

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 349

[Docket No. 03N-0193]

RIN 0910-AA01

DPK: Display Date 6-2-03  
Publication Date 6-3-03  
Certifier R. LEDESMA

**Ophthalmic Drug Products for Over-the-Counter Human Use; Final  
Monograph; Technical Amendment**

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

**ACTION:** Final rule; technical amendment.

---

**SUMMARY:** The Food and Drug Administration (FDA) is amending the regulation that established conditions under which over-the-counter (OTC) ophthalmic drug products are generally recognized as safe and effective and not misbranded. This amendment updates the monograph to incorporate a United States Pharmacopeia (USP) name change for one active ingredient included in the monograph. This final rule is part of FDA's ongoing review of OTC drug products.

**DATES:** This final rule is effective [*insert date 30 days after date of publication in the **Federal Register***]. Submit written or electronic comments by [*insert date 60 days after date of publication in the **Federal Register***].

**ADDRESSES:** Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Benson, Center for Drug Evaluation and Research (HFD-560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-2222.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In the **Federal Register** of March 4, 1988 (53 FR 7076), FDA issued a final monograph for OTC ophthalmic drug products in part 349 (21 CFR part 349). Section 349.12 of that monograph included the active ingredient hydroxypropyl methylcellulose. In 2000, the USP proposed (for inclusion in the Third Supplement to *USP 24*) a name change for this ingredient based on a name adopted by the United States Adopted Names Council (Ref. 1). The new name for hydroxypropyl methylcellulose is hypromellose. This name change became official on March 1, 2001, and was subsequently included in the *USP* with an effective date of September 1, 2002 (Ref. 2).

**II. Naming Process**

The Federal Food, Drug, and Cosmetic Act (the act) in section 502(e)(1)(A)(i) (21 U.S.C. 352(e)(1)(A)(i)) requires the label of a drug to bear the established name of the drug to the exclusion of any other nonproprietary name (except the applicable systematic chemical name or the chemical formula). The established name of the drug is defined as:

\* \* \* (A) the applicable official name designated pursuant to section 508 [of the act], or (B) if there is no such name and such drug, or such ingredient, is an article recognized in an official compendium, then the official title thereof in such compendium, or (C) if neither clause (A) nor clause (B) of this subparagraph applies, then the common or usual name, if any, of such drug or of such ingredient \* \* \*.

21 U.S.C. 352(e)(3).

Section 508 of the act (21 U.S.C. 358) authorizes FDA to designate an official name for any drug if FDA determines “that such action is necessary or desirable in the interest of usefulness and simplicity.” FDA does not, however, routinely designate official names for drug products under section 508 of the act (§ 299.4(e) (21 CFR 299.4(e))). In the absence of designation by FDA of an official name, interested persons may rely on the current compendial name as the established name (§ 299.4(e)).

### **III. The Technical Amendment**

FDA has not designated an official name for the active ingredient hydroxypropyl methylcellulose. Thus, its established name is the current compendial name. The USP has now changed the compendial name for hydroxypropyl methylcellulose to hypromellose. To be consistent with the change in this official compendial name, the agency is changing this name in § 349.12 in the ingredient listing. As noted previously, this USP name change became official on March 1, 2001, with a USP effective date of September 1, 2002.

Because section 502(e)(1) and (e)(3) of the act requires the established name of a drug to be used, any ophthalmic drug product initially introduced or initially delivered for introduction into interstate commerce after September 1, 2002, would need to bear the new established name “hypromellose.” However, the agency is aware that many manufacturers of OTC ophthalmic drug products have not yet implemented this name change in their product labeling. Therefore, elsewhere in this issue of the **Federal Register**, as a matter of its enforcement discretion, the agency is issuing guidance stating its intent to provide manufacturers of affected OTC ophthalmic drug products until September 1, 2003 (1 extra year from the USP effective date), to implement

this labeling change. Accordingly, on or after September 1, 2003, any OTC ophthalmic drug product initially introduced or initially delivered for introduction into interstate commerce that contains the ingredient hypromellose (formerly known as hydroxypropyl methylcellulose) must bear labeling that contains the new name for this ingredient.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of agency procedure under 5 U.S.C. 553(b)(3)(A). Alternatively, the agency's implementation of this action without opportunity for public comment comes within the good cause exceptions in 5 U.S.C. 553(b)(3)(B) in that obtaining public comment is impracticable, unnecessary, and contrary to public interest. This labeling revision represents a minor clarifying change that does not change the substance of the labeling requirements contained in the final regulations. As discussed previously in this document, manufacturers must relabel their products as a result of the USP name change to remain in compliance with the act. This amendment updates the name of one active ingredient in the final monograph for OTC ophthalmic drug products to reflect this official name change that has already been implemented by the USP. In accordance with 21 CFR 10.40(e)(1), FDA is providing an opportunity for comment on whether the regulation should be modified or revoked.

#### **IV. Analysis of Impacts**

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). 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, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, if a rule has a significant economic impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of the rule on small entities. Section 202(a) of the UMRA requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million (adjusted annually for inflation).

The agency concludes that this final rule is consistent with the principles set out in Executive Order 12866 and in these two statutes. FDA has determined that the final rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order.

The UMRA does not require FDA to prepare a statement of costs and benefits for this final rule, because the final rule is not expected to result in any 1-year expenditure that would exceed \$100 million adjusted for inflation. The current inflation adjusted statutory threshold is about \$110 million.

The purpose of this final rule is to update the final monograph for OTC ophthalmic drug products to incorporate a USP name change for one active ingredient included in the monograph. As discussed in section II of this document, section 502(e)(1) and (e)(3) of the act requires that the established name of a drug be used. Under § 299.4(e), because FDA does not routinely designate official names under section 508 of the act, the established name under section 502(e) of the act ordinarily is the compendial name of the drug.

Therefore, because FDA has not designated an official name under section 508 of the act, manufacturers must relabel their products as a result of the USP name change to remain in compliance with the act. Updating the name of the active ingredient in the ophthalmic monograph to reflect its current established name will eliminate possible confusion by the public. Because manufacturers must relabel their products as a result of the USP name change to remain in compliance with the act, this rule does not impose any additional costs on industry. Consequently, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Therefore, no further analysis is required.

#### **V. Paperwork Reduction Act of 1995**

The agency concludes that the labeling requirements in this document are not subject to review by the Office of Management and Budget because they do not constitute a “collection of information” under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the labeling statements are a “public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public” (5 CFR 1320.3(c)(2)).

#### **VI. Environmental Impact**

The agency has determined under 21 CFR 25.31(a) 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.

#### **VII. Federalism**

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the

relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

### **VIII. Comments**

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or three paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

### **IX. References**

The following references have been placed on display in the Dockets Management Branch (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. "Pharmacopeial Forum," The United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 702–705, May and June 2000.
2. "Third Supplement," *United States Pharmacopeia* 24, National Formulary 19, The United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 3041–3042, January 2, 2001.

### **List of Subjects in 21 CFR 349**

Labeling, Ophthalmic goods and services, Over-the-counter drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 349 is amended as follows:

**PART 349—OPHTHALMIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE**

■ 1. The authority citation for 21 CFR part 349 continues to read as follows:

**Authority:** 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

■ 2. Section 349.12 is amended by revising paragraph (a)(3) to read as follows:

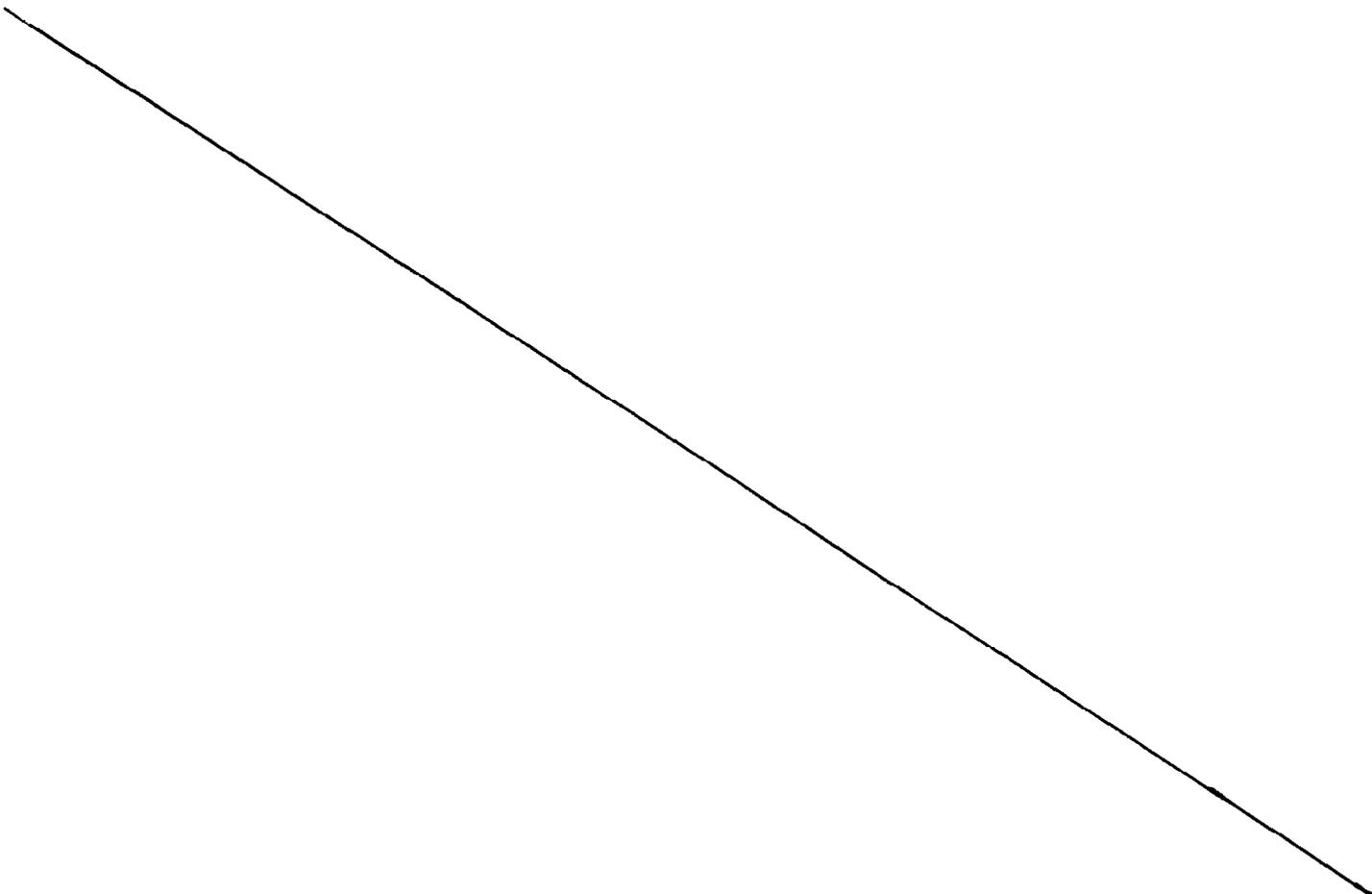
**§ 349.12 Ophthalmic demulcents.**

\* \* \* \* \*

(a) \* \* \*

(3) Hypromellose, 0.2 to 2.5 percent.

\* \* \* \* \*



Dated: 5/15/03  
May 15, 2003.

  
\_\_\_\_\_  
Jeffrey Shuren,  
Assistant Commissioner for Policy.

[FR Doc. 03-????? Filed ??-??-03; 8:45 am]

**BILLING CODE 4160-01-S**

**CERTIFIED TO BE A TRUE  
COPY OF THE ORIGINAL**

  
\_\_\_\_\_