shall be governed by the provisions of § 330.10 of this part.

* * * * *

3. Section 330.7 is amended by revising paragraph (c) to read as follows:

§ 330.7 Joint ownership accounts.

* * * * *

(c) *Qualifying joint accounts.* (1) A joint deposit account shall be deemed to be a qualifying joint account, for purposes of this section, only if:

(i) All co-owners of the funds in the account are natural persons; and

(ii) Each co-owner has personally signed a deposit account signature card; and

(iii) Each co-owner possesses withdrawal rights on the same basis.

(2) The requirement of paragraph (c)(1)(ii) of this section shall not apply to certificates of deposit, to any deposit obligation evidenced by a negotiable instrument, or to any account maintained by an agent, nominee, guardian, custodian or conservator on behalf of two or more persons.

(3) All deposit accounts that satisfy the criteria in paragraph (c)(1) of this section, and those accounts that come within the exception provided for in paragraph (c)(2) of this section, shall be deemed to be jointly owned provided that, in accordance with the provisions of § 330.4(a) of this part, the FDIC determines that the deposit account records of the insured depository institution are clear and unambiguous as to the ownership of the accounts. If the deposit account records are ambiguous or unclear as to the manner in which the deposit accounts are owned, then the FDIC may, in its sole discretion, consider evidence other than the deposit account records of the insured depository institution for the purpose of establishing the manner in which the funds are owned. The signatures of two or more persons on the deposit account signature card or the names of two or more persons on a certificate of deposit or other deposit instrument shall be conclusive evidence that the account is a joint account unless the deposit records as a whole are ambiguous and some other evidence indicates, to the satisfaction of the FDIC, that there is a contrary ownership capacity.

* * * * *

4. The heading of § 330.10 is revised to read as follows:

§ 330.10 Accounts held by a depository institution as the trustee of an irrevocable trust.

5. Section 330.11 is amended by adding a new paragraph (d) to read as follows:

§ 330.11 Irrevocable trust accounts.

* * * * *

(d) *Commingled accounts of bankruptcy trustees.* Whenever a bankruptcy trustee appointed under Title 11 of the *United States Code* commingles the funds of various bankruptcy estates in the same account at an insured depository institution, the funds of each Title 11 bankruptcy estate will be added together and insured for up to $100,000, separately from the funds of any other such estate.

6. Section 330.12 is amended by revising the heading and introductory text of paragraph (g), redesignating paragraphs (g)(1), (g)(2) and (g)(3) as paragraphs (g)(2), (g)(3) and (g)(4), respectively, and adding new paragraphs (g)(1) and (h) to read as follows:

§ 330.12 Retirement and other employee benefit plan accounts.

* * * * *

(g) *Definitions of ''depositor'', ''employee benefit plan'', ''employee organizations'' and ''non-contingent interest''.* Except as otherwise indicated in this section, for purposes of this section:

(1) The term *depositor* means the person(s) administering or managing an employee benefit plan.

* * * * *

(h) *Disclosure of capital status*—(1) *Disclosure upon request.* An insured depository institution shall, upon request, provide a clear and conspicuous written notice to any depositor of employee benefit plan funds of the institution's leverage ratio, Tier 1 risk-based capital ratio, total risk-based capital ratio and prompt corrective action (PCA) capital category, as defined in the regulations of the institution's primary federal regulator, and whether, in the depository institution's judgment, employee benefit plan deposits made with the institution, at the time the information is requested, would be eligible for ''pass-through'' insurance coverage under paragraphs (a) and (b) of this section. Such notice shall be provided within five business days after receipt of the request for disclosure.

(2) *Disclosure upon opening of an account.* (i) An insured depository institution shall, upon the opening of any account comprised of employee benefit plan funds, provide a clear and conspicuous written notice to the depositor consisting of: an accurate explanation of the requirements for pass-through deposit insurance coverage provided in paragraphs (a) and (b) of this section; the institution's PCA capital category; and a determination of whether or not, in the depository institution's judgment, the funds being deposited are eligible for ''pass-through'' insurance coverage.

(ii) An insured depository institution shall provide the notice required in paragraph (h)(2)(i) of this section to depositors who have employee benefit plan deposits with the insured depository institution on July 1, 1995 that, at the time such deposits were placed with the insured depository institution, were not eligible for pass-through insurance coverage under paragraphs (a) and (b) of this section. The notice shall be provided to the applicable depositors within ten business days after July 1, 1995.

(3) *Disclosure when ''pass-through'' coverage is no longer available.* Whenever new, rolled-over or renewed employee benefit plan deposits placed with an insured depository institution would no longer be eligible for ''pass-through'' insurance coverage, the institution shall provide a clear and conspicuous written notice to all existing depositors of employee benefit plan funds of its new PCA capital category, if applicable, and that new, rolled-over or renewed deposits of employee benefit plan funds made after the applicable date shall not be eligible for ''pass-through'' insurance coverage under paragraphs (a) and (b) of this section. Such written notice shall be provided within 10 business days after the institution receives notice or is deemed to have notice that it is no longer permitted to accept brokered deposits under section 29 of the Act and the institution no longer meets the requirements in paragraph (b) of this section.

(4) *Definition of ''employee benefit plan''.* For purposes of this paragraph, the term *employee benefit plan* has the same meaning as provided under paragraph (g)(2) of this section but also includes any eligible deferred compensation plans described in section 457 of the Internal Revenue Code of 1986 (26 U.S.C. 457).

By order of the Board of Directors.

Dated at Washington, D.C., this 31st day of January, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 95–3178 Filed 2–8–95; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 95N–0025]

Food Labeling; General Requirements for Nutrition Labeling of Dietary Supplements; General Requirements for Nutrient Content Claims for Dietary Supplements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of intent.

SUMMARY: The Food and Drug Administration (FDA) is announcing that, given the need to modify its regulations on nutrition labeling and nutrient content claims for dietary supplements to respond to the 1994 Dietary Supplement Health and Education Act (the 1994 DSHEA), it does not intend to enforce those regulations until after December 31, 1996. FDA is issuing this notice of intent in response to inquiries from the dietary supplement industry.

FOR FURTHER INFORMATION CONTACT: Virginia L. Wilkening, Center for Food Safety and Applied Nutrition (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5483.

SUPPLEMENTARY INFORMATION:

I. Background

The Nutrition Labeling and Education Act (the 1990 amendments) was enacted on November 8, 1990. This law amended the Federal Food, Drug, and Cosmetic Act (the act) to require that virtually all foods, including conventional foods and dietary supplements, bear nutrition labeling (section 403(q) of the act (21 U.S.C. 343(q)), and that if they bear claims about the level of nutrients that they contain, those claims be made in accordance with definitions adopted by FDA (see section 403(r) of the act). The 1990 amendments required that FDA issue proposed rules implementing these provisions within 12 months from the date of their enactment and final rules within 24 months (sections 2(b) and 3(b) of the 1990 amendments). The final rules were to be effective 6 months after they were issued, although FDA was authorized to delay application of the rules for up to 1 year if it found that compliance with the nutrition labeling and nutrient content claim provisions would cause undue economic hardship (section 10(a) of the 1990 amendments).

FDA issued proposed rules on November 27, 1991 (see 56 FR 60366 and 60421). On October 29, 1992, however, shortly before the final rules were to be issued, the Dietary Supplement Act of 1992 (the 1992 DS act) (Title II of Pub. L. 102–571) was enacted. This law took dietary supplements out of the rulemaking schedule that had been established under the 1990 amendments. It provided that FDA issue new proposals on the nutrition labeling of, and nutrient content claims for, dietary supplements by June 15, 1993, and that the agency issue final rules by December 31, 1993. However, the provisions of the 1990 amendments that made the final rules effective 6 months after issuance, and that gave FDA discretion to delay their applicability for 1 year, continued to apply to dietary supplements.

Consistent with the 1990 amendments and the 1992 DS act, on June 18, 1993 (58 FR 33715 and 33731), FDA issued proposed rules on the nutrition labeling and nutrient content claims for dietary supplements. On January 4, 1994 (59 FR 354 and 378), FDA issued the final rules. As stated above, under the 1990 amendments, these final rules were to be effective 6 months from December 31, 1993, or on July 1, 1994. However, in conjunction with the publication of the final rules, FDA made a finding that requiring compliance by that date would cause dietary supplement manufacturers undue economic hardship (59 FR 350, January 4, 1994). Therefore, FDA stated that these manufacturers need not comply with the final rules on nutrition labeling and nutrient content claims until July 1, 1995.

Having completed these rulemakings, FDA anticipated that dietary supplement firms would begin taking steps to come into compliance with the new rules, and dietary supplement manufacturers have apparently done so. For example, in 1994, a number of dietary supplement trade associations held conferences about the new rules, and FDA received inquiries from a number of firms about what steps are required.

In October 1994, however, a significant ambiguity was introduced into the regulation of the labeling of dietary supplements. At that time, the 1994 DSHEA (Pub. L. 103–417) was enacted. This new law amended both the nutrition labeling and nutrient content claim provisions of the act (see sections 7(b) and (c) of the 1994 DSHEA). It made limited changes in how nutrition information is to be presented in the labeling of dietary supplements, although it made implementation of these changes subject to regulations adopted by the Secretary of Health and Human Services (and, by delegation, FDA) (section 403(q)(5)(F) of the act). It also limited in one respect the nutrient content claims for dietary supplements that must be defined by regulation by FDA (section 403(r)(2)(F) of the act).

With respect to the effective date of these amendments and to the other labeling provisions enacted as part of the new law, the 1994 DSHEA stated that dietary supplements may be labeled in accordance with its provisions after its date of enactment, and that they must be labeled in compliance with its provisions after December 31, 1996 (section 7(e) of the 1994 DSHEA). The new law was silent, however, with respect to its effect on the July 1, 1995, applicability date established under the 1990 amendments and the 1992 DS act for FDA's regulations on the nutrition labeling and nutrient content claim requirements for dietary supplements.

II. Statement

In the wake of the new law, FDA has received inquiries from the dietary supplement industry about how the agency intends to enforce the law. One trade association wrote that its members are making efforts to comply with the July 1, 1995, effective date established under the 1990 amendments and the 1992 DS act, but that, as a practical matter, that effective date should not be enforced to allow the process of implementing the 1994 DSHEA to proceed in a reasonable fashion. The trade association cautioned that if FDA did not follow such a course, companies would be put in the untenable position of needing to relabel in July 1995, only to relabel again by the end of 1996 (Ref. 1).

FDA believes that it is appropriate, in response to these inquiries, to issue a statement on how it intends to enforce its nutrition labeling and nutrient content claim regulations with respect to dietary supplements in light of the passage of the 1994 DSHEA (Ref. 2). In formulating this statement, FDA has carefully considered Congress' goals in passing the 1994 DSHEA and the 1990 amendments, as well as the needs of the companies that are required to label their products in accordance with the act and of consumers to whom the information in question is to be provided.

In the 1990 amendments, Congress required that food labels bear information that will help consumers to maintain healthy dietary practices and established timeframes for the implementation of the legislation to

ensure that it would be given effect without undue delay. In the 1994 DSHEA, Congress, while embracing most of what FDA has done under the 1990 amendments with respect to dietary supplements, sought to provide for the inclusion of additional information on the nutrition label and to provide additional flexibility in how that information is presented. The dietary supplement industry is left facing an applicability date for FDA's nutrition labeling and nutrient content claim regulations for dietary supplements of July 1, 1995, without complete guidance on how the nutrition label is ultimately to be presented on these products. As for consumers, they are currently provided with nutrition information on many, but by no means all, dietary supplements, but that information is not being presented in a form that is consistent with the ''Nutrition Facts'' panel that appears on conventional foods.

Having considered these factors, FDA advises that, while the nutrition labeling and nutrient content claim regulations implementing the 1990 amendments for dietary supplements will go into effect on July 1, 1995, it does not intend to enforce those regulations until it has modified them to reflect the 1994 DSHEA, and until after dietary supplement manufacturers are required to label their products in accordance with the 1994 DSHEA; that is, not until after December 31, 1996.

FDA considers this course of action appropriate for several reasons. First, FDA recognizes the merit in the dietary supplement industry's argument that it should not be required to relabel its products until it has a full understanding of what its alternatives and obligations are. Enforcing the nutrition labeling and nutrient content claims regulations on July 1, 1995, would require dietary supplement manufacturers to choose between relabeling their products twice, the first time to come into compliance and the second to take advantage of the flexibility provided by the new law, or foregoing that flexibility. To force dietary supplement manufacturers to make such a choice would be a result that the agency does not believe Congress contemplated or would have intended in enacting the 1994 DSHEA.

The 1994 DSHEA provides for flexibility in the dietary ingredients that can be included in the ''Nutrition Facts'' box and in the presentation of ingredient information. FDA, pursuant to the 1994 DSHEA, is at work on regulations that define this flexibility. FDA agrees that industry should have an opportunity to take advantage of this flexibility without being forced to relabel twice to do so. FDA acknowledges that it will not be possible for the agency to have its regulations in place, nor for the industry to have adequate time to design its labeling in accordance with these regulations, by July of this year. Thus, the interests of industry and the policies embodied in the 1994 DSHEA will be advanced if FDA declines to enforce the nutrition labeling and nutrient content claim regulations that apply to dietary supplements until after December 31, 1996, when they will be fully modified to reflect the 1994 DSHEA.

While the purposes of the 1990 amendments will not be as clearly advanced by such a course of action, they will also not be contravened. Implementation of the 1994 DSHEA will move FDA forward toward its goal of full implementation of the 1990 amendments. Moreover, while Congress sought to rule out undue delay in implementation of the 1990 amendments, a delay caused by implementation of another law enacted by Congress can hardly be considered ''undue.''

Finally, it is true that consumers face an additional delay before dietary supplements bear nutrition information that is as consistent as possible, both in content and presentation, with that on other foods, and until there is full compliance by dietary supplements with the nutrient content claim provisions of the act. These facts are mitigated, however, by the fact that there is information listing nutrients and their levels on many dietary supplements, and that many dietary supplements do not bear nutrient content claims.

Thus, having fully considered these factors, the agency advises that it does not intend to enforce the nutrition labeling and nutrient content claims regulations that apply to dietary supplements until after December 31, 1996. The agency is at work developing a proposal that implements the labeling provisions of the 1994 DSHEA and expects to publish it in the near future.

III. References

The following references have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Cordaro, John, President, Council for Responsible Nutrition, letter to David A. Kessler, Commissioner, FDA, December 7, 1994.

2. Shank, Fred, R., Director, Center for Food Safety and Applied Nutrition, FDA, letter to John B. Cordaro, President, Council for Responsible Nutrition, January 30, 1995.

Dated: February 6, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–3294 Filed 2–8–95; 8:45 am]

BILLING CODE 4160–01–F

AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 226

Administration of Assistance Awards to U.S. Non-Governmental Organizations

AGENCY: Agency for International Development (USAID).

ACTION: Correction to interim final rule.

SUMMARY: This document contains a correction to the interim final rule which was published Thursday, January 19, 1995 (60 FR 3743). The rule relates to the administration of assistance awards to U.S. Non-Governmental Organizations.

EFFECTIVE DATE: February 9, 1995.

FOR FURTHER INFORMATION CONTACT: Diana Joan Esposito, Office of Procurement, Procurement Policy and Evaluation (M/OP/P), USAID, SA–14 Rm. 1600I, 320 21st Street, Washington, DC 20523. Telephone 703 875–1529, Fax 703–875–1243.

SUPPLEMENTARY INFORMATION:

Background

On January 19, 1995, USAID issued an interim final rule at 22 CFR part 226 which implemented Office of Management and Budget (OMB) Circular A–110.

Need for Correction

As published, the preamble refers to a change that was not implemented in the interim final rule.

Correction of Publication

Accordingly, the publication on January 19, 1995 of the interim final rule, is corrected as follows:

Preamble [Corrected]

On page 3744, in the first column, at the paragraph beginning ''Section 226.22(l) is revised to provide * * *'' is corrected to read: ''Section 226.22(l) is revised to provide that USAID may authorize recipients to retain all interest earned in accordance with USAID's statutory authority.'' The statement in the preamble that interest earned will be remitted to USAID has been deleted.