Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: October 30, 1995.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, we are amending subparts C and E of part 404 of 20 CFR chapter III as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart C of part 404 continues to read as follows:

Authority: Secs. 202(a), 205(a), 215, and 1102 of the Social Security Act; 42 U.S.C. 402(a), 405(a), 415, and 1302.

2. Section 404.213 is amended by revising the last sentence of paragraph (a)(3); by adding paragraphs (e) (7), (8), and (9); and by revising paragraph (f) introductory text to read as follows:

§ 404.213 Computation where you are eligible for a pension based on your noncovered employment.

(a) * * *

(3) * * * However, for benefits payable for months prior to January 1995, we will not modify the computation of a totalization benefit (see §§ 404.1908 and 404.1918) as a result of your entitlement to another pension based on employment covered by a totalization agreement. Beginning January 1995, we will not modify the computation of a totalization benefit in any case (see § 404.213(e)(8)).

* * * * *

(e) *Exceptions.*

* * * * * * *

(7) For benefits payable for months after December 1994, payments by the social security system of a foreign country which are based on a totalization agreement between the United States and that country are not considered to be a pension from noncovered employment for purposes of this section. See subpart T of this part for a discussion of totalization agreements.

(8) For benefits payable for months after December 1994, the computations in paragraph (c) do not apply in the case of an individual whose entitlement to U.S. social security benefits results from a totalization agreement between the United States and a foreign country.

(9) For benefits payable for months after December 1994, you are eligible after 1985 for monthly periodic benefits based wholly on service as a member of a uniformed service, including inactive duty training.

(f) *Entitlement to a totalization benefit and a pension based on noncovered employment.* If, before January 1995, you are entitled to a totalization benefit and to a pension based on noncovered employment that is not covered by a totalization agreement, we count your coverage from a foreign country with which the United States (U.S.) has a totalization agreement and your U.S. coverage to determine if you meet the requirements for the modified computation in paragraph (d) of this section or the exception in paragraph (e)(5) of this section.

* * * * *

3. The authority citation for subpart E continues to read as follows:

Authority: Secs. 202, 203, 204 (a) and (e), 205 (a) and (c), 222(b), 223(e), 224, 227, and 1102 of the Social Security Act; 42 U.S.C. 402, 403, 404 (a) and (e), 405 (a) and (c), 422(b), 423(e), 424, 427, and 1302.

4. Section 404.408a is amended by adding paragraph (b)(5) to read as follows:

§ 404.408a Reduction where spouse is receiving a Government pension.

* * * * *

(b) *Exceptions.*

* * * * *

(5) If, with respect to monthly benefits payable for months after December 1994, you are receiving a Government pension based wholly upon service as a member of a uniformed service, regardless of whether on active or inactive duty and whether covered by social security. However, if the earnings on the last day of employment as a military reservist were not covered, January 1995 is the earliest month for which the reduction will not affect your benefits.

* * * * *

§ 404.452 [Amended]

5. Section 404.452 is amended in paragraph (f)(1) by revising ''3'' to read ''4''.

[FR Doc. 95–27621 Filed 11–8–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 146

[Docket No. 94N–0452]

RIN 0905–AC48

Canned Fruit Nectars; Revocation of the Stayed Standard of Identity

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revoking the standard of identity for canned fruit nectars. This standard has never gone into effect, having been stayed by the filing of objections. In view of the FDA regulations that require declaration of the percentage of juice in beverage products that purport to contain juice and comments in letters from the petitioner for the canned fruit nectars standard and from other interested parties, the agency has concluded that the standard is unnecessary and should be revoked. The revocation of the stayed standard will minimize confusion in the labeling of canned fruit nectars and will facilitate the marketing of these foods.

DATES: Effective November 9, 1995.

FOR FURTHER INFORMATION CONTACT: Nannie H. Rainey, Center for Food Safety and Applied Nutrition (HFS–158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5099.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

In the Federal Register of October 1, 1964 (29 FR 13535), FDA published a proposal to establish a standard of identity for canned fruit nectars in § 146.113 (21 CFR 146.113 (formerly 21 CFR 27.126) (42 FR 14302, March 15, 1977)). The proposal responded to a petition filed by the National Canners Association (now the National Food Processors Association). FDA issued the final regulation adopting the proposed standard in the Federal Register of May 7, 1968 (33 FR 6862). Several organizations filed objections to the standard and requested a hearing, based principally on the minimum soluble solids (Brix) values to be applied to the fruit ingredients of the unconcentrated or reconstituted single-strength fruit nectars. Consequently, FDA published a notice staying the regulation in its entirety in the Federal Register of July 27, 1968 (33 FR 10713), pending

resolution of issues raised by the objections. No hearing on the objections was held.

B. The Nutrition Labeling and Education Act of 1990

Section 7 of the Nutrition Labeling and Education Act of 1990 (the 1990 amendments) amended section 403(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(i)) to provide that a food shall be deemed to be misbranded: ''Unless its label bears (1) the common and usual name of the food * * * and if the food purports to be a beverage containing vegetable or fruit juice, a statement with appropriate prominence on the information panel of the total percentage of such fruit or vegetable juice in the food * * *.'' In response to this provision, FDA adopted § 101.30 *Percent juice declaration for foods purporting to be beverages that contain fruit or vegetable juice* (21 CFR 101.30) on declaring the juice content of certain food products (58 FR 2897, January 6, 1993). Section 101.30 establishes minimum Brix values for 51 fruit and vegetable juice products, including values for all of the fruits listed in the canned fruit nectars standard to which objections had been raised. The Brix values are minimum values for 100 percent juice products and serve as a basis for accurate and consistent percentage juice declarations. In addition, FDA adopted § 102.33 *Beverages that contain fruit or vegetable juice* (21 CFR 102.33) setting forth requirements for establishing common or usual names for juice beverages that purport to contain fruit or vegetable juice, including beverages such as canned fruit nectars.

C. The Proposal to Revoke the Canned Fruit Nectars Standard

In the Federal Register of April 21, 1995 (60 FR 19866), FDA proposed to revoke the standard of identity for canned fruit nectars. In the preamble to that proposal (60 FR 19866 at 19867), the agency pointed out that it had adopted the stayed standard of identity under section 701(e) of the act (21 U.S.C. 371(e)), which required formal rulemaking in any action for the establishment or amendment of a food standard. However, the agency also pointed out that the 1990 amendments removed food standards rulemaking proceedings for most foods from the coverage of section 701(e) of the act, and that, as a result, further rulemaking on the stayed standard was subject to section 701(a) of the act.

The agency initiated the proposed action in response to the petitioner's request that it revoke the stayed standard, and because it had tentatively concluded that the standard was no longer needed. Canned fruit nectars are adequately provided for as nonstandardized foods under the regulations for percent juice declaration in § 101.30 and the common or usual name regulation for beverages that purport to contain fruit or vegetable juice in § 102.33. FDA proposed that if it were to revoke the standard, that action would be effective on the date of publication of the final rule in the Federal Register. Interested persons were given until July 5, 1995, to comment on the proposal.

II. The Revocation

Four letters, one each from the petitioner, a second industry trade association, a juice processor, and several consumers (commenting jointly), were received in response to the proposal. All expressed support for revocation on the standard of identity for canned fruit nectars.

Thus, in view of the support expressed by the comments and the existing requirements for percent juice declaration in § 101.30 and for naming diluted juice beverages in § 102.33, FDA concludes that the standard of identity for canned fruit nectars in § 146.113 is not needed, and that no further action on the objections filed to the May 7, 1968, final rule establishing that standard is warranted. Therefore, FDA is revoking the stayed standard of identity for canned fruit nectars. Products traditionally considered to be canned fruit nectars may continue to be labeled with the term ''nectar'' provided that they also comply with the applicable sections for the food labeling regulations set forth in parts 101 and 102 (21 CFR parts 101 and 102).

III. Economic Impact

As required by Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354), FDA has examined the economic implications of the proposed rule that would remove the stayed standard of identity for canned fruit nectars. 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 effects; distributive impacts; and equity). The Regulatory Flexibility Act requires that the agency analyze options for regulatory relief for small businesses.

FDA tentatively concluded that there will be no economic impact on the juice processing industry from the proposed rule because the removal of the stayed standard will not result in any new costs or requirements. Canned fruit nectars, currently marketed as nonstandardized foods, will continue to be named and labeled in accordance with the existing requirements of §§ 101.30 and 102.33. Removal of the stayed standard will eliminate confusion regarding the compositional requirements for juice products named by use of the term ''nectar.''

Thus, FDA tentatively concluded that the proposed rule will not constitute a significant regulatory action as defined by Executive Order 12866. In compliance with the Regulatory Flexibility Act, the agency certified that the final rule will not have a significant impact on a substantial number of small businesses. FDA has not received any information or data that will change the tentative conclusions that it set forth in the proposal. Therefore, FDA concludes that this final rule is not a significant regulatory action, and that it will not have a significant impact on a substantial number of small businesses.

IV. Environmental Impact

The agency has determined under 21 CFR 25.24(b)(1) 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.

List of Subjects in 21 CFR Part 146

Food grades and standards, Fruit juices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 146 is

PART 146—CANNED FRUIT JUICES

1. The authority citation for 21 CFR part 146 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).

§ 146.113 [Removed]

2. Section 146.113 *Canned fruit nectars* is removed from subpart B.

Dated: October 18, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–27713 Filed 11–8–95; 8:45 am]

BILLING CODE 4160–01–F