

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 101

[Docket Nos. 95N-0245 and 94P-0110]

RIN 0910-AA59

**Food Labeling; Statement of Identity, Nutrition Labeling and Ingredient Labeling of Dietary Supplements; Compliance Policy Guide, Revocation; Correction**

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of September 23, 1997 (62 FR 49826). The final rule amended the food labeling regulations to establish requirements for the identification of dietary supplements and for their nutrition labeling and ingredient labeling in response to the Dietary Supplement Health and Education Act of 1994 (the DSHEA). The document was published with several inadvertent editorial errors. This document corrects those errors.

**DATES:** The regulation is effective March 23, 1999.

**FOR FURTHER INFORMATION CONTACT:** Susan Thompson, Center for Food Safety and Applied Nutrition (HFS-165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-5587.

In FR Doc. No. 97-24739, appearing on page 49826 in the **Federal Register** of Tuesday, September 23, 1997, the following corrections are made:

1. On page 49829, in the first column, in the last sentence of the first paragraph, add “§ 101.36(b)(2).” after the word “modifying”.
2. On page 49833, in the first column, in the third paragraph, in the second line from the bottom, “or” is corrected to read “for”.
3. On page 49840, in the third column, in the first full paragraph, in the eleventh line, add “514” after “U.S.”.

**§ 101.12 [Corrected]**

4. On page 49848, § 101.12 *Reference amounts customarily consumed per eating occasion* is corrected in paragraph (b), Table 2, under the subheading “Miscellaneous category”, by adding seven asterisks above the entry for Dietary supplements.

Dated: December 9, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97-32806 Filed 12-17-97; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF LABOR

**Occupational Safety and Health Administration**

## 29 CFR Part 1910

RIN 1218-AA95

**Methylene Chloride; Partial Stay**

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule; partial stay of start-up dates for compliance.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) has received a motion for reconsideration of certain provisions of its standard regulating occupational exposure to methylene chloride, 62 FR 1494 (Jan. 10, 1997). The motion, filed jointly by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW; the Halogenated Solvents Industry Alliance, Inc., and others, requests, among other things, extensions of the current start-up dates for installation of engineering controls and use of respiratory protection for certain employers. It also requests an interim stay of those compliance dates pending OSHA's ruling on the motion for reconsideration.

OSHA has preliminarily evaluated the motion for reconsideration and, based on that evaluation, finds good cause to grant in part the movants' request for an interim stay of the start-up dates. Accordingly, for those employers subject to the motion who would otherwise need to use respiratory protection or install engineering controls on or before April 10, 1998, OSHA is hereby delaying until August 31, 1998 the requirement to use respiratory protection to achieve the 8-hour TWA PEL, and to December 10, 1998 the requirement to achieve the 8-hour TWA PEL and the STEL through engineering controls.

**DATES:** The effective date of this partial stay is December 18, 1997. Under the stay, the start-up date for certain employers to use respiratory protection to achieve the 8-hour TWA PEL is August 31, 1998, and the start-up date for certain employers to install

engineering controls is December 10, 1998.

**FOR FURTHER INFORMATION CONTACT:**

Bonnie Friedman, Director, OSHA Office of Public Affairs, U.S. Department of Labor, Room N3647, 200 Constitution Avenue, NW, Washington, DC 20210, telephone (202) 219-8151.

**SUPPLEMENTARY INFORMATION:** OSHA published a new methylene chloride (MC) standard on January 10, 1997 (62 FR 1494). The standard establishes an 8-hour time-weighted-average permissible exposure limit (8-hour TWA PEL) for MC of 25 per million (ppm). It also sets a short term exposure limit (STEL) of 125 ppm averaged over a 15 minute period. Employers must achieve the 8-hour TWA PEL and the STEL, to the extent feasible, by engineering and work practice controls. If such controls are unable to achieve the exposure limits, and during the time they are being implemented, employers must use respirators to protect employees against excessive MC exposure.

The methylene chloride standard establishes different start-up dates for employers in different size categories. It requires compliance with the engineering control requirement by April 10, 2000 for employers with fewer than 20 employees; April 10, 1999 for polyurethane foam manufacturers with 20 to 99 employees; and April 10, 1998 for all other employers. As originally published, compliance with the requirement for respiratory protection was required by April 10, 1998 for employers with fewer than 20 employees; January 5, 1998 for polyurethane foam manufacturers with 20 to 99 employees; and October 7, 1997 for all other employers. OSHA subsequently extended certain start-up dates, including the requirement for all other employers to use respiratory protection, to December 21, 1997. (62 FR 54382, Oct. 20, 1997).

On November 24, 1997, OSHA received a joint motion for reconsideration of certain aspects of the standard from the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW; the Halogenated Solvents Industry Alliance, Inc.; Benco Sales, Inc.; Brock Woodcraft; Masters Magic Products, Inc.; Bassco Foam, Inc; and Tupelo Foam Sales, Inc. Among other things, the movants ask that the compliance dates for installation of engineering controls and use of respiratory protection to achieve the 8-hour TWA PEL be extended for employers who use methylene chloride in certain specific applications. Those applications are polyurethane foam

manufacturing; foam fabrication; furniture refinishing; general aviation aircraft stripping; formulation of products containing methylene chloride; boat building and repair; recreational vehicle manufacture; van conversion; upholstery; and use of methylene chloride in construction work for restoration and preservation of buildings, painting and paint removal, cabinet making and/or floor refinishing and resurfacing.

The motion for reconsideration requests that the standard's current final engineering control start-up date of April 10, 2000, which is now limited to employers with fewer than 20 employees, also apply to employers in the specified application groups with 20–49 employees and foam fabricators with 20–149 employees. According to the parties, employers in these size categories, like those with fewer than 20 employees, have limited resources with which to develop and implement engineering controls and will be able to use those resources more efficiently if given sufficient time to develop and install effective controls and to take advantage of compliance assistance that OSHA plans to offer. The motion requests shorter extensions of the engineering control dates for larger employers in these application groups. The parties further request that respirator use to achieve the 8-hour TWA PEL not be required before the engineering control start-up dates for the employers covered by the motion. The parties assert that it would better protect workers to enable these employers to concentrate their resources on implementation of effective engineering controls rather than divert part of those resources to interim respiratory protection that would no longer be needed once full compliance with the 8-hour TWA PEL and STEL is achieved by engineering controls. Unlike for most substances, inexpensive respirators do not protect against MC exposures. Thus, the extensions of start-up dates the parties seek are designed to allow employers to allocate their resources effectively in developing permanent engineering solutions that will reduce worker MC exposures to below the 8-hour TWA PEL and STEL.

OSHA generally agrees that worker protection against MC exposure will best be achieved if employers develop and install effective engineering controls as soon as practicable. The agency recognizes that employers require a reasonable amount of time to develop and install such controls. OSHA's preliminary evaluation of the motion for reconsideration indicates that the parties have provided good

cause for the extensions they seek. However, the agency intends to further evaluate the motion and to ask for public comment on it.

In their motion, the parties ask that OSHA temporarily stay the start-up dates for which they request extensions until OSHA takes final action on the motion. OSHA finds good cause to grant in part the movants' request for an interim stay in order to avoid the need for employers to meet start-up dates that would no longer apply if the motion is granted. At present, certain start-up dates that would be extended if the motion is granted take effect on or before April 10, 1998. These include: December 21, 1997 for employers with 20 or more employees (except polyurethane foam manufacturers with 20–99 employees) to use respiratory protection to achieve the 8-hour TWA PEL; January 5, 1998 for polyurethane foam manufacturers with 20–99 employees to use respiratory protection to achieve the 8-hour TWA PEL; April 10, 1999 for employers with fewer than 20 employees to use respiratory protection to achieve the 8-hour TWA PEL; and April 10, 1998 for employers with 20 or more employees (except polyurethane foam manufacturers with 20–99 employees) to install engineering controls to achieve the 8-hour TWA PEL and STEL. The only start-up dates scheduled to take effect on or after April 10, 1998 are: April 10, 1999 for polyurethane foam manufacturers with 20–99 employees to use engineering controls to achieve the 8-hour TWA PEL and STEL; and April 10, 2000 for employers with fewer than 20 employees to use engineering controls to achieve the 8-hour TWA PEL and STEL.

OSHA recognizes that employers should receive a reasonable amount of notice before the start-up dates for installation of engineering controls and use of respirators take effect. Accordingly, to assure that employers who would receive extensions of the start-up dates if the motion is granted have sufficient notice, OSHA concludes it is appropriate to extend the start-up dates that would otherwise take effect on or before April 10, 1998. Accordingly, the agency is (1) extending the start-up date for all employers subject to the motion to use respiratory protection to achieve the 8-hour TWA PEL to August 31, 1998; and (2) extending the start-up for employers with 20 or more employees (except polyurethane foam manufacturers with 20–99 employees) to install engineering controls to achieve the 8-hour TWA PEL and STEL to December 10, 1998. To further assure that employers are

afforded a reasonable amount of notice of the date by which they must comply with these provisions, OSHA may further extend these start-up dates if a final ruling on the joint motion is not issued sufficiently far in advance of the August 31, 1998 start-up date for use of respiratory protection to achieve the 8-hour TWA PEL that is being established by this partial stay.

The parties request extensions of compliance deadlines only for installation of engineering controls and for use of respiratory protection to meet the 8-hour TWA PEL. As their motion points out, employees exposed to methylene chloride will still receive important protection from other provisions of the standard even if their motion is granted. Thus, during the period covered by this partial stay, employers will, by the start-up dates currently established by the standard be required to achieve the STEL (by either engineering controls or respiratory protection, at their option), implement all feasible work practice controls to reduce methylene chloride exposures, and comply with all other provisions of the MC standard that are not being stayed. Moreover, all employers must achieve the prior limits specified in 29 CFR 1910.1000 Table Z–2 with feasible engineering controls until the new exposure limits take effect.

OSHA further finds that there is good cause to issue this stay without notice and public comment because following such procedures would be impractical, unnecessary or contrary to the public interest in this case.

**Authority and Signature:** This document was prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

#### **List of Subjects in 29 CFR Part 1910**

Chemicals, Hazardous Substances, Occupational safety and health.

Signed at Washington, DC this 12th day of December 1997.

**Charles N. Jeffress,**  
*Assistant Secretary of Labor.*

Part 1910 of title 29 of the Code of Federal Regulations is amended as follows:

#### **PART 1910—[AMENDED]**

1. The general authority citation for subpart Z of 29 CFR part 1910 continues to read, in part, as follows:

**Authority:** Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76

(41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), or 6–96 (62 FR 111), as applicable; and 29 CFR Part 1911.

\* \* \* \* \*

2. A note is added after paragraph (o) of § 1910.1052 to read as follows:

**§ 1910.1052 Methylene Chloride.**

\* \* \* \* \*

[**Note to paragraph (o):** The requirement of 29 CFR 1910.1052(g)(1) to use respiratory protection whenever an employee's exposure to methylene chloride exceeds or can reasonably be expected to exceed the 8-hour TWA PEL is hereby stayed until August 31, 1998 for employers engaged in polyurethane foam manufacturing; foam fabrication; furniture refinishing; general aviation aircraft stripping; formulation of products containing methylene chloride; boat building and repair; recreational vehicle manufacture; van conversion; upholstery; and use of methylene chloride in construction work for restoration and preservation of buildings, painting and paint removal, cabinet making and/or floor refinishing and resurfacing.

The requirement of 29 CFR 1910.1052(f)(1) to implement engineering controls to achieve the 8-hour TWA PEL and STEL is hereby stayed until December 10, 1998 for employers with more than 100 employees engaged in polyurethane foam manufacturing and for employers with more than 20 employees engaged in foam fabrication; furniture refinishing; general aviation aircraft stripping; formulation of products containing methylene chloride; boat building and repair; recreational vehicle manufacture; van conversion; upholstery; and use of methylene chloride in construction work for restoration and preservation of buildings, painting and paint removal, cabinet making and/or floor refinishing and resurfacing.]

[FR Doc. 97–33027 Filed 12–17–97; 8:45 am]

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**DEPARTMENT OF DEFENSE**

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 21**

**RIN 2900–AI89**

**Reservists' Education: Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve**

**AGENCIES:** Department of Defense, Department of Transportation (Coast Guard), and Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** By statute, the monthly rates of basic educational assistance payable to reservists under the Montgomery GI

Bill—Selected Reserve must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Selected Reserve for fiscal year 1998 (October 1, 1997, through September 30, 1998) are changed to show a 2.8% increase in these rates.

**DATES:** This final rule is effective December 18, 1997. However, the changes in rates are applied retroactively to conform to statutory requirements. For more information concerning the dates of application, see the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs (202) 273–7187.

**SUPPLEMENTARY INFORMATION:** Under the formula mandated by 10 U.S.C. 16131(b) for fiscal year 1998, the rates of basic educational assistance under the Montgomery GI Bill—Selected Reserve payable to students pursuing a program of education full time, three-quarter time, and half time must be increased by 2.8%, which is the percentage by which the total of the monthly Consumer Price Index-W for July 1, 1996, through June 30, 1997, exceeds the total of the monthly Consumer Price Index-W for July 1, 1995, through June 30, 1996.

10 U.S.C. 16131(b) requires that full-time, three-quarter time, and half-time rates be increased as noted above. In addition, 10 U.S.C. 16131(d) requires that monthly rates payable to reservists in apprenticeship or other on-the-job training must be set at a given percentage of the full-time rate. Hence, there is a 2.8% raise for such training as well.

10 U.S.C. 16131(b) also requires that the Department of Veterans Affairs (VA) pay reservists training less than half time at an appropriately reduced rate. Since payment for less than half-time training became available under the Montgomery GI Bill—Selected Reserve in fiscal year 1990, VA has paid less than half-time students at 25% of the full-time rate. Changes are made consistent with the authority and formula described in this paragraph.

Nonsubstantive changes also are made for the purpose of clarity.

The changes set forth in this final rule are effective from the date of publication, but the changes in rates are applied retroactively from October 1, 1997 in accordance with the applicable statutory provisions discussed above.

Substantive changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

The Secretary of Defense, the Commandant of the Coast Guard, and the Acting Secretary of Veterans Affairs hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and does not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

**List of Subjects in 38 CFR Part 21**

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health programs, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: October 17, 1997.

**Hershel W. Gober,**  
*Acting Secretary of Veterans Affairs.*

Approved: November 7, 1997.

**Al H. Bemis,**  
*Deputy Assistant Secretary for Defense for Reserve Affairs (Manpower and Personnel).*

Approved: November 25, 1997.

**G.F. Woolever,**  
*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Human Resources.*

For the reasons set out above, 38 CFR part 21, subpart L, is amended as set forth below.

**PART 21—VOCATIONAL REHABILITATION AND EDUCATION**

**Subpart L—Educational Assistance for Members of the Selected Reserve**

1. The authority citation for part 21, subpart L, continues to read as follows:

**Authority:** 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), ch. 36, unless otherwise noted.