DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 87C-0316]

Listing of Color Additives Exempt From Certification; Astaxanthin; Objection and Request for a Hearing; Staying Portions of the Regulation; Confirmation of Effective Date

AGENCY: Food and Drug Administration,

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it has received one objection to the final rule for astaxanthin as a color additive in the feed of salmonid fish to enhance the color of their flesh. The objection concerns a specification and the requirement for labeling of the color additive. The objection requests a hearing on the two issues. The submission of the objection stays the effective date of two paragraphs of the astaxanthin regulation until the agency can rule on them. FDA is confirming the effective date of May 16, 1995, for the remainder of this regulation that appeared in the Federal Register of April 13, 1995 (60 FR 18736).

DATES: Effective date confirmed: May 16, 1995, except for 21 CFR 73.35(b) for the specification for total carotenoids other than astaxanthin and 21 CFR 73.35(d)(3) for the labeling requirements.

FOR FURTHER INFORMATION CONTACT: James C. Wallwork, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3078.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 13, 1995 (60 FR 18736), FDA amended part 73 (21 CFR part 73) of its regulations to provide for the safe use of astaxanthin as a color additive in the feed of salmonid fish to enhance the color of their flesh.

FDA gave interested persons until May 15, 1995, to file objections and requests for a hearing on § 73.35 (21 CFR 73.35). The agency received from one color additive manufacturer objections to two provisions of the final rule. The objector requested a hearing on two issues: The specification for total carotenoids other than astaxanthin of not more than 4 percent under § 73.35(b) and the labeling requirement for the presence of the color additive in

salmonid fish under § 73.35(d)(3). Under section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)(2)) the objection stays the effect of these two paragraphs of the astaxanthin regulation until the agency has ruled on the objections. Apart from $\S 73.35(b)$ and (d)(3), FDA is confirming the effective date of May 16, 1995, for the final rule that amended the color additive regulations to provide for the use of astaxanthin as a color additive in the feed of salmonid fish to enhance the color of their flesh. The objections are on file in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, under the docket number found in the heading of this document.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 401, 402, 403, 409, 501, 502, 505, 601, 602, 701, 721 (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that because of the objection and request for a hearing on the specification for total carotenoids other than astaxanthin of not more than 4 percent in § 73.35(b) and the labeling requirement for the presence of the color additive in salmonid fish in § 73.35(d)(3), these provisions are stayed until further notice. Accordingly, the amendments to § 73.35 issued on April 13, 1995 (60 FR 18736), became effective May 16, 1995, except for $\S\S73.35(b)$ and (d)(3), which are stayed until further notice.

Dated: August 7, 1995.

William K. Hubbard,

Acting Deputy Commissioner for Policy. [FR Doc. 95–19946 Filed 8–11–95; 8:45 am] BILLING CODE 4160–01–F

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2200

Rules of Procedure

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Review Commission has determined that it is in the public interest to adopt procedures that will permit the small employer who challenges an OSHA citation before the

Commission to do so with minimal complexity and cost. Accordingly, it has decided to initiate a pilot E-Z Trial program for a one year period, beginning October 1, 1995. After the test period, the Commission will evaluate the results and determine whether it should continue the E–Z Trial program and, if so, what modifications should be made. The evaluation will involve surveying employers and employer representatives regarding their satisfaction with the fairness and efficiency of the process and analyzing data on the rate at which E-Z Trial cases go to a hearing, the length and cost of hearings and the cycle times of these cases as compared to those of conventional cases. We will also gather information from our Judges and the Solicitor of Labor and OSHA personnel regarding how well the process is working and how it might be changed or improved.

As the name implies, E-Z Trial is designed to simplify and accelerate adjudication for cases that warrant a less formal, less costly process. To ensure that the program is used sufficiently to enable the Commission to determine its success or failure, as well as its strengths and weaknesses, cases will be assigned to E-Z Trial by the Chief Administrative Law Judge. The Commission will also include explanatory materials on E–Z Trial in its Notice of Docketing to employers to make sure that (1) employers are well aware of the availability of the E-Z Trial option early in the process and (2) employers are clear on how they can apply for E–Z Trial. Together these mechanisms should encourage the use of E-Z Trial whenever appropriate. Parties who believe that an assigned case is inappropriate for E-Z Trial can present their reasons to the presiding Judge who, upon consultation with the Chief Judge, may order the case to proceed under conventional proceedings. In addition, a Judge assigned to a case could unilaterally direct that case to be tried under E-Z Trial proceedings. The Commission has also adopted certain rules and procedures designed to shorten the length of the proceedings. For example, the parties are required to disclose certain information to each other. Discovery, while not prohibited, is allowed only under the terms set by the presiding Judge, Interlocutory appeals are prohibited and, where practicable, the Judge is encouraged to render his or her decision from the bench. Any party dissatisfied with the disposition of the case may seek review of that decision as in conventional proceedings.