interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E5 airspace at Piney Pinecreek Border Airport, Pinecreek, MN, to accommodate a Nondirectional Radio Beacon (NDB) to serve runway 15/33. Controlled airspace extending from 700 to 1200 feet AGL is needed for aircraft executing the approach. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6005 The class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MN E5 Pinecreek, MN [New]
(lat. 48°59′54″ N, long. 95°58′45″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Piney Pinecreek Border Airport; excluding that area north of lat. 49°00′00″ N (Canadian-U.S. boundary).

* * * * *

Issued in Des Plaines, Illinois on July 10, 1995.

Roger Wall,

Manager, Air Traffic Division.

[FR Doc. 95–18003 Filed 7–20–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 133, and 201

[Docket No. 92N–0334]

Labeling Declaration for FD&C Yellow No. 6 and FD&C Yellow No. 5; Amendment of Standard of Identity for Cheese Product

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to require declaration of FD&C Yellow No. 6 in the ingredient list on the labels of butter, cheese, and ice cream, and on the labels of drug products administered to mucous membranes, when the color additive is used in these products. This proposal is based on reports in the literature of allergic-type reactions to FD&C Yellow No. 6. This proposed action will not have any effect on the permanent listing of FD&C Yellow No. 6. Also, FDA is proposing to amend the standard of identity for cold-pack and club cheese to make it conform to the requirements for listing FD&C Yellow No. 5 and FD&C Yellow No. 6 on the labels of food that contains these color additives. In addition, FDA is proposing to amend the regulation for FD&C Yellow No. 5 to provide for the use of abbreviated names for this color additive.

DATES: Written comments by October 4, 1995. The agency is proposing that any final rule they may issue based upon this proposal become effective 2 years after its publication in the **Federal Register**.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Aydin Örstan, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202–418–3076.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of November 19, 1986 (51 FR 41765), FDA published a final rule that permanently listed FD&C Yellow No. 6 for use generally in food, drugs, and cosmetics. At that time, FDA adopted a requirement that the labeling of food and drug products that contain FD&C Yellow No. 6 specifically declare the presence of this color additive (hereafter referred to as the ''labeling requirement''). The effective date for this labeling requirement was to be November 19, 1987. The agency adopted the labeling requirement based on evidence in published reports of a relationship between FD&C Yellow No. 6 and allergic-type responses in some individuals.

FDA received several objections to the labeling requirement, including objections to its November 19, 1987, effective date; objections that questioned the validity of the scientific data that the agency used in assessing the need for the labeling requirement; and an objection that asserted that FDA had failed to give adequate notice of the possibility that it might adopt the labeling requirement. None of the objections requested a hearing.

In the **Federal Register** of June 8, 1987 (52 FR 21505), FDA confirmed the effective date of December 22, 1986, for the permanent listing of FD&C Yellow No. 6. In that document, the agency reaffirmed the labeling requirement, responded to the objections that it had

received on the November 19, 1986, final rule, and modified the rule in response to some of the objections. The major changes to the final rule that the agency made included extending the effective date of the labeling requirement to January 1, 1989, and modifying the language of the labeling requirement.

On October 5, 1987, the Certified Color Manufacturers Association (CCMA, now the International Association of Color Manufacturers) filed a petition in the United States Court of Appeals for the District of Columbia Circuit challenging that portion of the final rule that required that food labeling declare the presence of FD&C Yellow No. 6. The issues raised by CCMA were: (1) Whether FDA provided sufficient notice under the provisions of the Federal Food, Drug, and Cosmetic Act (the act), FDA regulations, the Administrative Procedure Act, and the Due Process Clause of the United States Constitution of its intent to adopt this requirement; and (2) whether this requirement is supported by the evidence.

On February 29, 1988, CCMA and FDA presented the Court of Appeals with a stipulation for the voluntary dismissal of the petition. In the stipulation, FDA agreed to ''issue a **Federal Register** notice withdrawing, as a final rule, the labeling requirement set forth at 52 FR 21505, June 8, 1987, and simultaneously publish as a proposed rule a labeling requirement for FD&C Yellow No. 6.'' This agreement did not affect the permanent listing of the color additive.

The agency never published a notice of withdrawal for the labeling requirement set forth in 1987 (52 FR 21505), but in the **Federal Register** of December 6, 1988 (53 FR 49138), the agency published a notice that stated that the labeling requirements for FD&C Yellow No. 6 would not be enforced until further notice.

In November of 1990, Congress passed, and the President signed, the Nutrition Labeling and Education Act (the 1990 amendments). The 1990 amendments amended section 403(i) of the act (21 U.S.C. 343(i)) to require the listing by name, as part of the list of ingredients, of color additives that are subject to certification under section 721(c) of the act (21 U.S.C. 379e(c)) (section 7 of the 1990 amendments). However, the 1990 amendments did not change section 403(k) of the act, which continues to provide that section 403(i) of the act, with respect to artificial coloring, does not apply in the case of butter, cheese, or ice cream.

In response to the 1990 amendments, FDA adopted § 101.22(k) (21 CFR 101.22(k)), which became effective on May 8, 1993. Section 101.22(k)(1) requires the label declaration of certifiable color additives added to foods, while § 101.22(k)(3) states that ''When a coloring has been added to butter, cheese, or ice cream, it need not be declared in the ingredient list unless such declaration is required by a regulation in part 73 or part 74 of this chapter to ensure safe conditions of use for the color additive.''

Because of literature reports of allergic-type reactions to FD&C Yellow No. 6, the agency is now proposing to require the declaration of FD&C Yellow No. 6 on labels for butter, cheese, and ice cream. Because of these reports, the agency is also proposing to require the declaration of FD&C Yellow No. 6 as an ingredient when it is used in drug products that are administered to mucous membranes.

II. Possible Allergic Reactions to FD&C Yellow No. 6

A. Review of Literature

FD&C Yellow No. 6, an azo dye, is defined in § 74.706(a)(1) and (b) (21 CFR 74.706(a)(1) and (b)). Uncertified FD&C Yellow No. 6 is commonly known as sunset yellow or sunset yellow FCF. Several published articles report allergic-type reactions to FD&C Yellow No. 6 (Refs. 1 through 12). One of these, a case study reported by Jenkins et al. (Ref. 1), was cited as evidence of the allergenic nature of FD&C Yellow No. 6 in a December 14, 1984, citizen petition concerning provisionally listed color additives. The agency, in denying that petition, noted that ''[T]he cited article is an isolated medical case report of an immunosuppressed, severely ill patient who was observed to experience gastrointestinal symptoms from sunset yellow powder (presumably uncertified FD&C Yellow No. 6) taken by mouth.'' The agency stated that it ''did not consider this single case report to provide a basis for concluding that FD&C Yellow No. 6 is an allergen.'' This information, however, together with the structural similarity of FD&C Yellow No. 6 to FD&C Yellow No. 5, which has also been reported to cause allergic-type reactions, prompted the agency to review all available information on allergic-type reactions related to the consumption of FD&C Yellow No. 6.

An early study reported evidence from dermal testing of sensitivity to FD&C Yellow No. 6 in a patient, but no response was elicited from administration of the color additive in a double-blind oral challenge test (Ref. 2). Subsequent studies suggested that patients could develop urticaria from consumption of azo dyes such as sunset yellow (Refs. 3 and 4). In another study, seven patients with allergic vascular purpura developed purpura after oral challenge with various azo dyes. One patient specifically reacted to sunset yellow (Ref. 5). Also, a case was reported of anaphylactic shock from exposure to FD&C Yellow No. 5 and FD&C Yellow No. 6 in soap used for a cleansing enema. The patient was reported to be sensitive to both color additives upon subsequent testing (Ref. 6). However, a double-blind clinical study of 43 asthmatic patients gave negative results for sunset yellow (Ref. 7).

The studies discussed above were questioned by interested parties in objections to the November 19, 1986, final rule with respect to their reliability as evidence that would justify label declaration of FD&C Yellow No. 6. The objections focused on the age of the studies and the procedures used by the clinicians. However, a more recent literature search has revealed other studies that were not discussed in the 1986 final rule.

In 1982, Ibero et al. (Ref. 8) published a study performed on 25 children with food allergy histories. To determine a cause for their symptoms, they were put through exhaustive tests, including: Case histories; cutaneous tests; determination of peripheral eosinophilia; determination of plasma immunoglobulins A, M, and G; determination of secretory immunoglobulin A in saliva; determination of total and specific immunoglobulin E against various food antigens; and being fed diets from which suspected food products were excluded. When these tests gave negative results, the patients were subjected to oral provocation with different food additives, including tartrazine and sunset yellow FCF after 48 hours of exclusion from their diets of dyes, benzoates, and salicylates. A lactose placebo was used in the study, but it is not clear whether the study was double-blinded.

Eight out of the 25 children challenged with sunset yellow reacted positively. Five of these had immediate positive reactions, and three had ''semi-retarded'' or ''retarded positive'' reactions (terminology used in the report). The agency is not considering the reported ''semi-retarded'' or ''retarded positive'' reactions as positive to sunset yellow because it is unclear what is meant by this terminology. Although 5 positive reactions out of 25 patients is a large percentage, the agency

considers this study to offer only limited evidence of the allergenicity of FD&C Yellow No. 6 because the report does not give complete details of the design of the study.

Sweatman et al. in 1986, published a case report of an 8-year-old girl with oro-facial granulomatosis (Ref. 9). This disease consists of swelling of the lips and face, frequently with vertical fissures in the lips and oral mucosal abnormalities. Oro-facial granulomatosis has been associated with sarcoidosis and Crohn's disease, but these diseases were ruled out in this case by clinical pathology tests. However, a double-blind challenge test produced a severe reaction to sunset yellow and carmoisine, another azo dye. The authors concluded that while these additives were clearly a cause of her condition, it was likely that other foods were also involved.

A 1986 study by Supramaniam and Warner focused on food additive intolerance in a group of children with a history of angioedema or urticaria (Ref. 10). The children underwent double-blind, placebo-controlled challenge testing with several food and color additives including sunset yellow. The additives or placebo were given in 4-hour intervals, and examinations for skin reactions, temperature changes, pulse and respiration rates, and peak expiratory flow rate were done at 15-minute intervals. A reaction was judged positive if either urticaria or angioedema occurred. Of the 36 children who were challenged with sunset yellow, 10 reacted positively. Although limited information is given in this paper, the study appears to have been well-conducted and provides support for the existence of hypersensitivity to FD&C Yellow No. 6 based on the percentages of children who reacted to sunset yellow. The investigators did not specify the amounts of the additives used in the testing protocol, only that smaller quantities of the additives were used than might be ingested in an estimated maximum daily intake.

In 1987, Murdoch et al. studied 24 patients with urticaria who were in remission on an additive-free diet by subjecting them to placebo-controlled, double-blind outpatient challenge testing with encapsulated food additives (Ref. 11). Three of the subjects gave positive responses to at least two separate challenges to azo dyes, with negative responses after placebo. These three subjects then underwent single-blind challenge testing in a hospital. One of the three subjects reacted to sunset yellow both in outpatient and hospital challenge tests. The subject experienced erythema and pruritus, with significant increases in plasma histamine levels in the hospital testing. The agency concludes that this study offers only limited evidence of the allergenicity of FD&C Yellow No. 6 because the hospital testing was only single-blinded and not placebo-controlled.

In 1989, Gross et al. reported the case of a physician who experienced severe abdominal pain and urticaria which required four hospitalizations within a 2-year period (Ref. 12). Small intestinal biopsies revealed chronic inflammation and eosinophils. FD&C Yellow No. 6 was the one common additive in all the foods and drugs that were suspected of causing the problem. The patient was challenged with FD&C Yellow No. 6 (using 8 milligram capsules) and encapsulated brown sugar as the placebo in a single-blind test. One capsule was given twice a day for 4 days. The patient developed abdominal cramps, hives, and nervousness following the administration of the FD&C Yellow No. 6, which was given first, but not after placebo. The patient subsequently underwent a placebo-controlled, double-blind challenge with the capsules given twice a day for 5 days. Placebo was administered first with no effect. However, severe abdominal cramps and marked fatigue occurred when FD&C Yellow No. 6 was administered. The authors concluded that the patient was suffering from allergic gastroenteritis from FD&C Yellow No. 6. This study was adequately conducted, and the results clearly document a case of adverse reaction to FD&C Yellow No. 6.

B. FDA's Tentative Conclusion Concerning Allergenicity of FD&C Yellow No. 6

In evaluating the reports described above, the agency recognizes that there are deficiencies in the conduct of some of the clinical studies (Ref. 13). However, in spite of the limitations of the studies, the agency tentatively concludes that the available evidence supports an association of FD&C Yellow No. 6 with allergic-type responses in susceptible individuals who may be exposed to this color additive in food, drugs, and cosmetics containing it. Therefore, under section 721(b)(3) of the act, the agency tentatively concludes that the label declaration of FD&C Yellow No. 6 is necessary as a condition of use to ensure a reasonable certainty of no harm from the prescribed use of the color additive for those susceptible individuals.

As discussed previously, § 101.22(k)(1) requires the label declaration of certifiable color additives, including FD&C Yellow No. 6, added to foods, while § 101.22(k)(3) exempts butter, cheese, or ice cream from this requirement unless the label declaration is required for safe conditions of use under part 73 or 74 (21 CFR part 73 or 74). Therefore, the agency is proposing to require that the labels of butter, cheese, and ice cream disclose when FD&C Yellow No. 6 is present in the food. Furthermore, the agency is proposing that drug products administered to mucous membranes that contain this color additive declare its presence in their labeling. This labeling requirement, if adopted, will serve to inform the public of the presence of FD&C Yellow No. 6 in these food and drug products and thus enable susceptible individuals to avoid it. The knowledge acquired through labeling of consumer products may also be of assistance when susceptible individuals patronize places, such as restaurants, where foods would not ordinarily be labeled.

Label declaration of specific color additives in cosmetics has been required since May 31, 1976. Thus, no action is required for cosmetics.

III. Label Declaration

A. Food

Section 721(b)(3) of the act provides that regulations for the listing of a color additive shall ''prescribe the conditions under which such additive may be safely employed for such use or uses (including but not limited to,* * * and directions or other labeling or packaging requirements for such additive).'' As reviewed above in this document, FD&C Yellow No. 6 has been reported to be associated with allergic-type responses in humans. Thus, the agency tentatively finds that the requirement for label declaration of the color additive in butter, cheese, or ice cream, which are currently exempt from such declaration under section 403(k) of the act, is justified.

Consumers who may be allergic to FD&C Yellow No. 6 are likely to be selective of the types of foods that they use and to read ingredient listings on food labels to avoid the allergic-type reactions to the color additive. The label declaration of FD&C Yellow No. 6 in human foods, except butter, cheese, and ice cream, is already required under § 101.22(k)(1). Accordingly, a label declaration of the presence of FD&C Yellow No. 6 in butter, cheese, and ice cream, whether added as the straight color additive, a mixture, or a lake, will enable persons who may be sensitive to FD&C Yellow No. 6 to avoid unwitting

exposure to this color additive. Therefore, the agency proposes to amend § 74.706 to require that the labeling of butter, cheese, and ice cream that contain FD&C Yellow No. 6 include a declaration of the presence of this color additive in the list of ingredients.

To minimize the economic impact of imposing this requirement, the agency is proposing that any final rule that may issue based upon this proposal become effective 2 years after its publication in the **Federal Register**. However, the agency solicits comments on whether a different effective date is appropriate.

B. Drugs

The use of color additives in drugs for human use is an old, accepted practice in the pharmaceutical industry. The use of color additives in drugs serves a necessary public health function because it permits drugs of identical size and shape to be distinguished. The distinguishing characteristic provided by the use of color additives is an important quality control tool in dispensing drugs to prevent mixups among otherwise similarly appearing products. The ability to distinguish among products is also important to persons taking more than one drug, especially to the patient who may think in terms of taking a drug of a particular color rather than by name of the drug. Color additives in drugs also assist in the identification of a drug in cases of accidental overdose.

Because yellow is a primary color, yellow color additives are widely used in coloring drug products. A substantial number of drug products would have to be reformulated if FD&C Yellow No. 6 were prohibited in drugs for human use. If prohibition of FD&C Yellow No. 6 from use in drugs were found to be necessary to protect the public health, the considerable time and effort necessary to reformulate drugs and the loss of product identification would be unimportant. However, on the basis of the available information concerning the nature and extent of possible intolerance to FD&C Yellow No. 6, the agency tentatively concludes that prohibiting all drug uses of FD&C Yellow No. 6 is not necessary, and that requiring labeling similar to that for foods will ensure the protection of patients who may be intolerant of FD&C Yellow No. 6.

Therefore, the agency is proposing to require label declaration of FD&C Yellow No. 6 when the color additive is present in prescription and over-the-counter (OTC) drug products administered orally, nasally, rectally, or vaginally. Other modes of exposure are not expected to trigger an allergic response. As discussed in section III.A. of this document, authority for this action is provided by section 721(b)(3) of the act, which states that the regulations for the listing of a color additive shall prescribe the conditions, including directions or other labeling or packaging requirements, under which the color additive may be safely used.

In the **Federal Register** of November 19, 1986 (51 FR 41765) and June 8, 1987 (52 FR 21505), FDA established §§ 74.1706(c)(2) and 201.20(c) (21 CFR 74.1706(c)(2) and 201.20(c)). These regulations provided requirements for the label declaration of FD&C Yellow No. 6 in certain drug products. As discussed in Section I of this document, in the **Federal Register** of December 6, 1988 (53 FR 49138), the agency issued a final rule that suspended §§ 74.706(d)(2), 74.1706(c)(2), and 201.20(c) pending further agency action. The agency is now proposing to adopt these regulations.

Under the proposed §§ 74.1706(c)(2) and 201.20(c), prescription and over-the-counter (OTC) drug products administered orally, nasally, rectally, or vaginally will be required to declare the presence of FD&C Yellow No. 6 by listing the color additive using the name FD&C Yellow No. 6. Topical or other externally applied drug products are not subject to these proposed regulations. If these proposed regulations are adopted, holders of approved applications for drug products containing FD&C Yellow No. 6 will be required to describe a labeling change to comply with the rule in accordance with § 314.70(d)(2) (21 CFR 314.70(d)(2)).

The agency is proposing that any final rule that may issue based upon this proposal become effective 2 years after its publication in the **Federal Register**, the same effective date proposed previously for labels of butter, cheese, and ice cream containing FD&C Yellow No. 6. Any drug product that is initially introduced or initially delivered for introduction into interstate commerce after the effective date would be misbranded under section 502 of the act (21 U.S.C. 352) if not in compliance with this proposed rule. However, the agency solicits comments on whether a different effective date is appropriate.

IV. Conforming Amendments

In the **Federal Register** of January 6, 1993 (58 FR 2891), the agency amended the cheese standards in part 133 (21 CFR part 133) to bring them into conformity with the requirements of the 1990 amendments. For the declaration of color additives, the amended cheese standards refer to the applicable sections of 21 CFR parts 101 and 130. However, in that document, the agency overlooked a provision in the standard of identity for cold-pack and club cheese (§ 133.123) that ''Artificial coloring need not be declared.'' The agency notes that this provision is redundant because § 101.22(k)(3) provides that artificial coloring added to butter, cheese, or ice cream need not be declared unless such declaration is required by a regulation in 21 CFR part 73 or 74. Furthermore, this provision may create confusion, because, under § 74.705(d)(2), FD&C Yellow No. 5 is required to be declared in the ingredient list on the labels of butter, cheese, and ice cream when the color additive is used in these products, and now the agency is proposing the same requirement for FD&C Yellow No. 6. Therefore, the agency is proposing to amend the standard of identity for cold-pack and club cheese in § 133.123 by removing paragraph (f)(1), that provides that artificial color need not be declared. With the removal of this provision, all of the cheese standards will be subject to the labeling provisions of § 130.3(e) and thus, the requirements of § 101.22 (c) and (k). Moreover, the agency notes that § 133.123(f)(2) unnecessarily repeats part of the first sentence of § 133.123(f). Therefore, to make this cheese standard consistent with the other cheese standards in part 133 and to eliminate this redundancy, the agency is also proposing to remove § 133.123(f)(2).

Also, the agency is proposing to revise the current labeling requirement for FD&C Yellow No. 5, which requires that foods that contain FD&C Yellow No. 5, including butter, cheese, and ice cream, declare the color additive as ''FD&C Yellow No. 5'' (21 CFR 74.705(d)(2)). The agency's new labeling requirements in § 101.22(k)(1) allow for the use of abbreviated names of certified color additives on food labels. For example, FD&C Yellow No. 5 may be declared either by its full name as ''FD&C Yellow No. 5'' or by an appropriate abbreviation, such as ''Yellow 5.'' Therefore, to prevent any confusion over label declaration of FD&C Yellow No. 5, the agency is proposing to revise § 74.705(d)(2) to state that the labels of butter, cheese, and ice cream that contain FD&C Yellow No. 5 shall declare the color additive in accordance with § 101.22(k)(1). The agency is also proposing to remove the statement ''Foods for human use'' in the current § 74.705(d)(2), because the 1990 amendments made it mandatory to declare the certified color additives on labels of foods for human use, other than butter, cheese, and ice cream, and

this requirement is already codified in § 101.22(k).

V. Conclusion

FDA has reviewed literature reports providing evidence that FD&C Yellow No. 6 may cause allergic-type responses in some individuals. Based on this evidence, the agency tentatively concludes that a label declaration of the color additive is necessary to ensure that its use is safe in butter, cheese, and ice cream and in drugs administered to mucous membranes. Accordingly, the agency is proposing to amend its regulations by adding §§ 74.706(d)(2), 74.1706(c)(2), and 201.20(c). In addition, the agency is proposing to amend the standard of identity for cold-pack and club cheese (§ 133.123) to make it conform to the requirement that FD&C Yellow No. 5 and FD&C Yellow No. 6 be declared on the label of this product. Also, the agency is proposing to amend the regulation for FD&C Yellow No. 5 (§ 74.705(d)(2)) to provide for the use of abbreviated names for this color additive.

VI. References

The following references have been placed on display at the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Jenkins, P., R. Michelson, and P. A. Emerson, ''Adverse Drug Reaction to Sunset Yellow in Rifampicin/Isoniazid Tablet,'' Lancet, 385, 1982.

2. Chaffee, F.H., and G.A. Settipane, ''Asthma Caused by FD&C Approved Dyes,'' Journal of Allergy, 40:65–71, 1967.

3. Michaëlsson, G., and L. Juhlin, ''Urticaria Induced by Preservatives and Dye Additives in Food and Drugs,'' British Journal of Dermatology, 88:525–532, 1973.

4. Thune, P., and A. Granholt, ''Provocation Tests with Antiphlogistica and Food Additives in Recurrent Urticaria,'' Dermatologica, 151:360–367, 1975.

5. Michaëlsson, G., L. Pattersson, and L. Juhlin, ''Purpura Caused by Food and Drug Additives,'' Archives of Dermatology, 109:49–52, 1974.

6. Trautlein, J., and W.J. Mann, ''Anaphylactic Shock Caused by Yellow Dye (FD&C No. 5 and FD&C No. 6) in an Enema (Case Report),'' Annals of Allergy, 41:28–29, 1978.

7. Weber, R.W., M. Hoffman, D.A. Raine, and H. S. Nelson, ''Incidence of Bronchoconstriction Due to Aspirin, Azo Dyes, Non-Azo Dyes, and Preservatives in a Population of Perennial Asthmatics,'' Journal of Allergy and Clinical Immunology, 64:32–37, 1979.

8. Ibero, M., J.L. Eseverri, C. Barroso, and J. Botey, ''Dyes, Preservatives and Salicylates in the Induction of Food Intolerance and/or Hypersensitivity in Children,'' Allergologia et Immunopathologia, 10:263–268, 1982.

9. Sweatman, M.C., R. Tasker, J.O. Warner, M.M. Ferguson, and D.N. Mitchell, ''Oro-Facial Granulomatosis. Response to Elemental Diet and Provocation by Food Additives,'' Clinical Allergy, 16:331–338, 1986.

10. Supramaniam, G., and J.O. Warner, ''Artificial Food Additive Intolerance in Patients with Angio-oedema and Urticaria,'' Lancet, 907–909, 1986.

11. Murdoch, R.D., I. Pollock, E. Young, and M.H. Lessof, ''Food Additive-Induced Urticaria: Studies of Mediator Release During Provocation Tests,'' Journal of the Royal College of Physicians of London, 4:262–266, 1987.

12. Gross, P.A., K. Lance, R.J. Whitlock, and R.S. Blume, ''Additive Allergy: Allergic Gastroenteritis Due to Yellow DyeNo. 6,'' Annals of Internal Medicine, 111:87–88, 1989.

13. Center for Drug Evaluation and Research and Center for Food Safety and Applied Nutrition evaluations of the cited references.

VII. Environmental Impact Determination

The agency has determined under § 25.24(a)(11) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as definedby the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because of the proposed 2-year compliance period, the incremental cost of this proposed regulation to manufacturers will be negligible. Therefore, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

A. Options Considered

1. No Action

Do not require label declaration of FD&C Yellow No. 6 in butter, cheese, and ice cream (i.e., maintain the status quo). FD&C Yellow No. 6, however, has been reported to be associated with allergic-type responses in some individuals. Thus, this option is not considered viable.

2. Require Label Declaration

The 1990 amendments mandated the inclusion of certified color additives in the ingredient list on the labels of foods. However, butter, cheese, and ice cream are exempt from this requirement under section 403(k) of the act. A substantial number of these products contain the color additive. To enable susceptible individuals to avoid possible allergic-type responses to FD&C Yellow No. 6 by alerting these individuals to the presence of the color additive in these products, the agency tentatively concludes that label declaration is necessary.

3. Delisting the Color Additive

The benefits of delisting the color additive would not warrant the costs. The color additive does not pose a significant health hazard to the general population but does cause allergic-type responses in certain susceptible individuals.

B. Economic Impact

1. Costs

a. *Costs to food industry.* The methodology for determining the costs of food labeling was described in detail in the regulatory impact analysis of the proposed rules to amend the food labeling regulations that published in the **Federal Register** of November 27, 1991 (56 FR 60856). However, the only food manufacturers affected by this regulation are those who produce butter, cheese, or ice cream, and who use FD&C Yellow No. 6 as an ingredient in one of these foods. The proposed effective date of this regulation is 2 years after its publication in the **Federal Register**. A 2-year compliance period generally provides sufficient time to permit use of current stocks of labeling thus minimizing inventory disposal costs. Also, most manufacturers of food products typically redesign labels within a 2-year period. Thus, food manufacturers will be able to incorporate mandated label changes with regularly scheduled revisions. Therefore, the incremental cost to food

manufacturers of this proposed regulation is expected to be negligible. Manufacturers could, of course, revise their labeling before the effective date of the regulation, and the agency encourages them to do so.

b. *Costs to the drug industry.* There are 815 currently marketed prescription and OTC drug products that are administered to mucous membranes (through oral, nasal, rectal or vaginal routes) and that contain FD&C Yellow No. 6. The cost of printing a drug label is estimated to be $258 per label. Therefore, the printing cost associated with this proposed regulation is estimated to be $210,270. FDA assumes that almost all existing label stocks for drug products will be depleted by the proposed effective date. Therefore, this proposed regulation will result in little or no inventory disposal costs. Administrative costs are estimated to be approximately $850 per firm. FDA estimates that approximately 113 firms will be affected by this regulation. Therefore, the administrative costs are estimated to be $96,050. The total one-time cost to the drug industry of declaring FD&C Yellow No. 6 on the label is $306,320.

2. Benefits

The benefit of requiring the labeling of FD&C Yellow No. 6 on butter, cheese, ice cream, and drug products administered to mucous membranes is ultimately the reduction of allergic-type reactions. FDA does not have information to quantify the benefits of this proposed regulation.

C. Summary

FDA has determined that this proposed rule is not a significant rule as defined by Executive Order 12866. The requirement to include FD&C Yellow No. 6 on the labels of butter, cheese, ice cream, and drug products administered to mucous membranes would result in a one-time cost of about $306,000.

IX. Comments

Interested persons may, on or before October 4, 1995, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 74

Color additives, Cosmetics, Drugs.

21 CFR Part 133

Cheese, Food grades and standards, Food labeling.

21 CFR Part 201

Drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that the suspension of the effective date of 21 CFR 201.20(c) at 53 FR 49138, December 6, 1988, be removed and 21 CFR parts 74 and 133 be amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 74 continues to read as follows:

Authority: Secs. 201, 401, 402, 403, 409, 501, 502, 505, 601, 602, 701, 721 of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e).

2. Section 74.705 is amended by revising paragraph (d)(2) to read as follows:

§ 74.705 FD&C Yellow No. 5.

* * * * *

(d) * * *

(2) Butter, cheese, and ice cream that contain FD&C Yellow No. 5 shall be labeled in accordance with § 101.22(k)(1) of this chapter.

* * * * *

3. Section 74.706 is amended by adding paragraph (d)(2) to read as follows:

§ 74.706 FD&C Yellow No. 6.

* * * * *

(d) * * *

(2) Butter, cheese, and ice cream that contain FD&C Yellow No. 6 shall be labeled in accordance with § 101.22(k)(1) of this chapter.

* * * * *

4. Section 74.1706 is amended by adding paragraph (c)(2) to read as follows:

§ 74.1706 FD&C Yellow No. 6.

* * * * *

(c) * * *

(2) The label of over-the-counter (OTC) and prescription drug products intended for human use and administered orally, nasally, rectally, or vaginally containing FD&C Yellow No. 6 shall specifically declare the presence of FD&C Yellow No. 6 by listing the color additive using the name FD&C Yellow No. 6. The labels of certain drug products subject to this labeling requirement that are also cosmetics, such as antibacterial mouthwashes and fluoride toothpastes, need not comply with this requirement provided they comply with the requirements of § 701.3 of this chapter.

* * * * *

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

5. The authority citation for 21 CFR part 133 continues to read as follows:

Authority: Secs. 201, 401, 403, 409, 701, 721 of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 348, 371, 379e).

§ 133.123 [Amended]

6. Section 133.123 *Cold-pack and club cheese* is amended by removing paragraphs (f)(1) and (f)(2).

Dated: July 6, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–17831 Filed 7–20–95; 8:45 am]

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21 CFR Part 101

[Docket No. 93P–0448]

Food Labeling; Serving Sizes; Reference Amount for ''Salt, Salt Substitutes, Seasoning Salts (e.g., Garlic Salt)''

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the nutrition labeling regulations to change the reference amount customarily consumed per eating occasion for the food category ''salt, salt substitutes, seasoning salts (e.g., garlic salt)'' from a weight-based reference amount of 1 gram (g) to a volume-based reference amount of 1/4 teaspoon (tsp). This action is necessary to provide consistency with the agency's criteria for determining volumetric versus weight-based reference amounts for all product categories.

DATES: Written comments by October 4, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Ellen M. Anderson, Center for Food