

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 2A4732) proposing that the food additive regulations be amended to provide for the safe use of *Haematococcus* algae astaxanthin as a nutrient supplement.

FOR FURTHER INFORMATION CONTACT: James C. Wallwork, Center for Food Safety and Applied Nutrition (HFS-265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202-418-3078.

SUPPLEMENTARY INFORMATION: In a notice published in the *Federal Register* of April 11, 2002 (67 FR 17700), FDA announced that a food additive petition (FAP 2A4732) had been filed by Cyanotech Corp., c/o T. Todd Lorenz, 11034 West Ocean Air Dr., r 252, San Diego, CA 92130 (currently 73-4460 Queen Kaahumanu Hwy., r 102, Kailua-Kona, HI 96740). The petition proposed to amend the food additive regulations in Part 172 *Food Additives Permitted for Direct Addition to Food for Human Consumption* (21 CFR part 172) to provide for the safe use of *Haematococcus* algae astaxanthin as a nutrient supplement. Cyanotech Corp. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7(a)).

Dated: June 3, 2002.

Laura M. Tarantino,
Deputy Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N-0178]

Canned Tomatoes Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Del Monte Corp. to market test canned tomato products that deviate from the U.S. standard of identity for canned tomatoes. The purpose of the temporary permit is to allow the applicant to measure consumer

acceptance of the products, identify mass production problems, and assess commercial feasibility, in support of a petition to amend the standard of identity for canned tomatoes.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than September 25, 2002.

FOR FURTHER INFORMATION CONTACT: Ritu Nalubola, Center for Food Safety and Applied Nutrition (HFS-822), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301-436-2371.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity issued under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Del Monte Corp., One Market @ The Landmark, P.O. Box 193575, San Francisco, CA 94119-3575.

The permit covers limited interstate marketing tests of products identified as "Stewed Tomatoes, Original Recipe," "Chunky Tomatoes, Pasta Style," "Diced Tomatoes, basil, garlic & oregano," "Diced Tomatoes, garlic & onion," "Diced Tomatoes, green pepper & onion," "Tomato Wedges," "Zesty Chunky Tomatoes, Chili Style," "Stewed Tomatoes, Cajun Recipe with pepper, garlic, and Cajun spices," "Stewed Tomatoes, Italian Recipe with basil, garlic & oregano," "Stewed Tomatoes, Mexican Recipe with garlic, cumin, and jalapeños" and "Stewed Tomatoes, no salt added." These canned tomato products may deviate from the U.S. standard of identity for canned tomatoes (21 CFR 155.190) in two ways. First, a liquid carbohydrate sweetener, either corn syrup or high fructose corn syrup, is used as an optional ingredient in lieu of dry nutritive carbohydrate sweeteners. The liquid carbohydrate sweetener, corn syrup or high fructose corn syrup, is used in a quantity reasonably necessary to compensate for the tartness resulting from added organic acids, except that such addition of the liquid sweetener, in no case, may result in a finished canned tomato product with a tomato soluble solids content of less than 5.0 percent by weight as defined in 21 CFR 155.3(e) (which accounts for any added salt) and accounting for the soluble solids of the liquid sweetener. The feasibility of this tomato soluble solids requirement will be assessed during the temporary marketing of the test products. Second,

this temporary marketing permit provides for use of the term "chunky" in lieu of the styles (i.e., whole, sliced, diced, and wedges) required by the standard. Except for the use of a liquid sweetener and the use of the alternative term "chunky" on some products, the test products meet all the requirements of the standard. Because test preferences vary by area, along with social and environmental differences, the purpose of this permit is to test the product throughout the United States.

This permit provides for the temporary marketing of a total of 5.6 million cases (5 million pounds or 2.3 million kilograms in weight) of the above-mentioned canned tomato products. The test products will be manufactured by Del Monte Corp. at 10652 Jackson Ave., Hanford, CA 93230. The products will be distributed by Del Monte Corp. in the United States. The information panel of the labels will bear nutrition labeling in accordance with 21 CFR 101.9. Each of the ingredients used in the food must be declared on the labels as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than September 25, 2002.

Dated: June 19, 2002.

Christine Taylor,
Director, Office Nutritional Products, Labeling and Dietary Supplements, Center for Food Safety and Applied Nutrition.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00P-1439]

Iceberg Water Deviating From Identity Standard; Extension of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the extension of a temporary permit issued to Iceberg Industries Corp., to market test products designated as "Borealis Iceberg Water," a name not otherwise permissible under the U.S. standard of identity for bottled water. The extension will allow the permit holder to continue to collect data on consumer acceptance of products while the agency takes action on a petition to amend the