

# Proposed Rules

Federal Register

Vol. 82, No. 142

Wednesday, July 26, 2017

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 172

[Docket No. FDA-2017-F-3717]

#### Juice Products Association; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notification; petition for rulemaking.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing that we have filed a petition, submitted by the Juice Products Association, proposing that the food additive regulations be amended to replace the current Recommended Daily Intake (RDI) percentage values of calcium in fruit juices and fruit juice drinks in the regulation for vitamin D<sub>3</sub> with absolute values and to update the specifications for vitamin D<sub>3</sub>.

**DATES:** The food additive petition was filed on June 1, 2017.

**ADDRESSES:** For access to the docket, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts; and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Judith Kidwell, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240-402-1071.

**SUPPLEMENTARY INFORMATION:** Under section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(b)(5)), we are giving notice that we have filed a food additive petition (FAP 7A4818), submitted on behalf of the Juice Products Association by Hogan Lovells US LLP, Columbia Square, 555 Thirteenth Street NW., Washington, DC 20004. The petition proposes to amend the food additive regulations in

§ 172.380 (21 CFR 172.380) *Vitamin D<sub>3</sub>* by replacing the current RDI percentage values of calcium in fruit juices and fruit juice drinks specified in § 172.380(c)(1) and (2) with absolute values and to update the specifications for vitamin D<sub>3</sub> established in § 172.380(b) by incorporating by reference the most recent edition of the Food Chemicals Codex.

These proposed changes would allow manufacturers of fruit juices and fruit juice drinks that are fortified with calcium to maintain the absolute level of added calcium at 330 milligrams (mg) and 130 mg, respectively, as established in our regulations at § 172.380(c)(1) and (2).

We have determined under 21 CFR 25.30(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment because the amendments are administrative in nature and permit manufacturers of fruit juices and fruit juice drinks that are fortified with calcium to maintain current calcium fortification levels in these products. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: July 19, 2017.

**Anna K. Abram,**

*Deputy Commissioner for Policy, Planning, Legislation, and Analysis.*

[FR Doc. 2017-15535 Filed 7-25-17; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 573

[Docket No. FDA-2017-F-4125]

#### Zinpro Corp.; Filing of Food Additive Petition (Animal Use)

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notification; petition for rulemaking.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing that Zinpro Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of zinc-L-selenomethionine as a nutritional

source of selenium in complete feed for laying hens and for the safe use of the approved food additive silicon dioxide as an anticaking agent for use with zinc-L-selenomethionine as a feed component.

**DATES:** The food additive petition was filed on June 1, 2017.

**ADDRESSES:** For access to the docket, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts; and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Chelsea Trull, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240-402-6729, [chelsea.trull@fda.hhs.gov](mailto:chelsea.trull@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 2303) has been filed by Zinpro Corp., 10400 Viking Dr., Suite 240, Eden Prairie, MN 55344. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 (21 CFR part 573) *Food Additives Permitted in Feed and Drinking Water of Animals* to provide for the safe use of zinc-L-selenomethionine as a nutritional source of selenium in complete feed for laying hens and for the safe use of silicon dioxide (21 CFR 573.940) as an anticaking agent for use with zinc-L-selenomethionine as a feed component.

The petitioner has claimed that this action is categorically excluded under 21 CFR 25.32(r) because it is of a type that does not individually or cumulatively have a significant effect on the human environment. In addition, the petitioner has stated that, to their knowledge, no extraordinary circumstances exist. If FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: July 18, 2017.

**Anna K. Abram,**

*Deputy Commissioner for Policy, Planning, Legislation, and Analysis.*

[FR Doc. 2017-15533 Filed 7-25-17; 8:45 am]

BILLING CODE 4164-01-P

## DEPARTMENT OF LABOR

### Wage and Hour Division

#### 29 CFR Part 541

#### RIN 1235-AA20

### Request for Information; Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees

**AGENCY:** Wage and Hour Division, U.S. Department of Labor.

**ACTION:** Request for information.

**SUMMARY:** The Department of Labor (Department) is seeking information from the public regarding the regulations located at 29 CFR part 541, which define and delimit exemptions from the Fair Labor Standards Act's minimum wage and overtime requirements for certain executive, administrative, professional, outside sales and computer employees. The Department is publishing this Request for Information (RFI) to gather information to aid in formulating a proposal to revise the part 541 regulations.

**DATES:** Submit written comments on or before September 25, 2017.

**ADDRESSES:** To facilitate the receipt and processing of written comments on this RFI, the Department encourages interested persons to submit their comments electronically. You may submit comments, identified by Regulatory Information Number (RIN) 1235-AA20, by either of the following methods:

*Electronic Comments:* Follow the instructions for submitting comments on the Federal eRulemaking Portal <http://www.regulations.gov>.

*Mail:* Address written submissions to Melissa Smith, Director of the Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW., Washington, DC 20210.

*Instructions:* This RFI is available through the **Federal Register** and the <http://www.regulations.gov> Web site. You may also access this document via the Wage and Hour Division's (WHD) Web site at <http://www.dol.gov/whd/>.

All comment submissions must include the agency name and Regulatory Information Number (RIN 1235-AA20) for this RFI. Response to this RFI is voluntary and respondents need not reply to all questions listed below. The Department requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this RFI. Submit only one copy of your comment by only one method (e.g., persons submitting comments electronically are encouraged not to submit paper copies). Please be advised that comments received will become a matter of public record and will be posted without change to <http://www.regulations.gov>, including any personal information provided. All comments must be received by 11:59 p.m. on the date indicated for consideration in this RFI; comments received after the comment period closes will not be considered. Commenters should transmit comments early to ensure timely receipt prior to the close of the comment period. Electronic submission via <http://www.regulations.gov> enables prompt receipt of comments submitted as the Department continues to experience delays in the receipt of mail in our area. For access to the docket to read background documents or comments, go to the Federal eRulemaking Portal at <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Melissa Smith, Director of the Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Copies of this RFI may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693-0675 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1 (877) 889-5627 to obtain information or request materials in alternative formats.

Questions of interpretation and/or enforcement of the agency's regulations may be directed to the nearest WHD district office. Locate the nearest office by calling the WHD's toll-free help line at (866) 4US-WAGE ((866) 487-9243) between 8 a.m. and 5 p.m. in your local time zone, or log onto WHD's Web site at <http://www.dol.gov/whd/america2.htm> for a nationwide listing of WHD district and area offices.

#### SUPPLEMENTARY INFORMATION:

## I. Background

The Fair Labor Standards Act (FLSA or Act) generally requires covered employers to pay their employees at least the federal minimum wage (currently \$7.25 an hour) for all hours worked, and overtime premium pay of not less than one and one-half times the employee's regular rate of pay for any hours worked over 40 in a workweek. See 29 U.S.C. 206(a)(1)(C); 29 U.S.C. 207(a)(1). Section 13(a)(1) of the FLSA, however, exempts from both minimum wage and overtime protection "any employee employed in a bona fide executive, administrative, or professional capacity" and expressly delegates to the Secretary of Labor the power to define and delimit these terms through regulation. 29 U.S.C. 213(a)(1). This exemption is frequently referred to as the "white collar" exemption.

For more than 75 years, the Department's part 541 regulations implementing the exemptions under Section 13(a)(1) of the Act have generally defined the terms "bona fide executive, administrative, or professional capacity" by the use of three criteria. With some exceptions, for an employee to be exempt: (1) The employee must be paid on a salary basis ("salary basis test"); (2) the employee must receive at least a minimum specified salary amount ("salary level test"); and (3) the employee's job must primarily involve executive, administrative, or professional duties as defined by the regulations ("duties test"). See 29 CFR part 541.

The Department issued the initial part 541 regulations in October 1938, slightly less than four months after the FLSA became law. 3 FR 2518 (Oct. 20, 1938). These regulations established duties tests for executive, administrative, and professional employees, and also set a minimum compensation requirement of \$30 per week for exempt executive and administrative employees. In 1940, the Department revised the part 541 regulations, establishing the salary basis test, retaining a \$30 per week salary level for executive employees, and establishing a \$50 per week (\$200 per month) salary level for administrative and professional employees. 5 FR 4077 (Oct. 15, 1940). The Department again amended the part 541 regulations nine years later, in 1949, establishing a two-tier structure for assessing compliance with the salary level and duties tests. 14 FR 7705, 7706 (Dec. 24, 1949). Employers could satisfy either a "long" test based on the previous test—combining a rigorous duties test and lower salary level—or a new "short" test—combining an easier duties test