

II. Public Comment

This final rule announces an agency decision that FDA reached in accordance with a procedure established by statute. Notice and public procedure therefore are unnecessary. However, in accordance with 21 CFR 10.40(e)(1), FDA is providing 30 days for public comment on whether the announced action should be modified or revoked.

Interested persons may, on or before July 9, 1997, submit to the Dockets Management Branch (address above) written comments regarding this final rule. 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.

III. Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

IV. Environmental Impact

The agency has determined under 21 CFR 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.

V. Analysis of Impacts

FDA has examined the economic implications of the final rule as required by Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select the regulatory approach that maximizes net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of \$100 million or adversely affecting in a material way a sector of the economy, competition, or jobs, or if it raises novel legal or policy issues. If a rule has a significant impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze options that would minimize the economic impact of that rule on small entities. FDA finds that this final rule is not a significant

rule as defined by Executive Order 12866, and finds, under the Regulatory Flexibility Act, that the final rule will not have a significant impact on a substantial number of small entities (Ref. 3).

The costs of this regulation are anticipated to be small. FDA is aware that some firms are already using the term “plus” on product labels. The agency does not have sufficient information to determine how many of these claims satisfy the criteria described in this rulemaking. If any labels need revision, this rule will impose a small cost. Because FDA does not know the number of labels currently using the term “plus” that do not meet FDA’s criteria, the agency cannot estimate the total costs of this regulation.

The benefit of this rule is increased flexibility on the part of manufacturers to inform consumers of the nutritional content of foods. The rule also provides the benefit of ensuring that the term will be used in food labeling in a truthful and nonmisleading way and in a way that will help consumers to construct a healthy diet.

The Regulatory Flexibility Act requires analyzing options for regulatory relief for small entities. According to the information currently available to the agency, of the relatively small number of products which use the term “plus” on their labels, none are produced by small entities. Accordingly, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commissioner of Food and Drugs certifies that this tentative final rule will not have a significant impact on a substantial number of small entities.

VI. References

The following references have been placed on public display in 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. Nestle USA-Beverage Division, Inc., “Petition for Synonymous Term ‘Plus,’” January 9, 1997.

2. Scarbrough, F. Edward, CFSAN, FDA, Letter to Kristin Adrian, Nestle USA-Beverage Division Inc., March 26, 1997.

3. Memorandum from L. M. Bush, FDA, Factual Basis for Small Business Certification of “Plus,” April 18, 1997.

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner

of Food and Drugs, 21 CFR part 101 is amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: Secs. 4, 5, 6 of the Fair Packaging and Labeling Act (15 U.S.C. 1453, 1454, 1455); secs. 201, 301, 402, 403, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 371).

§ 101.13 [Amended]

2. Section 101.13 *Nutrient content claims—general principles* is amended in paragraph (j)(1)(i)(B) by adding the word “plus,” before the word “fortified”.

§ 101.54 [Amended]

3. Section 101.54 *Nutrient content claims for “good source,” “high,” and “more”* is amended in the first sentence of the introductory text of paragraphs (e)(1) and (e)(2) by removing the words “‘enriched,’ ‘added,’ and ‘extra’” and by adding in their place the words “‘enriched,’ ‘added,’ ‘extra,’ and ‘plus’”.

Dated: May 2, 1997.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 97–14893 Filed 6–6–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 5, 26, 27, 95, 100, 110, 130, 136, 138, 140, 151, 153, 177

46 CFR Part 2

[CGD 96–052]

RIN 2105–AC63

Civil Money Penalties Inflation Adjustments

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final regulations [CGD 96–052] which were published Tuesday, April 8, 1996 (62 FR 16695). The regulations incorporated into the Code of Federal Regulations (CFR) inflation adjustments for civil money penalties pursuant to the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

DATES: This rule is effective on June 9, 1997.

FOR FURTHER INFORMATION CONTACT: Greg Parks, Office of Regulations and Administrative Law at (202) 267–1534.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections amend Title 33 and Title 46 of the Code of Federal Regulations to reflect the Debt Collection Improvement Act of 1996 (DCIA) (Pub. L. 104-134) which requires Federal agencies to adjust certain Civil Monetary Penalties (CMPs) to account for inflation. As amended, the law requires each agency to make an initial inflationary adjustment for each applicable CMP, and to make further adjustments at least once every 4 years for these penalty amounts.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of correction or clarification.

Correction of Publication

Accordingly, the publication on April 8, 1996, of the final regulations (62 FR 16695), which were the subject of FR Doc. 97-8781 is corrected as follows:

PART 130—[CORRECTED]

1. On page 16703, in the first column, § 130.14 is correctly revised to read as follows:

§ 130.14 Enforcement.

(a) any vessel operator who fails to comply with this part is subject to a fine of not more than \$10,000 for each failure.

(b) The Secretary of the Treasury may refuse to grant the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), to any vessel subject to section 311(p) of the Act which does not have a Certificate issued under this part.

(c) The Coast Guard denies entry to any port or place in the United States or the navigable waters of the United States and detains, at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to section 311(p) of the Act, which, upon request, does not produce a valid Certificate.

PART 136—[CORRECTED]

2. On page 16703, in the first column, the authority citation for Part 136, is correctly revised to read as follows:

Authority: 33 U.S.C. 2713, 2714; E.O. 12777, 3 CFR, 1991 Comp., p.351; 49 CFR 1.46.

PART 151—[CORRECTED]

3. On page 16703, in the second column, instruction number 27 is corrected to read as follows:

"27. The authority citation for subpart A of part 151 is revised to read as follows:"

§ 151.59 [Corrected]

4. On page 16703, in the second column, in § 151.59, in paragraph (d)(6), add the following sentences at the end of the paragraph. "Placards installed on vessels before May 7, 1997, need not be replaced; and existing stocks of placards, containing previous language, may be used. When language on a placard is inconsistent with the language in the Code of Federal Regulations (CFR) due to use of a placard containing previous language, penalty amounts contained in the CFR are controlling."

5. On page 16703, in the second column, in § 151.59, in paragraph (e)(2)(ii), add the following sentences at the end of the paragraph. "Placards installed on vessels before May 7, 1997, need not be replaced; and existing stocks of placards, containing previous language, may be used. When language on a placard is inconsistent with the language in the Code of Federal Regulations (CFR) due to use of a placard containing previous language, penalty amounts contained in the CFR are controlling."

Dated: June 3, 1997.

Robert S. Horowitz,

Acting Chief Counsel, U.S. Coast Guard.

[FR Doc. 97-14970 Filed 6-6-97; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[CGD 05-97-040]

RIN 2115-AA97

Safety Zone: Delaware Bay, Delaware River

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Delaware Bay and Delaware River between the Delaware Breakwater and Marcus Hook, Pennsylvania. This safety zone is needed to protect vessels, the port community and the environment from potential safety and environmental hazards associated with the loading and transit of the T/V EEKLO while it is

loaded with more than 2% of its cargo carrying capacity of Liquefied Hazardous Gas.

DATES: This rule is effective from 11:59 p.m. May 31, 1997, and terminates at 11:59 p.m. June 10, 1997.

FOR FURTHER INFORMATION CONTACT:

LTJG C. M. Savarese, Project Officer
c/o U.S. Coast Guard Captain of the Port, 1 Washington Avenue,
Philadelphia, PA 19147-4395, Phone:
(215) 271-4889.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. The Coast Guard was informed by the owner/operator of the T/V EEKLO on May 29, 1997 of the intended transit of the T/V EEKLO along the Delaware River. Publishing a NPRM and delaying its effective date would be contrary to the public interest, since immediate action is needed to respond to protect the environment and vessel traffic against potential hazards associated with the transit of the T/V EEKLO while it is loaded with Liquefied Hazardous Gas.

Discussion of the Regulation

This temporary rule establishes a safety zone in a specified area around the T/V EEKLO while underway in the loaded condition and during cargo operations. The safety zone will be in effect during the T/V EEKLO's transit of the Delaware Bay and Delaware River and during cargo operations at the Sun Refining and Marketing Refinery terminal on the Delaware River, at Marcus Hook, Pennsylvania. This temporary rule is intended to minimize the potential hazards associated with the transportation of Liquefied Hazardous Gas by a large tankship in heavily trafficked areas of the Delaware Bay and Delaware River as well as in the Ports of Philadelphia. Entry into this zone is prohibited unless authorized by the Captain of the Port, Philadelphia, PA. The Captain of the Port may impose certain restrictions on vessels allowed to enter the safety zone.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of