States, but the product shall not be sold contrary to the provisions of the Act or the laws of the jurisdiction in which it is sold; *Provided*, that, upon the execution and delivery of a good and sufficient bond conditioned that the product shall not be sold or otherwise disposed of contrary to the provisions of the Act or the laws or jurisdiction in which disposal is made, the court may direct that such product be delivered to the owner thereof subject to such supervision by authorized representatives of the Deputy Administrator as is necessary to ensure compliance with the applicable laws. When a decree of condemnation is entered against the product and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the product. The proceedings in such libel cases shall conform, as nearly as may be practicable, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

Done at Washington, DC, this 6th day of August, 1987.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 87-18405 Filed 8-12-87; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Part 318

[Docket No. 85-031F]

BHA and BHT in Pizza Toppings and Meatballs

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) has been petitioned to amend the Federal meat inspection regulations to permit the use of Butylated Hydroxyanisole and Butylated Hydroxytoluene as antioxidants in cooked or raw pizza toppings and cooked or raw meatballs. The Food and Drug Administration (FDA) has listed these substances as generally recognized as safe (GRAS) for use in foods under certain conditions. The petitioners have supplied FSIS with sufficient information to satisfy the requirements of the Federal meat inspection regulations to permit the requested use (9 CFR 318.7(a)(2)). The Administrator has determined that it is appropriate to add pizza toppings and meatballs to the list of products permitted to contain BHA and BHT as added antioxidants.

EFFECTIVE DATE: September 14, 1987.

ADDRESS: Written comments to United States Department of Agriculture, Food Safety and Inspection Service, Attn: FSIS Hearing Clerk, Room 3168, South Agriculture Building, Washington, DC 20250. (See also "Comments" under "Supplementary Information.")

FOR FURTHER INFORMATION CONTACT: Ms. Margaret O'K Glavin, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, United States Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined in accordance with Executive Order 12291 that this rule is not a "major rule." It will not result in an annual increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. It will not have a significant effect on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This rule provides for the use of Butylated Hydroxyanisole (BHA) and Butylated Hydroxytoluene (BHT) as antioxidants in cooked or raw pizza toppings and meatballs. The Federal meat inspection regulations currently provide for their use in beef patties which are similar in composition to pizza toppings and meatballs. The regulated industry will benefit from this action through ability to use these antioxidants in a wider variety of products to increase their shelf life.

Effect on Small Entities

The Administrator has determined that his action will not have a significant economic impact upon a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). This rule will impose no new requirements on industry; it allows meat processors to use BHA and BHT in pizza toppings and meatballs to increase their shelf life.

Comments

This is a final rule consistent with the provisions of § 318.7(a) (2) and (3) of the Federal meat inspection regulations. As such, no prior request for public comments is required (See "Background" for rationale). However, interested persons may inform the Department of any available data which raise questions about this action within the 30 day period between publication and the effective date of this rule.

Background

FSIS has been petitioned by Tony's Pizza Service, Salina, KS, and Rotanelli Foods, Inc., New Rochelle, NY, to permit the use of BHA (Butylated Hydroxyanisole) and BHT (Butylated Hydroxytoluene) as antioxidants in cooked or raw pizza toppings and cooked or raw meatballs in an amount not to exceed 0.02% in combination based on the fat content.

The petitioners maintain that since BHA and BHT have been approved as GRAS and as permissible food additives by the FDA and are currently allowed in various types of fresh, cooked and dried meats by FSIS, it is reasonable to permit their use in pizza toppings and meatballs.

Issuance of Final Rule

On July 19, 1983, FSIS published in the **Federal Register** (48 FR 32749) a final rule on new procedures to be used for the approval of added substances in meat and poultry products. Under that rule, applicants are required to show (1) that a proposed added substance has been previously approved by FDA as GRAS or as a food additive or color additive in meat or poultry food products and (2) that the substance is listed in Title 21 of the Code of Federal Regulations, Parts 73, 74, 81, 172, 173, 182, or 184. BHA and BHT are listed in 21 CFR 182.3169 and 182.3173, respectively, for use in food when the total content of antioxidants is not over .02 percent of the fat or oil content.

The Administrator of FSIS concurs with FDA's conclusions regarding the safety of BHA and BHT. He further finds in accordance with the procedure in 9 CFR 318.7(a) (2) and (3) that information provided by the petitioner in addition to other available data indicate that (a) the use of these substances will have an appropriate technical effect on the product; (b) the substances will be used at the lowest level necessary to accomplish their intended technical effect and their uses are functional and suitable; and (c) their use will not render the product in which they are used adulterated or misbranded.

Therefore, the Agency is amending § 318.7 of the Federal meat inspection regulations (9 CFR 318.7), under BHA and BHT in the table of approved substances, to add cooked or raw pizza topping and cooked or raw meatballs as products in which BHA and BHT may be added.

List of Subjects in 9 CFR Part 318

Food additives, Meat inspection.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for Part 318 is revised to read as follows:

Authority: 34 Stat. 1260 as amended, 81 Stat. 584, as amended (21 U.S.C. 601 *et seq.*), 72 Stat. 862, 92 Stat. 1069, as amended (7 U.S.C. 1901 *et seq.*), 76 Stat. 663 (7 U.S.C. 450 *et seq.*)

2. Section 318.7(c)(4) (9 CFR 318.7(c)(4)) is amended by adding the products "Cooked or Raw Pizza Topping and Cooked or Raw Meatballs" to the Chart of products to be placed after "Fresh Sausage Made From Beef or Beef and Pork" under the class of substances entitled "Antioxidants and Oxygen Interceptors," as follows:

§ 318.7 Approval of substances for use in the preparation of products.

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amounts
*	*	*	*	*
Antioxidants and oxygen terceptors.	BHA (butylated hydroxyanisole.	......do	Fresh pork, sausage, brown and serve sausages, fresh Italian sausage products, pregrilled beef patties, fresh sausages made from beef or beef and pork, cooked or raw pizza topping and cooked or raw meatballs.	0.01 percent based on fat content—0.02 percent in combination based on fat content.
	BHT (butylated hydroxytoluene).	......do	......do	......do
*	*	*	*	*

Done at Washington, DC, on August 6, 1987.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 87-18523 Filed 8-12-87; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

10 CFR Part 725

Permits for Access to Restricted Data

AGENCY: Office of Uranium Enrichment, DOE.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is announcing its decision to amend the regulation concerning permits for access to uranium isotope separation Restricted Data. The regulation establishes procedures and standards for the issuance of access permits to those private sector persons or groups who require access to Restricted Data for use in their business. Access permits are divided into separate technology categories. Category C-24 pertains to access to the gaseous diffusion and gas centrifuge processes for the separation of uranium isotopes for participating in the construction and operation of additional production facilities utilizing those technologies. The purpose of this rulemaking is to update Category C-24 to take into account events that have occurred since the last amendment in 1979.

Specifically, this rulemaking authorizes access to Category C-24 Restricted Data by persons interested in acquiring centrifuge machines and related equipment and materials for commercial purposes involving uranium enrichment and for purposes other than uranium enrichment. Such machines and equipment have been made surplus to DOE's needs as a result of DOE's cancellation of its Gas Centrifuge Enrichment Plant and advanced Gas Centrifuge Development Program in June 1985.

In addition, this rulemaking recognizes a new category of information known as "government confidential commercial information."

EFFECTIVE DATE: September 14, 1987.

FOR FURTHER INFORMATION CONTACT: Philip Sewell, Director, Office of Technology Deployment and Strategic Planning (NE-34), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20545, (301) 353-4610 or Lawrence Leiken, Attorney, Office of General Counsel (GC-31), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6975.

SUPPLEMENTARY INFORMATION: .

I. Introduction

Category C-24 defines the terms and conditions which must be satisfied to obtain uranium isotope separation information. Applicants may apply for two subcategories of permits, A or B. Subcategory A includes technical information in summary form concerning the status and potential of Government funded processes for separation of uranium isotopes. Subcategory B provides for up to full technical disclosure on any technical aspect of the uranium isotope separation process, including equipment and facility design, construction, and operation. To qualify for an access permit under existing regulations, an applicant is required to (1) demonstrate adequate technical, managerial, and financial qualifications, and (2) agree to determine its interest in (subcategory A) or propose to participate in (subcategory B) an effort leading to the construction of additional or operating existing gas centrifuge or gaseous diffusion production facilities.

Regulations pertinent to this category were last amended in 1979. See 44 FR 37938 (June 29, 1979).

The primary purpose of this Rulemaking is to revise Category C-24, subcategory B, to permit access by persons interested in acquiring surplus centrifuge machines for commercial use involving uranium enrichment and for purposes other than uranium enrichment. Section 725.15, Requirements for Approval of Applications, is expanded to include such potential use.

In addition, a further purpose of this Rulemaking is to recognize the need for protection of a category of information, which is not Restricted Data, known as "government confidential commercial information." This information as described by the United States Supreme Court in *Federal Open Market Committee* v. *Merrill*, 443 U.S. 360 (1979) and in subsequent cases is sensitive commercial information generated by the government, the release of which could put the government at a competitive disadvantage. See also *United States* v. *Weber Aircraft Corp.*, 465 U.S. at 799-800 (1984) and *FTC* v. *Grolier, Inc.* 462 U.S. at 26-27 (1983). DOE believes that it may be necessary to provide limited access to this category of sensitive information as a part of its continuing efforts to ensure a sound and competitive industrial base exists to support or operate uranium enrichment facilities. DOE will provide this information to permittees in support of the Administration's privatization objectives. However, this action will not constitute a waiver of the confidentiality of the information or give to permittees the right to release this information to any third party without the prior consent of DOE. For this purpose, revisions are announced in §§ 725.3, 725.22 and 725.23, which include a definition of the term "government confidential commercial information" and provide a basis for limited access by the permittee only.

II. Background

On April 28, 1987, DOE proposed several revisions in the existing access permit program regulations (52 FR 15324). DOE requested written comments on the proposal by June 2, 1987 and provided for a public hearing which was held on May 21, 1987.

In response to the Notice of Proposed Rulemaking, DOE received written comments from one party and testimony from a second party at the public hearing. The scope of these comments has provided DOE with a complete rulemaking record, containing the views of interested parties. DOE has considered these comments carefully in its deliberations and has modified the proposed regulations where appropriate.

In the following sections, DOE describes the revisions to the existing access permit program regulations. In addition, DOE discusses those comments which relate to particular revisions and responds to those comments where appropriate.

III. Revised Accesss Permit Program Regulations

A. Section 725.3—Definitions

Section 725.3 of the revised regulations defines "Government Confidential Commercial Information." Under the proposed definition, the term would mean "sensitive commercial information generated by the government, the release of which could put the government at a disadvantage in providing enrichment services."

One commenter has expressed the concern that too broad a definition would permit the Government to deny access to information (considered by DOE to be "government confidential commercial") which may be deemed by the permittee to be indispensable to its participation in uranium enrichment privatization. The same commenter also suggested that the proposed definition of "government confidential commercial information" be modified to expressly exclude information defined as "Restricted Data" under the Atomic Energy Act of 1954, as amended.

DOE believes that the concern that it may withhold any information necessary to induce private participation in uranium enrichment is misplaced. In the introductory comments to the proposed regulations, DOE expressly recognized that it may be necessary to provide access to (government confidential commercial) information "as a part of its continuing efforts to ensure a sound and competitive industrial base exists to support or operate uranium enrichment facilities." In both the preamble and the regulations, DOE indicated that it would provide the necessary information to the permittees in support of the Administation's privatization efforts subject only to the limitation that the information may not be further disseminated by the permittee without DOE's permission. (52 FR 15324)

It was never DOE's intention to treat "Restricted Data" as "government confidential commercial information" since the dissemination of "Restricted Data" is already controlled under the Atomic Energy Act, as amended. DOE agrees with the commenter that the definition of "government commercial confidential information" should be modified in the final rule to expressly exclude Restricted Data. Accordingly, DOE has made the appropriate revision in the final rule.

B. Section 725.15 Requirements for approval of applications

Section 725.15 sets forth the requirements for obtaining an access permit and would permit access by persons interested in acquiring surplus centrifuge machines for commercial use involving uranium enrichment and for purposes other than uranium enrichment. The comments did not address this section. DOE has decided to adopt this section as proposed.

C. Section 725.22 Scope of permit

Section 725.22 of the proposal would permit access on a conditional basis to "government confidential commercial information." One comment suggests that the regulation be modified to permit access to such government confidential commercial information as "is necessary to ensure the existence of a sound and competitive industrial base to support or operate uranium enrichment facilities." DOE believes that the insertion of this language would be redundant because it already appears in the preamble to the regulations (52 FR 15324). Accordingly, DOE has decided to adopt this section as proposed.

D. Section 725.23 Terms and conditions of access

Section 725.23 sets forth the condition that the permittee agrees not to disseminate Restricted Data or government confidential commercial information except as may be otherwise authorized by DOE. The comments did not address this section. DOE has decided to adopt this section as proposed.

IV. Procedural Matters

A. Review Executive Order 12291

Executive Order 12291 (46 FR 13193, February 19, 1981), requires an agency to prepare a regulatory impact analysis for any major rule. DOE has determined that this rule does not constitute a "major rule," as defined in the Executive order, because: (1) The revisions in the access program will not directly result in the level of impact necessary to meet the definition of a "major rule" and (2) in keeping with the purpose and intent of the Executive Order, the revisions will not increase the regulatory burdens on American society. The Director of the Office of Management and Budget has reviewed this rule pursuant to section 3 of Executive Order 12291.

B. Review Under the Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, DOE certifies that the rule will not have a significant economic impact on a substantial number of small entities because: (1) The rule will not directly result in the level of impact required to meet the standard set forth in the Regulatory Flexibility Act, (2) to the extent the rule may have any direct impact, such impact will not be adverse to small entities, and (3) the number of small entities that may be affected by the rule is not large enough to meet the standard set forth in the Regulatory Flexibility Act.

C. Paperwork Reduction Act

The change in the regulation does not directly provide for the collection of new information. DOE will submit the collection of any new information requests concerning the rulemaking amendments to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501.1 *et seq.*, and the procedures implementing that Act, 5 CFR 1320.1 *et seq.*

D. National Environmental Policy Act

The Department of Energy has determined that this rule does not involve alteration of existing facilities, and clearly will not significantly affect the quality of the human environment. Further, this rulemaking is within a category of actions specifically excluded from preparation of either an Environmental Assessment or an Environmental Impact Statement by DOE's Guidelines for Compliance with the National Environmental Policy Act. Since the rulemaking is not a major Federal action significantly affecting the quality of the human environment and is within a categorical exclusion provided by DOE's NEPA Guidelines, neither an Environmental Assessment nor an Environmental Impact Statement is required.

List of Subjects in 10 CFR Part 725

Uranium.

For reasons set forth in the preamble, Part 725 of Chapter III of Title 10 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, DC on August 7, 1987.

James W. Vaughan, Jr.,

Acting Assistant Secretary for Nuclear Energy.

PART 725—PERMITS FOR ACCESS TO RESTRICTED DATA

1. The authority citation for Part 725 is revised to read as follows:

Authority: Sec. 161 of the Atomic Energy Act, as amended, 68 Stat. 943, 42 U.S.C. 2201.

2. Section 725.3 is amended by adding a new paragraph (i) to read as follows:

§ 725.3 Definitions.

* * * * *

(i) "Government Confidential Commercial Information" means sensitive commercial information not including Restricted Data, generated by the government, the release of which could put the government at a competitive disadvantage in providing enrichment services.

§ 725.15 Requirements for approval of applications.

3. Section 725.15 is amended by revising paragraph (b)(3) to read as follows:

* * * * *

(b) * * *

(3) An application for an access permit authorizing access to Restricted Data in category C–24, isotope separation—subcategory A or B—will be approved only if the application demonstrates also that the applicant:

(i) Possesses technical, managerial and financial qualifications demonstrating that the applicant is potentially capable of undertaking or participating significantly in the construction and/or operation of production or manufacturing facilities and offers reasonable assurance of adequacy of resources to carry on, alone or with others, uranium enrichment on a production basis or the large-scale manufacture or assembly of precision equipment systems, or is potentially capable of utilizing centrifuge machines in its business for uranium enrichment or for purposes other than uranium enrichment; and is not subject to foreign ownership, control, or influence; and

(A) For subcategory A, desires to determine its interest in participating significantly in a substantial effort to develop, design, build, and operate a uranium enrichment facility or a facility for the manufacture of uranium enrichment equipment.

(B) For subcategory B, proposes to *(1)* participate significantly in, or is directly participating significantly in, a substantial effort to evaluate alternative processes, develop, design, build, and operate a uranium enrichment facility or a facility for the manufacture of uranium enrichment equipment, or *(2)* utilize centrifuge machines and related equipment in its business for uranium enrichment or for purposes other than uranium enrichment, or

(ii) Is furnishing to a permittee having access to Category C–24 under the paragraph (b)(3)(i) of this section substantial scientific, engineering, or other professional services to be used by said permittee in carrying out the activities for which said permittee received access to Category C–24.

* * * * *

4. Section 725.22 is amended by adding a new paragraph (c) to read as follows:

§ 725.22 Scope of permit.

* * * * *

(c) In addition, access permits may authorize access, subject to the terms and conditions of the access permit, to such government confidential commercial information as is included within the particular category or categories specified in the permit.

5. Section 725.23 is amended by revising paragraph (d)(9) as follows:

§ 725.23 Terms and conditions of access.

* * * * *

(d) * * *

(9) Except as may be otherwise authorized by DOE, the permittee agrees not to disseminate to persons not granted access by DOE, restricted data or government confidential commercial information made available to the permittee by DOE or restricted data developed by the permittee, its employees, or others engaged by the permittee in the course of the permittee's work under the access permit or as a result of data or information made available by DOE.

* * * * *

[FR Doc. 87–18479 Filed 8–12–87; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 523

[No. 87–858]

Membership in Federal Home Loan Banks

Date: August 6, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is adopting final amendments to its Federal Home Loan Bank System Regulations to provide a method for determining appropriate Federal Home Loan Bank ("Bank") district membership for all institutions eligible to become Bank members. Under the amendments an institution can be a member only in the Bank district in which it maintains its principal office, normally as shown in its charter, unless the Principal Supervisory Agent determines that membership is inconsistent with the actual location of control over the institution's records or operations. The amendments eliminate an option that allows an institution to become a member of a Bank outside the district in which its home office is located by naming a state in which it does substantial business as its principal place of business in accordance with the provisions of 28 U.S.C. 1332(c). Institutions that have taken advantage of the current option could choose to be grandfathered, but would not be immune from future application of a procedure for mandatory transfer of membership established in the amendments.

EFFECTIVE DATE: October 13, 1987.

FOR FURTHER INFORMATION CONTACT: Jonathan Curtis, Program Analysis Development Division, Office of the District Banks, at (202) 377–6709; or Richard L. Little, Associate General Counsel, Corporate and Securities Division, Office of General Counsel, at (202) 377–6447, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

A. Description of the Proposal

On January 29, 1987, the Board proposed these amendments primarily for the purpose of fostering more effective supervision of thrift organizations with deposit-taking facilities in more than one Bank district. Board Res. No. 87–111, 52 FR 3450 (February 4, 1987). Despite certain concerns raised in the public comments, the Board, with two noted exceptions, has decided to adopt the amendments substantially in the form proposed for the reasons previously expressed.

Under these amendments, an institution's "principal place of business" for determination of the Bank in which membership would be appropriate pursuant to section 4(b) of the Federal Home Loan Bank Act ("Act") (12 U.S.C. 1424(b)) will, as a general rule, be the state in which the institution's "principal office," as defined in 12 CFR 561.7, is located. The general rule would prevail unless the Principal Supervisory Agent ("PSA") makes a contrary designation based on the existence of any one of four factors indicating that control over the institution's records or operations is lodged elsewhere. Where a principal place of business so designated is a state in another Bank district, the PSA can send the institution a written notification of intent to order transfer of membership. If the institution fails within 90 days of the date of the notice to correct the conditions supporting the designation or to explain why the designation is unjustified, the PSA can order transfer of membership to the appropriate Bank district upon reaching agreement with the PSA of the receiving Bank on a method of orderly transfer. If the PSAs involved are unable to agree, the Board would set the terms of transfer.

In the proposal, an institution that had received Board approval under section 4(b) of the Act to be a member in a Bank district adjoining the district in which its principal place of business was located would have been completely exempt from the mandatory transfer procedures. The Board has decided to eliminate this exemption and to extend only the limited grandfather privileges, available to all holders of non-conforming memberships, to such institutions. Also, the Board has determined to add a new paragraph (g) to the final version of § 523.3–2 of the Regulations in order to make it clear that institutions involved in supervisory cases would not be subject to the transfer procedures to the extent that any approvals granted in connection with these supervisory cases