Proposed Standard No. 57B Fuel encompasses, but is not limited to, the energy consumed in providing the transportation service (i.e. natural gas, fuel oil, propane, electricity) and lost and unaccounted for gas.

Proposed Standard No. 58 For cash-out as the fuel reimbursement method, Service Requester should notify Service Provider of its election to exercise the cash-out option for fuel one day prior to the close of the NYMEX natural gas futures trading for the next calendar month.

Proposed Standard No. 59B Where cash-out, as a fuel reimbursement method, is offered as an option by a Service Provider, the Service Requester should notify Service Provider of its election to exercise the cash-out option for fuel one day prior to the close of the NYMEX natural gas futures trading for the next calendar month.

Proposed Standard No. 60 Fuel Cash-out options should be exercised for a minimum of one calendar month.

Proposed Standard No. 61 Fuel Cash-out quantities should be determined by multiplying allocated receipts by fuel percentages as stated in the tariff or applicable contract(s).

Proposed Standard No. 62 Fuel Cash-out price should be an established commodity market price (i.e. index or competitive bid) in rate area, zone or segment of the activity, or be based on the same fuel cash-out index used for imbalances.

Proposed Standard No. 63 The fuel cash-out value (fuel quantities times fuel cash-out price) should be separately stated on the invoice for the related activity.

Proposed Standard No. 64 If fuel cash-out price is index-based, the determination of the applicable indices should based on the approved tariff provisions or applicable contract(s).

Proposed Standard No. 65 If fuel cash-out price is other than index-based, the Service Provider should post that price three days prior to the close of the NYMEX natural gas futures trading for the next calendar month.

Proposed Standard No. 66B There should be no cross-subsidization by Service Providers of fuel provision service(s) by transportation service(s) when both fuel provision services and transportation services are provided by the service provider.

Proposed Standard No. 67 Negotiated fuel gas sales are sales of gas by the service provider for the use of the service requester as fuel for its transportation transaction. The price and terms and conditions applicable to the sales transaction should be negotiated between the transportation service provider and the service requester.

Proposed Standard No. 95A If negotiated fuel gas sales are offered, all transportation terms, conditions applicable to fuel sales service should be specified in the transportation service providers tariff, if applicable.

Intraday Nominations

Proposed Standard No. 77A Intraday nominations should be allowed at all nominatable receipt and delivery points and at pooling points.

OBAs and Imbalances

Proposed Standard No. 85A All transportation service providers who have sufficient system storage should allow service requesters (in this instance, service requester excludes agents) to net similarly situated imbalances on and across contracts with the transportation service provider among themselves. In this context, ''similarly situated imbalances'' includes contracts with the substantially similar financial and operational implications to the transportation service provider.

Proposed Standard No. 88A Imbalance penalties should be based on the lesser of the imbalance penalties based on operationally provided measurement/allocated data and actual measurement/allocated data.

[FR Doc. 97–30233 Filed 11–17–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 94P–0240]

Food Labeling; Serving Sizes; Reference Amount for Baking Powder, Baking Soda, Pectin

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 ''baking powder, baking soda, pectin'' from 1 gram (g) to 0.6 g to more accurately reflect the amount of these products that is customarily consumed. The agency is also proposing to include 1/8 teaspoon (tsp) as an additional allowable household measure because it is a common household measure available to consumers. The agency is proposing this action in response to a petition filed by Arm & Hammer.

DATES: Submit written comments by February 2, 1998. See section IV of this document for the proposed effective date of a final rule based on this document. Submit written comments on the collection of information requirements by December 18, 1997.

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

Submit written comments on the information collection requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, ATTN: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Ellen M. Anderson, Center for Food Safety and Applied Nutrition (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5662.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 19, 1990 (55 FR 29517), FDA proposed standard serving sizes for 159 food product categories based on the amount of food commonly consumed per eating occasion by infants, toddlers (children under 4 years of age), and the general population (persons 4 years of age or older). FDA did not suggest any specific serving size for baking soda, baking powder, or pectin at that time.

On November 8, 1990, before FDA issued a final rule on serving sizes, Congress passed the Nutrition Labeling and Education Act of 1990 (hereinafter referred to as ''the 1990 amendments''). Section 2a of the 1990 amendments added section 403(q)(1)(A)(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(q)(1)(A)(i)) to require that virtually all foods under FDA's jurisdiction bear nutrition information that is based on a serving size which reflects the amount of food that is customarily consumed and which is expressed in a common household measure that is appropriate to the food. Section 2(b)(1)(B) of the 1990 amendments also directed FDA to adopt regulations that establish standards for defining serving sizes.

In response to the 1990 amendments, among other actions, FDA issued a reproposal on serving sizes (56 FR 60394, November 27, 1991) and asked for comments on all proposed reference amounts. In response to a notice of public meeting, the agency received suggestions recommending a serving size of ''1 tablespoon'' for baking powder, ''1 teaspoon'' for pectin, and no recommendation for baking soda. No consumption data were provided for any of the three products (Ref. 1)[1]. In the

[1] In this document, the agency is citing relevant material to baking powder, soda, and pectin that originally appeared in Ref. 2 to the reproposal on serving sizes that appeared in the **Federal Register** of November 27, 1991 (56 FR 60394), and Ref. 66 to the final rule on serving sizes that appeared in the **Federal Register** of January 6, 1993 (58 FR 2229 at 2296). (See Docket No. 90N–0165.) For the convenience of the reader the materials are contained in ''Ref. 1'' of this document.

reproposal, FDA proposed a reference amount customarily consumed per eating occasion (hereinafter referred to as ''reference amount'') of 1 g for ''Baking powder, baking soda, pectin'' (56 FR 60394 at 60419), stating that, although no appropriate food consumption data were available, the agency tentatively concluded that 1 g was reasonable for the product category (Ref. 1).

The agency received no comments on the proposed reference amount for baking powder, baking soda, and pectin. In the absence of data supporting a different reference amount, FDA concluded, in its final rule on serving sizes, that 1 g was the appropriate reference amount for all products within this category (58 FR 2229 at 2296, January 6, 1993).

II. The Petition

FDA received a petition dated June 23, 1994, from Church Dwight Co., Inc., on behalf of Arm & Hammer (94P–0240), requesting that the agency amend § 101.12, in Table 2, in paragraph (b), under ''Miscellaneous Category: Baking powder, baking soda, pectin'' to: (1) Create a separate subcategory for baking soda; (2) establish a reference amount of ''500 mg'' for baking soda; and (3) permit a corresponding serving size of ''1/8 tsp (500 mg).''

The company provided an estimate of the average consumption of baking soda based upon the amount of baking soda used in nine recipes. Two of the recipes contained baking soda. For these two recipes, the company calculated the amount of baking soda based on the reference amount of the finished product. For the seven other recipes that involved the use of baking powder, the company noted that approximately 30 percent of baking powder is baking soda and calculated the amount of baking soda as 1/3 of the amount of baking powder, based on the reference amount of the finished product. The company reported that the average amount of baking soda consumed per reference amount was 261 milligrams (mg), with a range of 54 to 484 mg.

The company also provided documentation to support that 1/8 tsp measuring spoons are common household measures that are available to consumers.

Based on information provided in the petition and on FDA calculations for products containing baking soda, baking powder, and pectin, FDA is proposing to: (1) Include 1/8 tsp as an allowable household measure; and (2) amend the reference amount for baking powder, baking soda, and pectin from ''1 gram'' to ''0.6 grams.'' A discussion of the basis for the agency's action on the petition and for the proposed changes follows:

III. Basis for the Proposed Action

A. Consideration of an Additional Household Measure

Based on information provided in the petition and on an informal survey of the marketplace (Ref. 1), FDA agrees with the petitioner that 1/8-tsp measuring spoons are now available to consumers. FDA located a set of measuring spoons that included a 1/8-tsp measure and an adjustable measuring spoon that could be varied to measure volumes from 1/8 to 1 tsp (Ref. 1). Therefore, for products that can be measured in fractions of a teaspoon, the agency is proposing to amend § 101.9(b)(5)(i) (21 CFR 101.9(b)(5)(i)) to include 1/8 tsp as an additional allowable household measure. FDA is also proposing to reorganize this section to simplify the options for teaspoon and tablespoon measures and to improve clarity.

B. Consideration of Revised Reference Amounts

1. Evaluation of the Appropriateness of the Data Supplied for Baking Soda

FDA has two concerns with the approach to determining a reference amount for baking soda taken in the petition. First, for the recipes containing baking powder, the petitioner calculated the amount of baking soda as a fraction of the amount of baking powder in the recipe. However, baking soda and baking powder are distinct products. The reference amount for baking soda must be based on the major intended use of baking soda (§ 101.12(a)(7) (21 CFR 101.12(a)(7))), not a fraction of the reference amount of baking powder.

The major consumer use of baking soda is as an ingredient in baked goods, as evidenced by the number of recipes that provide for the use of baking soda as an ingredient that are included in both the petition (e.g., cookies, muffins) and in the 1987 to 1988 U.S. Department of Agriculture (USDA) Recipe File (e.g., cornbread, quick breads, cakes, cookies) (Ref. 1), when baking powder is unavailable, baking soda mixed with cream of tartar may be substituted for baking powder (Ref. 1). However, consumers do not commonly use baking soda to make baking powder because: (1) Baking powder is a commonly available ingredient, (2) substitution may not work in all cases (Ref. 1), and (3) some recipes include both baking soda and baking powder as ingredients, e.g., cake and cookie recipes, included in the petition, and quick bread, cake, and cookie recipes, included in the 1987 to 1988 USDA Recipe File (Ref. 1). Therefore, the consumption of baking soda cannot be based upon the amount of baking soda contained in baking powder.

Second, the reference amounts provided for baked goods (e.g., biscuits, cornbread, muffins, quick breads, cakes, and cookies) are for the finished product (i.e., ''baked'') (§ 101.12(b), footnote 2 in Tables 1 and 2) and thus take into account changes in weight during baking. To determine the amount of baking soda contained in one reference amount of finished product, it is necessary to consider the weight of the ingredient (i.e., baking soda) as a proportion of the weight of the finished product (e.g., cake) rather than as a proportion of the weight of the raw ingredients (e.g., cake batter) because the reference amounts of baked goods are for the finished products (e.g., on a ready-to-serve or almost ready-to-serve basis) (§ 101.12(b), footnote 2 in Table 2). To account for losses during cooking (e.g., moisture), the finished product weight is determined by applying a yield factor to the sum of the weights of the raw ingredients. Yield factors were provided by USDA as part of the Recipe File (Ref. 1) and represent the final weight of the cooked recipe expressed as a percentage of the uncooked weight (Ref. 1). The calculations used in the petition were based on the weights of the ingredients before baking, not on the weight of the finished product. Therefore, although the difference in weight before and after baking would be expected to be small, it is not appropriate to rely on the calculations provided by the petitioner.

The petitioner only supplied information on the amounts of baking soda contained in two recipes (0.142 g baking soda in one reference amount of chocolate chip cookies, 0.326 g baking soda in one reference amount of buttermilk muffins). As described previously, these values contain minor calculation errors because they were based on the sum of the weights of the ingredients rather than on the finished, cooked weights of the cookies and muffins. FDA cannot calculate the correct amounts of baking soda contained in these two products because the finished weights were not provided. The correct values would be expected to vary only slightly from those provided, however. Therefore, the limited data provided suggest that the customary consumption of baking soda is less than the reference amount of ''1 gram.''

2. Calculation of an Estimated Amount of Baking Powder and Baking Soda Customarily Consumed Per Eating Occasion

Although the information provided by the petition is suggestive, two recipes are insufficient to support a change in the reference amount for baking soda. To determine whether a change in the reference amount for baking soda is warranted, FDA independently evaluated data for additional products containing baking soda. The agency also evaluated data for baking powder, which currently has the same reference amount as baking soda.

There are no direct consumption data available on baking soda and baking powder because these products are consumed as part of baked goods. Therefore, to estimate an appropriate reference amount, the agency used a procedure similar to the one it used to develop a reference amount for flour, and which it described in the reproposed rule on serving sizes (Ref. 1). Because the major use of flour is to make bread, FDA based the reference amount for flour on the amount contained in one reference amount of white bread. The agency rounded the calculated value down based on estimates of the amount of flour required to make one reference amount of other common products containing flour (e.g., cakes and cookies), which are somewhat lower than the amount used to make bread.

For baking soda and baking powder, FDA reviewed recipes included in the 1987 to 1988 USDA Recipe File (Ref. 1) and determined that there is no one major use of baking soda or baking powder. Therefore, the agency selected 20 baked products that are representative of the variety of products containing baking powder, baking soda, or both (e.g., muffins, cakes, cookies) (Ref. 1). Baking soda is an ingredient in 11 of the recipes, and baking powder is an ingredient in 15 of the recipes.

FDA adjusted for moisture losses during baking and calculated the amounts of baking powder and baking soda contained in a reference amount of the various finished, cooked products (Ref. 1). FDA considers that these calculated amounts indirectly reflect the amounts of baking soda and baking powder customarily consumed when a reference amount of one of these finished products is consumed. For example, the reference amount for banana cake without icing is 125 g. This amount represents the amount of banana cake customarily consumed per eating occasion. FDA determined that 0.41 g of baking soda is contained in 125 g of banana cake. Thus, 0.41 g of baking soda is customarily consumed as part of the 125 g of banana cake.

The amounts of baking powder per reference amount in the 15 products that contain baking powder ranged from 0.13 g to 1.28 g (Ref. 1). For the 11 products containing baking soda, the amount of baking soda contained ranged from 0.08 g to 1.05 g (Ref. 1). There is considerable overlap in the amounts of baking soda and baking powder customarily consumed as part of these baked good products.

The petitioner requested a subcategory for baking soda, separate from baking powder and pectin. To support the creation of a separate subcategory for baking soda, the data must demonstrate that the new subcategory of food will be consumed in amounts that differ enough from the reference amount for the parent category to warrant a separate reference amount (§ 101.12(h)(11)(i)). The previous recipes demonstrate that baking soda is not consumed in amounts that differ enough from the amounts in which baking powder is consumed to warrant a separate subcategory. Therefore, the agency is denying this aspect of the petition.

Because the serving size is expressed in common household measures (§ 101.9(b)(7)), FDA calculated the weights of baking soda and baking powder that correspond to 1/4 tsp, the smallest household measure currently permitted (§ 101.9(b)(5)(i)), and to 1/8 tsp, the household measure suggested by the petitioner. The agency used a standard value of 4.6 g/tsp reported by USDA for the density of baking soda and baking powder (Ref. 1).

To determine whether the current reference amount of 1 g accurately reflects the amounts of baking soda and baking powder customarily consumed, FDA reviewed the calculated amounts of baking soda and baking powder in the 20 representative baked good products. FDA found that, among the 11 recipes that contained baking soda, the great majority (10) of the values for baking soda clustered around 0.6 g (the weight of 1/8 tsp), and that for only 1 product was the value for baking soda closer to 1.2 g (the weight of 1/4 tsp) than to 0.6 g (Ref. 1). Of the 15 recipes containing baking powder, the agency again found that the great majority of values (12) clustered around 0.6 g (the weight of 1/8 tsp), and that only 3 values for baking powder were closer to 1.2 g (the weight of 1/4 tsp) than to 0.6 g (Ref. 1).

These data provide significant evidence that the current 1 g reference amount, which approximates the weight of 1/4 tsp, is too large for both baking soda and baking powder. They support that a ''0.6 g'' reference amount, which would result in a serving size declaration of ''1/8 tsp,'' would more accurately reflect the amount of baking soda and of baking powder contained in a reference amount of the prepared products that contain these foods.

3. Consideration of a Different Reference Amount for Pectin

In the final rule on serving sizes (58 FR 2229 at 2296), FDA included pectin in the same product category as baking soda and baking powder. Because the agency is considering a different reference amount for baking soda and baking powder (discussed in sections III.B.1 and B.2 of this document), FDA also reevaluated the appropriateness of the 1 g reference amount for pectin.

Pectin is an ingredient that is used as a thickener in the preparation of jams and jellies. The agency located one jam recipe (Ref. 1) that gives the yield in a volume measure (cups), making it possible to calculate the amount of pectin per reference amount of prepared jam (1 tbsp) (Ref. 1). The agency's calculation reveals that 1 tbsp of jam contains 0.52 g of pectin (Ref. 1). The 1987 to 1988 USDA Recipe File (Ref. 1) does not contain any recipes for jams or jellies, and FDA does not have any other information on pectin. Though limited, this one recipe supports a reference amount for pectin closer to 0.6 g than to the current ''1 gram'' reference amount. FDA requests that interested persons submit information on the appropriateness of this reference amount for pectin.

C. Proposed Action

After reviewing the data on baking soda and baking powder use as ingredients in various baked goods, and after considering the amount of pectin in a reference amount of jam, the agency is proposing to change the reference amount in § 101.12(b), Table 2 for the ''Miscellaneous Category: Baking powder, baking soda, pectin'' from ''1 g'' to ''0.6 g'' to better reflect the amounts customarily consumed for these products.

IV. Effective Date

The agency periodically establishes by final rule in the **Federal Register** uniform effective dates for compliance with food labeling requirements (see, e.g., the **Federal Register** of December 27, 1996 (61 FR 68145)). FDA proposes that any final rule that may issue based upon this proposal become effective in accordance with a uniform effective date for compliance with food labeling requirements, which is established by

final rule in the **Federal Register** and which is no sooner than 1 year following publication of any final rule based upon this proposal.

The final rule would apply to affected products initially introduced or initially delivered for introduction into interstate commerce on or after its effective date. However, FDA notes that it generally encourages industry to comply with new labeling regulations as quickly as feasible. Thus, when industry members voluntarily change their labels, it is appropriate that they incorporate any new requirements that have been published as final regulations up to that time. On the other hand, if any industry members can foresee that the proposed effective date will create particular problems, they should bring these problems to the agency's attention in comments on this proposal.

V. Environmental Impact

The agency has determined under 25.32(p) 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.

VI. Executive Order 12866 Analysis

FDA has examined the economic implications of the proposed rule as required by Executive Order 12866. 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 which 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. FDA finds that this proposed rule is not a significant rule as defined by Executive Order 12866.

This proposed rule will cause the labels of baking powder, baking soda, and pectin to be revised. FDA estimates that there are 29 firms producing baking powder, baking soda, or pectin. There are 23 baking powder labels, 18 baking soda labels, and 25 fruit pectin labels for a total of 66 labels affected by this rule. On average, the administrative, redesign, and inventory disposal costs for a labeling change of this type, with a 1-year compliance period are $600 per product, or a total of $39,600.

The benefit of this proposed regulation is that because manufacturers will provide information on a serving size that is more appropriate for baking soda, baking powder, and pectin, product labels will provide more accurate information to consumers.

VII. Regulatory Flexibility Analysis

FDA has examined the economic implications of this proposed rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612). 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. Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the agency certifies that this proposed rule will have a significant impact on a substantial number of small entities.

A. Estimate and Description of the Small Entities

According to the Regulatory Flexibility Act, the definition of a small entity is a business independently owned and operated and not dominant in its field. The Small Business Administration has set size standards for most business categories through use of four-digit Standard Industrial Classification codes. For baking powder, baking soda, and pectin, a business is considered small if it has fewer than 500 employees.

FDA estimates that four of the firms producing baking powder, baking soda, or pectin are small. FDA also estimates that each small firm produces two products which might be relabeled as a result of this rule.

B. Description of the Impacts

The cost of this rule per small firm will be $1,200 ($600 x two products). The 95th percentile firm has annual sales of $275,000 and one employee. The costs of the rule as a percentage of annual sales is 0.4 percent. Return on sales for this industry is 8.3 percent for the upper quartile, 2.9 percent for the median, and 0.9 percent for the lower quartile. FDA is uncertain to which quartile this firm belongs because the number of employees and annual sales do not imply anything about the profitability of a firm. The costs of this rule will be 4.8 percent of profits if this firm falls into the upper quartile for the industry, 13.8 percent of profits if this is a median firm, and 44.4 percent of profits if this firm falls into the lower quartile. Therefore, the smallest 5 percent of affected firms will be adversely affected by this rule. Under the Regulatory Flexibility Act (5 U.S.C. 605), the agency concludes that this proposed rule will have a significant impact on a substantial number of small entities.

C. Compliance Requirements and Necessary Skills

The Regulatory Flexibility Act also requires agencies to describe the projected reporting, recordkeeping, and other compliance requirements of the rule and the type of professional skills necessary for preparation of the report or record. Manufacturers of baking soda, baking powder, and pectin will be required to amend their labels to reflect the new serving sizes. Manufacturers must recalculate the reported levels of nutrients in the foods based on the new serving sizes. No further analyses are required, only that the reported amounts are based on the correct serving size.

D. Alternatives

FDA has examined the following alternatives to the rule that may minimize the significant economic impact on small entities consistent with stated objectives.

1. Exempt Small Entities

The agency has adopted an exemption from mandatory nutrition labeling for low-volume food products of small businesses in § 101.9(j)(18) (59 FR 11872, March 14, 1994). As of May 1997, proposed § 101.9(j)(18) applies to manufacturers, packers, distributors, or retailers of low volume products, defined as fewer than 100,000 units, produced by firms with fewer than 100 employees. To the extent that baking powder, baking soda, or pectin products are eligible for this exemption, they might not require relabeling as a result of this rule. However, if the products are currently nutritionally labelled either because the label contains nutrient content claims or because the manufacturer has voluntarily labeled the product, then the nutrition facts panel must be correct and the label must be changed. FDA is uncertain how many firms, if any, can or will take advantage of this option.

2. Lengthen the Compliance Period

FDA also considered the option of providing small entities with a longer compliance period. If finalized, labels must be changed by the appropriate Uniform Compliance Date. Depending on when the final rule publishes, firms will have as little as 1 year or as much as 2 years to complete labeling changes. Longer compliance periods typically result in lower costs because firms can

combine mandated label changes with planned changes and because firms have more opportunity to use up existing labels. A 2-year compliance period would reduce costs to $200 per firm.

VIII. The Paperwork Reduction Act of 1995

This proposed rule contains information collection requirements that are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection requirements are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Title: Serving Sizes; Reference Amount for Baking Powder, Baking Soda, Pectin.

Description: Section 403(q)(1)(A) and (q)(1)(B) of the act requires that the label or labeling of a food bear information that provides the serving size that is appropriate to the food and the number of servings per container. FDA has issued regulations in § 101.9(d)(3) that require the nutrition facts panel on the label of a food product disclose information on serving size and on servings per container. FDA has also issued regulations in § 101.9(b) that provide that the serving size declared on a product label shall be determined from the ''Reference Amounts Customarily Consumed Per Eating Occasion'' that appear in § 101.12(b).

The regulations set forth in this proposed rule would revise the reference amount that is used for determining the serving sizes for packages of baking powder, baking soda, and pectin. As a result, manufacturers and other producers of these products would be required to change the serving sizes and the number of servings per container that they disclose in the nutrition facts panel for their products. The proposed regulations would also provide for the use of 1/8 tsp as an additional household measure for the disclosure of serving sizes for food products.

Description of Respondents: Persons and businesses, including small businesses.

TABLE 1.—ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Respondents	Total No. of Responses	Hours per Response	Total Hours	Operating Costs
101.12(b)	29	66	1	66	$39,600

[1] There are no capital or maintenance costs associated with this collection.

FDA believes that the burden associated with the disclosure on the label of serving size and number of servings that would be required by this proposed rule will be a one-time burden created by the need for firms to have to change the statement of serving size and number of servings on the labels for their products. As noted previously, FDA estimates that there are 29 firms producing baking powder (23 labels), baking soda (18 labels), and pectin (25 labels). FDA estimates that these firms will require an average of 1 hour per product to comply with the requirements of a final rule based on this proposal. Further, as noted previously, the proposed rule would result in a one-time operating cost of $39,600.

In compliance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the agency has submitted the information collection requirements of the proposed rule to OMB for review. Interested persons are requested to send comments regarding information collection by December 18, 1997, to the Office of Information and Regulatory Affairs, OMB (address above), ATTN: Desk Officer for FDA.

IX. Comments

Interested persons may, on or before February 2, 1998, 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.

X. References

The following reference has 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. LeGault, Lori A., Susan K. Brecher, and Ellen M. Anderson, memorandum to file, August 20, 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, it is proposed that 21 CFR part 101 be amended as follows:

PART 101—FOOD LABELING

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

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371.

2. Section 101.9 is amended by revising paragraph (b)(5)(i) to read as follows:

§ 101.9 Nutrition labeling of food.

* * * * *

(b) * * *

(5) * * *

(i) Cups, tablespoons, or teaspoons shall be used wherever possible and appropriate except for beverages. For beverages, a manufacturer may use fluid ounces. Cups shall be expressed in 1/4- or 1/3-cup increments. Tablespoons shall be expressed as 1, 1 1/3, 1 1/2, 1 2/3, 2, or 3 tablespoons. Teaspoons shall be expressed as 1/8, 1/4, 1/2, 3/4, 1, or 2 teaspoons.

* * * * *

3. Section 101.12 is amended in paragraph (b), in Table 2, under the

''Product category'' column, under the ''Miscellaneous Category'' by revising the entry for ''Baking powder, baking soda, pectin'' to read as follows:

§ 101.12 Reference amounts customarily consumed per eating occasion.

* * * * *

(b) * * *

TABLE 2.—REFERENCE AMOUNTS CUSTOMARILY CONSUMED PER EATING OCCASION: GENERAL FOOD SUPPLY [1, 2, 3, 4]

Product category	Reference amount	Label statement[5]
* * *	* *	* *
Miscellaneous Category:		
Baking powder, baking soda, pectin	0.6 g	____ tsp (____g).
* * *	* *	* *

[1] These values represent the amount (edible portion) of food customarily consumed per eating occasion and were primarily derived from the 1977–1978 and the 1987–1988 Nationwide Food Consumption Surveys conducted by the U.S. Department of Agriculture.

[2] Unless otherwise noted in the Reference Amount column, the reference amounts are for the ready-to-serve or almost ready-to-serve form of the product (i.e, heat and serve, brown and serve). If not listed separately, the reference amount for the unprepared form (e.g., dry mixes; concentrates; dough; batter; fresh and frozen pasta) is the amount required to make the reference amount of the prepared form. Prepared means prepared for consumption (e.g., cooked).

[3] Manufacturers are required to convert the reference amount to the label serving size in a household measure most appropriate to their specific product using the procedures in 21 CFR 101.9(b).

[4] Copies of the list of products for each product category are available from the Office of Food Labeling (HFS–150), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

[5] The label statements are meant to provide guidance to manufacturers on the presentation of serving size information on the label, but they are not required. The term ''piece'' is used as a generic description of a discrete unit. Manufacturers should use the description of a unit that is most appropriate for the specific product (e.g., sandwich for sandwiches, cookie for cookies, and bar for ice cream bars). The guidance provided is for the label statement of products in ready-to-serve or almost ready-to-serve form. The guidance does not apply to the products which require further preparation for consumption (e.g., dry mixes, concentrates) unless specifically stated in the product category, reference amount, or label statement column that it is for these forms of the product. For products that require further preparation, manufacturers must determine the label statement following the rules in § 101.9(b) using the reference amount determined according to § 101.12(c).

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Dated: October 29, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–30272 Filed 11–17–97; 8:45 am]

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POSTAL SERVICE

39 CFR Part 232

Conduct on Postal Service Property

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule will amend United States Postal Service property regulations to: prohibit smoking in postal buildings; prohibit soliciting of signatures on petitions, polls, or surveys on postal property except as otherwise authorized by Postal Service regulations; prohibit impeding ingress to or egress from post offices; add regulations for voter registration activities on postal property to reflect current postal policy; prohibit leafleting, picketing, demonstrating, public assembly, and public address in lobbies and other interior areas of postal buildings open to the pubic; prohibit placement of tables, chairs, freestanding signs or posters, structures, or furniture of any type on postal property except as part of postal activities or as otherwise permitted by these regulations; permit, in addition to seeing eye dogs, other animals used to assist persons with disabilities on postal property; prohibit the storage of weapons and explosives on postal property except for official purposes; clarify the meaning of terms; change references to other postal directives; and provide that persons designated by the Chief Postal Inspector may also enforce Postal Service property regulations.

DATES: Comments must be received on or before December 18, 1997.

ADDRESSES: Written comments should be mailed or delivered to the Independent Counsel, Postal Inspection Service, 475 L'Enfant Plaza SW, Room 3411, Washington, DC 20260–2181.

FOR FURTHER INFORMATION CONTACT: Henry J. Bauman, Independent Counsel, Postal Inspection Service, (202) 268–4415.

SUPPLEMENTARY INFORMATION: Postal Service regulations on the conduct of persons on postal property are published in title 39 of the Code of Federal Regulations (CFR) as part 232. These regulations describe the actions that are either permitted or proscribed, the enforcement of these regulations, and the penalties for violations. The purpose of this proposed rule is to amend these regulations to add new prohibitions, to add regulations for voter registration activities on postal property, to permit animals used to assist persons with disabilities to be brought onto postal property, and to clarify certain terms and references in the regulations.

A new prohibition on smoking in postal lobbies and offices is proposed to address the health concerns of postal customers and employees. The reasons for this prohibition are that the Surgeon General has reported on the dangers to human health from smoking and second-hand smoke, the sale of tobacco products is prohibited in other federal buildings, the Postal Service has already banned smoking in postal buildings by postal employees, and many post offices have banned smoking in lobbies and other interior areas open to the public.

A new prohibition on the soliciting of signatures on petitions, polls, or surveys on postal property, except as otherwise authorized by Postal Service regulations, is proposed. The purpose of this restriction is to minimize the disruption of postal business and to provide unimpeded ingress and egress of customers and employees to and from post offices. Portions of the existing Postal Service conduct regulations have been upheld by the Supreme Court in *United States* v. *Kokinda*, 497 U.S. 720 (1990). The United States Postal Service was created in order to ensure prompt, reliable, and efficient postal services to the public in a businesslike manner. It is the Postal Service's experience that the activities described above are generally disruptive to postal business. Thus, the Postal Service is prohibiting