



OCT 07 2004

E. Edward Kavanaugh
President
The Cosmetic, Toiletry, and
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1101 17th Street, N.W.
Suite 300
Washington, D.C. 20036-4702

Re: Docket No. 78N-0064/CP4

Dear Mr. Kavanaugh:

This responds to your citizen petition (CP4) submitted on April 11, 2002, requesting the Food and Drug Administration (FDA) to take certain actions regarding the tentative final monograph (TFM) for over-the-counter (OTC) antiperspirant drug products (proposed 21 CFR part 350). In the alternative, if FDA publishes the final monograph for OTC antiperspirant drug products before acting on your citizen petition, you requested that FDA consider your petition as a request to reopen the final monograph (FM) to consider the relief that you request.

I. PETITIONER'S REQUESTS AND FDA'S DECISION

You requested that FDA permit the use of modified versions of the format and content requirements of the OTC drug labeling regulation (21 CFR § 201.66) for antiperspirant products. You noted that your request was consistent with the approach FDA is considering for OTC sunscreen and skin protectant drug products. You specifically requested the following format changes for OTC antiperspirant drug products:

1. Elimination of the "Drug Facts" heading.
2. Elimination of the "Purpose" heading and related information.
3. Elimination of the "For External Use Only" statement.
4. Condensing of warning subheadings and statements.
5. Elimination of the box enclosure, barlines, and hairlines.

As grounds for your petition, you contend that antiperspirant products are the kind of personal care product for which the format and content requirements of the OTC drug labeling regulation are neither necessary nor appropriate. You note that antiperspirants are virtually always formulated in combination with a deodorant, a cosmetic product with the intended use of reducing or masking odor, making the products cosmetic-drugs. You state that consumers purchase these products primarily because of their cosmetic benefit - reduction of undesirable odor. You state that most products are sold without secondary packaging (a carton) and thus are unable to accommodate the requirements of the OTC drug labeling regulation. You conclude that antiperspirants require only minimal information for the safe and effective use of these products and discuss typical characteristics that FDA has identified for products requiring minimal information for safe and effective use.

You contend that the OTC drug labeling regulation will reduce the availability of the very products that the agency is trying to help consumers use. You also contend that many products are unable to accommodate the requirements of the OTC drug labeling rule without being made larger or more awkward. Finally, you contend that many of the more convenient product forms would disappear from the market.

FDA has reviewed your petition and denies your request to consider your proposed labeling revisions in the context of amending the TFM for OTC antiperspirant drug products. The agency also denies your request to consider your petition as a request to reopen the FM to consider your proposed labeling revisions. The basis for these decisions is set forth below.

II. DISCUSSION

A. Background

1. Typical Characteristics of Products Requiring Minimal Information for Safe and Effective Use

You mention a number of factors that FDA discussed in its OTC drug labeling rule as typical characteristics of products requiring minimal information for safe and effective use. These include products that may typically be packaged in small amounts, have a high therapeutic index, have extremely low risk in actual consumer use situations, provide a favorable public health benefit, require no specified dosage limitation, and require few specific warnings and no general warnings (e.g., pregnancy or overdose warnings). (See 64 FR 13254, 13270, March 17, 1999.) Using these factors, you argue that antiperspirant drug products are applied to limited areas of the body, have a high therapeutic index because the effective dose is substantially lower than the dose that would pose a minimal risk of toxicity, have extremely low risk in actual consumer use situations because the main side effect, skin irritation, is usually mild and temporary, require few specific warnings, provide a favorable public health benefit as part of a regimen of good hygiene, and require no specific dosage limitation.

As discussed in the OTC drug labeling rule (64 FR 13254, March 17, 1999), FDA considers the required OTC drug labeling information essential for the safe and effective use of these products and important to consumers for selection of an appropriate product. Nevertheless, FDA has modified some of the OTC drug labeling requirements for certain products, taking into consideration whether a labeling requirement may discourage manufacturers from marketing certain products for a drug use (e.g., lipsticks containing sunscreens or lip balms containing skin protectant ingredients), the risks and benefits of the drug, the intended use, and the need to communicate limitations or restrictions about the use of the product to the target population. In such cases, FDA has determined that minimal information is needed for the safe and effective use of the product. FDA considered these factors and kept the required labeling in § 350.50 of the FM for antiperspirant drug products to a minimum. (See 68 FR 34273, June 9, 2003).

However, we do not believe that further labeling modifications are appropriate. Antiperspirant drug products are not typically marketed in small packages (many are approximately 2 to 3 ounces) and have ample room to bear the required OTC drug labeling information (See section II.C. below). While these products have a high therapeutic index, they still require several warnings--some specific warnings

(warnings related to skin irritation, use by people who have kidney disease, and a very specific caution about aerosols) and also two general warnings (these products require the “keep out of reach of children”

and “contact a poison control center” warnings). Finally, while there is no specific dosage limitation as to the amount of product to be used, the FM does require a directions statement indicating a limitation for where the product is to be used, i.e., “apply to underarms only.” (See 21 C.F.R. § 350.50(d).) For these general reasons, we deny your request for further labeling modifications. In section II.B. below, we discuss our reasoning in further detail for each of your specific labeling requests.

2. Final Monographs for OTC Sunscreen, Skin Protectant, and Antiperspirant Drug Products

FDA issued a FM for these OTC drug products as follows:

- sunscreen drug products - May 21, 1999 (64 FR 27666)
- skin protectant drug products - June 4, 2003 (68 FR 33362)
- antiperspirant drug products - June 9, 2003 (68 FR 34273).

In developing each FM, we considered the types of labeling issues that you presented in your citizen petition. FDA has reduced certain labeling requirements so that the essential labeling information needed for safe and effective OTC use of these products can be presented in as few words as possible. We have condensed warning subheadings and statements where possible, as you requested. We have also provided reduced labeling for certain small packages that meet the criteria established in § 201.66(d)(10) of FDA’s OTC drug labeling regulations. However, we decline to make certain changes that you have requested for the labeling of antiperspirant drug products.

B. Specific Labeling Changes Requested

In general, you argue that the justification included in the OTC drug labeling final rule does not apply to antiperspirants. You state that antiperspirants are fundamentally different from other OTC drugs because they are topically applied, they contain ingredients that have a long track record of safety, and, although technically drugs, they are used in combination with deodorants for a purpose that is primarily cosmetic.

As the agency stated in the OTC drug labeling final rule (64 FR at 13269), when therapeutic claims are made for a product, the drug provisions of the act apply to ensure the safety and effectiveness of the drug ingredients, whether or not these products may also be used for other purposes (see sections 201(g)(1) and (p) (21 U.S.C. §§ 321(g)(1) and (p)), 502, and 505 of the act). The agency does not believe that consumers should be denied the benefits of the new labeling requirements simply because a product may have both drug and cosmetic attributes.

Furthermore, the labeling for antiperspirant drug products, as with all OTC drug products, must be presented in a manner that is likely to be read and understood. The placement of labeling information in a standard format is expected to minimize the complexity of the information and, in turn, increase the likelihood that consumers will read and focus on it. The standardized format also provides consumers with an important tool for comparing products to help them select an appropriate product to meet their needs. See generally, 64 FR at 13254-13255; 62 FR at 9040.

Most of the modifications you have requested (e.g., elimination of the “Drug Facts” heading) would cause these products to look less like “drugs” and more like “cosmetics” in their labeling. One of the

purposes of the “Drug Facts” labeling is to educate consumers and allow them to distinguish between drug and cosmetic products. Thus, FDA has denied your request for further modifications of the OTC drug labeling requirements because consumers using these products must be informed that these products are drugs and must have the information they need to use the products safely and effectively. Each of the labeling changes you request are discussed in detail below.

I. Elimination of the “Drug Facts” Heading.

You contend that the “Drug Facts” title is unnecessary for antiperspirant drug products, reduces the space available for important label information, and is misleading for antiperspirant-deodorant combination products. You add that elimination of this requirement is consistent with the action already taken to eliminate this heading requirement for sunscreens labeled for use only on specific small areas of the face. See 21 CFR § 352.52(f)(1).

In making our decision not to eliminate the “Drug Facts” heading for antiperspirant drug products, FDA considered the limited instances in which a labeling requirement may discourage manufacturers from marketing certain products for a drug use, the risks and benefits of antiperspirants, their intended use, and the need to communicate limitations or restrictions about their use to the target population. We have surveyed the marketplace and recognize that antiperspirant-deodorant products are marketed in three forms: combination products, antiperspirant only, and deodorant only. As discussed above, we believe that consumers should be informed that antiperspirant products are drugs, and the “Drug Facts” title conveys that message. The “Drug Facts” title will help consumers differentiate between products intended solely to provide a cosmetic effect (a deodorant) and products that are intended to provide both a cosmetic and a drug effect (antiperspirant-deodorant). Further, the additional claim included in the FM (“decreases underarm perspiration due to stress”) is a drug claim that supports use of the “Drug Facts” title.

While FDA has made an exception for sunscreen products labeled for use on specific small area of the face (see 64 FR at 27681-27682) and for lip protectants (see 21 CFR § 347.50(e)(1)), those labeling modifications are for sunscreen and lip protectant products that meet the small package specifications in § 201.66(d)(10). FDA created that exception for those types of products based, in part, on their small package sizes and ability to bear the required labeling information. The agency also considered that excessive labeling requirements could discourage manufacturers from marketing certain products with a small package size (such as lipsticks or lip balms containing sunscreens), which provide significant public health benefit. FDA has determined that most antiperspirant drug products are standard size packages that should have sufficient labeling space to include the “Drug Facts” information and title in their labeling. Antiperspirant drug products marketed in smaller size packages that meet the requirements set forth in 21 CFR § 201.66(d)(10) can use the labeling format provided therein.

Although you contend that the OTC drug labeling requirements for antiperspirant products will reduce the availability of these products, you did not provide any evidence to support that contention. We have seen the opposite as several manufacturers of antiperspirant drug products have sought our advice on “fold out” labels to present the required labeling information for these products. You have also submitted draft labeling for standard 3 ounce packages that can accommodate the “Drug Facts” heading and all of the required labeling information (See section II. C. below). Finally, the risks and benefits of these products

and the need to communicate limitations about their use does not support elimination of the “Drug Facts” heading (See section II.A.1 above).

2. Elimination of the “Purpose” Heading and Associated Information.

You contend that the purpose heading is unnecessary and redundant to the statement of “Use” that appears immediately after the purpose, which informs consumers that the product “reduces underarm perspiration.” You add that eliminating this information is consistent with the action already taken to eliminate the “Purpose” requirement for sunscreens labeled for use only on specific small areas of the face. See 21 CFR § 352.52(f)(1).

In making our decision not to eliminate the “Purpose” heading for antiperspirant drug products, FDA again considered the limited instances in which a labeling requirement may discourage manufacturers from marketing certain products for a drug use, the risks and benefits of antiperspirants, their intended use, and the need to communicate limitations or restrictions about their use to the target population. FDA considers the “Purpose” heading to be an essential part of the OTC drug labeling information. This information clarifies for users which ingredient in the product has the antiperspirant action. We consider this information to be very useful for single ingredient antiperspirant drug products and for antiperspirant-deodorant combination products to inform consumers so they will know that it is the aluminum salt in the product that provides the antiperspirant effect and possibly causes the side effects listed in the final monograph. Products marketed as a “deodorant” only are cosmetics and do not contain aluminum salts.

As noted under the “Drug Facts” title discussion above, we eliminated this requirement for sunscreen products labeled for use only on specific small areas of the face and for lip protectants that meet the criteria in § 201.66(d)(10). However, as discussed above, most antiperspirant drug products are standard size packages that should have sufficient labeling space to include the “Purpose” section. In addition, the same rationale does not support elimination of the “Purpose” heading for antiperspirant drug products because we do not believe it will discourage manufacturers from marketing these products and it provides some necessary risk information about the product.

3. Elimination of the “For External Use Only” Statement.

You contend that this information is not necessary due to widespread consumer knowledge and understanding of the proper use of antiperspirants and that you are not aware that consumers inappropriately apply antiperspirants. You add that eliminating this information is consistent with the action already taken to eliminate this requirement for sunscreens labeled for use only on specific small areas of the face. See 21 CFR § 352.52(f)(1).

In making our decision not to eliminate the “For External Use Only” statement for antiperspirant drug products, FDA again considered the limited instances in which a labeling requirement may discourage manufacturers from marketing certain products for a drug use, the risks and benefits of antiperspirants, their intended use, and the need to communicate limitations or restrictions about their use to the target population. We have exempted certain OTC drug products from having to include the “For External Use Only” statement in a few cases, mainly because of their small package size and the fact that these products are applied to areas of the face where they may be ingested. As discussed above, we believe that antiperspirant products are marketed in packages that have ample room to include this statement, and do not believe that manufacturers of antiperspirant products will be discouraged from marketing its products

because of the requirement to include this short statement in the product's labeling, whether using the standard "Drug Facts" labeling format or the modified labeling format allowed in § 201.66(d)(10).

4. Consolidation of Warning Language

You requested that language in subheadings required by the OTC drug labeling regulation (e.g., "Do not use") be consolidated into one line with warning language for antiperspirants. You stated that this approach clearly presents the necessary information to consumers and eliminates the unnecessary use of extra lines. You added that similar modifications of warning language were allowed for sunscreens labeled for use only on specific small areas of the face. See 21 CFR § 352.52(f)(1).

We agree that the specific warnings for antiperspirant drug products could be consolidated into a single line and this specific "Do not use" change in § 350.50(c)(1) is included in the antiperspirant FM. In addition, we have also included similar changes in §§ 350.50(c)(2) and (c)(3). We were also able to consolidate the warnings in those sections into a single line because each warnings subheading that appears in the FM had only a single entry that followed it.

5. Elimination of the Box Enclosure, Barlines, and Hairlines.

You contend that not requiring the "Drug Facts" box enclosure, barlines, and hairlines would eliminate unnecessary formatting requirements while preserving the "power" of FDA's new labeling requirements. You contend that the box enclosure, barlines, and hairlines greatly increase the difficulty of compliance, particularly for smaller packages, and that removal of these requirements in no way interferes with the ability of consumers to understand and act appropriately on the information presented, nor does it prevent product comparisons.

As discussed under "Purpose" above, we consider the box enclosure, barlines, and hairlines to be essential characteristics of the "Drug Facts" labeling that distinguishes these products as drugs. We also find the retention of the "Drug Facts" box enclosure beneficial to separate the drug labeling information from the cosmetic labeling information that may be included for combination products. In addition, as discussed in the preamble to the OTC drug labeling requirements proposed rule (62 FR 9024, 9036, February 27, 1997), the box enclosure, barlines, and hairlines will distinctly separate each section of information to make it more conspicuous and easier to read.

We eliminated the requirement for barlines and hairlines for sunscreen products labeled for use only on specific small areas of the face and for lip protectants that meet the criteria in § 201.66(d)(10). However, we made this distinction based mainly on their small package sizes, ability to bear the required labeling information, and our belief that excessive labeling requirements could discourage manufacturers from marketing certain products that provide significant public health benefit. The same rationale does not support elimination of the barlines and hairlines for antiperspirant drug products because we do not believe this requirement will discourage manufacturers from marketing these products and we believe most antiperspirant drug products have sufficient labeling space to comply with this requirement.

The reduced labeling requirements in § 201.66(d)(10) do not provide for the elimination of barlines or hairlines for any products that qualify for those labeling criteria. We do not consider OTC antiperspirant

drug products to be sufficiently unique to make an exception for them. However, like other drug products that meet the criteria in § 201.66(d)(10), OTC antiperspirant drug products may omit the box enclosure if the "Drug Facts" labeling is set off from the rest of the labeling by use of color contrast.

C. FDA's and Cosmetic, Toiletry, and Fragrance Association's (CTFA) Proposed Antiperspirant Labels

We have reviewed the FDA and CTFA proposed antiperspirant labels that you included in your petition. We note your comments that your proposed label maintains certain content and format elements that are required under the OTC drug labeling rule. These elements include: active ingredient and concentrations, use and directions information, the "Warning" heading, and the "Keep out of reach of children" and poison control statements. All headings and information would be presented in the required order, use the required type size and the proper letter case, are justified as specified in the rule, are presented in bold or italic print as appropriate, and use bullets appropriately. We appreciate your inclusion of all of these elements in your proposed label.

We have measured the length of your proposed FDA label (approximately 2 and 1/4 inches) and the proposed CTFA label (approximately 1 and 1/2 inches). A label based on the FM requirements would be approximately the same length as your draft label, as the warnings information has been consolidated, as discussed above, but the final monograph contains one additional warning that was not in the TFM. Manufacturers of these products may wish to expand the "Use" information based on the final monograph, but that additional information should not require additional space. The major space difference (approximately 3/4 of an inch) results from the presence of the "Drug Facts" title and the barlines and hairlines.

We have also looked at your label using the proposed CTFA format. That label looks like the old style label that the OTC drug labeling rule was intended to change. It is not an easy-to-read consumer friendly label. In our view, the "Drug Facts" (FDA) label that you presented is much clearer, more consumer friendly, and easier to read.

We are aware that many solid dosage form antiperspirant and antiperspirant-deodorant combination products (e.g., "stick" and "roll-on") are marketed in 1.5 to 3 ounce containers. We continue to believe that most of these products have sufficient labeling space on their outer or immediate container to accommodate the full "Drug Facts" labeling, using the standard format or the modified format allowed under § 201.66(d)(10). In addition, we are aware that a number of manufacturers are considering using "outsert," "fold out," or "panel extension" labels while presenting the labeling for these products in the standard "Drug Facts" format. This type of labeling can also be used for the smaller "sample" or "travel" sizes of these products. Finally, aerosol or pump spray products should have adequate labeling space to readily accommodate the "Drug Facts" labeling.

III. CONCLUSION

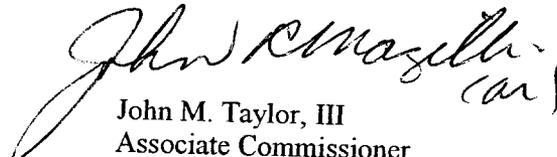
We agree with you in principle that OTC antiperspirant drug products require minimal information for the safe and effective use of the product. Accordingly, we kept the required labeling information in the final monograph to a minimum. You did not provide any data to support your contentions that complying with the OTC drug labeling rule will reduce the availability of the very products that the agency is trying to help consumers use, that many antiperspirant products are unable to accommodate the requirements of the

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OTC labeling rule without being made larger or more awkward, or that many of the more convenient antiperspirant product forms would disappear from the market. We have not seen these situations occur with other drug products that have already converted to the "Drug Facts" labeling format. We have taken the approach in the final monograph of requiring minimal labeling information, and we believe that most products can readily incorporate the information in the final monograph for OTC antiperspirant drug products in the required "Drug Facts" format.

For the reasons stated above, the FDA denies your petition. Any comment that you wish to make on the above information should be submitted in triplicate, identified with the docket and comment numbers shown at the beginning of this letter to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Room 1061, Rockville, MD 20852.

Sincerely yours,


John M. Taylor, III
Associate Commissioner
for Regulatory Affairs

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cc: HFA-305 (Docket No. 78N-0064/CP4)
HFC-1
HFC-2
HFC-200
HFC-230 (Citizen Petition file – CDER)
HFC-230 (Chin/Kelley)
HFD-105 (Bull)
HFD-560 (Ganley/Rachanow/Martin/Abraham)
GCF-1
HF-23 (Chao)

R/D GRachanow 3/18/03
Rev. CGanley 3/26/03
Revised GRachanow 3/27/03
Endorsed CGanley 4/10/03
Revised EKeys 5/22/03
Revised GRachanow 6/11/03
Revised EKeys 1/27/04
Revised GRachanow 2/3/04
Revised EKeys 3/18/04
Revised GRachanow 3/23/04
Revised EKeys/GRachanow 4/27/04
Revised/Clean type DKelley 9/30/04
Additional Information received 10/05/04
Signed LOgram 10/5/04