as amended by section 831 of the Economic Recovery Tax Act of 1981 (Pub. L. No. 97-34; 95 Stat. 172). The additions are issued under the authority contained in sections 897 (94 Stat. 2683; 26 U.S.C. 897), 6039C (94 Stat. 2687; 26 U.S.C. 6039C), and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

##### Discussion

##### Statutory Provisions

The Foreign Investment in Real Property Tax Act of 1980 added sections 897 and 6039C to the Internal Revenue

Code. Under section 897(a), a foreign person's gain or loss from the disposition of a U.S. real property interest is treated as if such person were engaged in a trade or business within the United States and as if such gain or loss were effectively connected with such trade or business. A United States real property interest as defined in section 897(c)(1) generally includes any interest in real property located in the United States or the Virgin Islands and any interest other than solely as a creditor in a domestic corporation which is or was a United States real property holding corporation. The term does not include an interest in a domestically controlled real estate investment trust ("REIT") under section 897(h), nor does it generally include an interest in a class of stock in a corporation which is publicly traded, unless the person disposing of such stock holds or held more than 5 percent of such class of stock as provided in section 897(c)(3). As provided in section 897(c)(1)(B), the term United States real property interest also does not include an interest in a United States real property holding corporation which has disposed of its United States real property interests in transactions in which the full amount of gain, if any, was recognized.

Section 897(c)(2) provides that a U.S. real property holding corporation is a corporation which holds U.S. real property interests with a fair market value of at least 50 percent of the sum of the fair market values of its U.S. real property interests, its interests in real property located outside the United States, and its other assets which are used or held for use in a trade or business. Although a foreign corporation may be a U.S. real property holding corporation, an interest in a foreign corporation is not a U.S. real property interest under section 897(c)(1) other than for purposes of determining whether another corporation is a U.S. real property holding corporation. (See section 897(c)(4)(A)). As a consequence, any gain from the disposition of such interest by a foreign person is not treated as effectively connected with a U.S. trade or business by reason of section 897(a).

A foreign corporation is required, however, to recognize gain on the distribution of a U.S. real property interest to its shareholders under section 897(d) to the extent the fair market value of the U.S. real property interest distributed exceeds the corporation's adjusted basis in the interest. Such recognition generally would not occur if a similar distribution were made by a domestic corporation.