

Department opposed this bill, arguing: "its basic goals * * * are fully protected by existing procedures. * * *. If a hold separate order is required pending any given divestiture, it can be obtained through consent or litigation." * * *. Thus, we have the spectacle of the FTC failing to include safeguards in one merger order that it said were necessary in a similar case weeks ago, while the Justice Department opposes additional legislation on the grounds that the antitrust agencies can obtain these safeguards through existing procedures.

Conclusion

The error of the majority in this case has been to accept too readily the presumption that, whatever we do, the basic transaction must be preserved. As a result, we have accepted an extremely complex and uncertain partial divestiture plan along with a temporary and highly regulatory crude oil entitlements program. I continue to believe the Commission would have been more faithful to the Congressional intent behind Section 7 of the Clayton Act by seeking to enjoin this merger.

[FR Doc. 84-19836 Filed 7-25-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 11

[Docket Nos. RM83-13-001, RM83-13-002, RM83-13-003, RM83-13-004, and RM83-13-005]

Annual Charges for Use of Government Dams and Other Structures

Issued: July 23, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing solely for the purpose of further consideration.

SUMMARY: The Federal Energy Regulatory Commission is issuing an order granting limited rehearing on five applications filed with respect to the Commission's final rule setting annual charges for hydroelectric projects that use Federal dams or other structures. Rehearing is granted solely to allow the Commission sufficient time for further consideration of the applications. The order does not constitute a grant or denial of any application on its merits, either in whole or in part.

*Letter from Robert A. McConnell, Assistant Attorney General for Legislative Affairs, to Congressman James J. Florio, June 13, 1984, p. 6.

EFFECTIVE DATE: July 23, 1984.

FOR FURTHER INFORMATION CONTACT: Jan Macpherson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, A.G. Sousa and Oliver G. Richard III.

On May 24, 1984, the Federal Energy Regulatory Commission (Commission) issued a final rule setting annual charges for hydroelectric licensees who use Federal dams or other structures under section 10(e) of the Federal Power Act. 49 FR 22770 (June 1, 1984).

On June 25, 1984, the Commission received timely petitions for rehearing of this order from the City of Aberdeen, Washington, the Solano Irrigation District, the Annual Charges Policy Group, the Louisville Gas and Electric Company, and the Guadalupe-Blanco River Authority of Texas. To have sufficient time to consider the issues raised in these petitions, the Commission grants rehearing of its order solely for the purpose of further consideration. This order is effective on the date of issuance. This action does not constitute a grant or denial of the petitions on their merits, either in whole or in part. As provided in § 385.713 of the Commission's Rules of Practice and Procedure (18 CFR 385.713), no answers to these petitions will be entertained by the Commission because this order does not grant rehearing on any substantive issue.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-19814 Filed 7-25-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 83C-0321]

Listing of Color Additives for Coloring Contact Lenses

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the use of 1,4-bis[(2-methylphenyl)amino]-9,10-anthracenedione as a color additive for coloring contact lenses. This

action responds to a petition filed by Dow Corning Ophthalmics, Inc.

DATES: Effective August 28, 1984; objections by August 27, 1984.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 20, 1983 (48 FR 48714), FDA announced that a color additive petition (CAP 3C0177) had been filed by Dow Corning Ophthalmics, Inc., P.O. Box 1767, Midland, MI 48640, proposing that the color additive regulations be amended to provide for the safe use of 1,4-bis[(2-methylphenyl)amino]-9,10-anthracenedione for coloring contact lenses. The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376).

With the passage of the Medical Device Amendments of 1976 (Pub. L. 94-295) to the act, Congress mandated the listing of color additives for use in medical devices where the color additive comes in direct contact with the body for a significant period of time (21 U.S.C. 376(a)). The use of the color additive presented in the petition now before the agency is subject to this listing requirement. This color additive, which imparts a blue color, is added to contact lenses in such a way that at least some of the color additive will come in contact with the eye when the lenses are worn. In addition, the lenses are intended to be placed on the eye for several hours a day, each day, for 1 year or more. Thus, the color additive will be in direct contact with the body for a significant period of time.

Only a small amount of a color additive is required to tint contact lenses. Under this petition, the maximum level of 1,4-bis[(2-methylphenyl)amino]-9,10-anthracenedione used in a lens would be 90 parts per million. For a lens weighing 47 milligrams (the weight of the heaviest lens to which the color additive is added under the uses described in the petition), if the lens is tinted with 90 parts per million of 1,4-bis[(2-methylphenyl)amino]-9,10-anthracenedione, there would be approximately 4.4 micrograms of 1,4-bis[(2-methylphenyl)amino]-9,10-

anthracenedione in the lens or approximately 8.8 micrograms in a pair of lenses. If all the color additive migrated to the eye from the lens in 1 year, the average lifetime for a pair of contact lenses, the wearer would be exposed to 0.024 microgram 1,4-bis[(2-methylphenyl)amino]-9,10-anthracenedione per day.

FDA has evaluated the toxicity data which include the results of in vitro cytotoxicity tests of the color additive applied directly to cultured mammalian cells. The highest no-effect level of the color additive in the cytotoxicity studies was several million times the worst-case estimate of the level of the additive in ocular fluid. Based upon the results of this study, FDA finds that it can conclude to a reasonable certainty that no harm will result from the petitioned use of 1,4-bis[(2-methylphenyl)amino]-9,10-anthracenedione. FDA further concludes that the safety margin is sufficiently large that a limitation on the amount of the color additive that may be present in the lens, beyond the limitation that only that amount necessary to accomplish the intended technical effect may be used, is not required.

Based on its consideration of the factors listed in § 71.20(b) (21 CFR 71.20(b)), the agency concludes that certification of the color additive listed in this final rule is not necessary for the protection of the public health.

In accordance with § 71.15(a) (21 CFR 71.15(a)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the use of the color additive in contact lenses are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in § 71.15, the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701(e), 706, 70 Stat. 919 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371(e), 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 73 is amended in Subpart D by adding new § 73.3105 to read as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

§ 73.3105 1,4-Bis[(2-methylphenyl)amino]-9,10-anthracenedione.

(a) *Identity.* The color additive is 1,4-bis[(2-methylphenyl)amino]-9,10-anthracenedione (CAS Reg. No. 6737-68-4).

(b) *Uses and restrictions.* (1) The substance listed in paragraph (a) of this section may be used as a color additive in contact lenses in amounts not to exceed the minimum reasonably required to accomplish the intended coloring effect.

(2) Authorization and compliance with this use shall not be construed as waiving any of the requirements of sections 510(k), 515, and 520(g) of the Federal Food, Drug, and Cosmetic Act (the act). A person intending to introduce a device containing 1,4-bis[(2-methylphenyl)amino]-9,10-anthracenedione listed under this section into commerce shall submit to the Food and Drug Administration either a premarket notification in accordance with Subpart E of Part 807 of this chapter, if the device is not subject to premarket approval, or submit and receive approval of an original or supplemental premarket approval application if the device is subject to premarket approval.

(c) *Labeling.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(d) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore the color additive is exempt from the certification requirements of section 706(c) of the act.

Any person who will be adversely affected by the foregoing regulation may at any time on or before August 27, 1984 file with the Dockets Management Branch (address above) written objections thereto. Objections shall show how the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objections

shall state the issues for the hearing and shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Three copies of all documents shall be filed and shall be identified with the docket number found in brackets in the heading of this document. Any objections received may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective August 28, 1984, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the **Federal Register**.

(Secs. 701(e), 706, 70 Stat. 919 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371(e), 376))

Dated: July 13, 1984.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 84-19899 Filed 7-25-84; 8:45 am]

BILLING CODE 4150-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Griseofulvin

AGENCY: The Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revoking the regulation reflecting approval of a new animal drug application (NADA) held by Schering Corp. which provides for use of griseofulvin in chinchilla feeds. The sponsor requested the withdrawal of approval.

EFFECTIVE DATE: August 6, 1984.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Center for Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1846.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, approval of NADA 31-877 held by Schering Corp. is being withdrawn. The NADA provides for use of griseofulvin in chinchilla feeds for prevention, treatment, and control of fungal infections caused by *Trichophyton*, and as an aid in the prevention of fur chewing associated with these fungal infections. This

document revokes 21 CFR 558.266 which reflects approval of the NADA.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.266 [Removed]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), Part 558 is amended by removing § 558.266 *Griseofulvin*.

Effective date, August 6, 1984.

(Sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)))

Dated: July 20, 1984.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 84-19700 Filed 7-25-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 44

[DoD Directive 1200.7]

Screening the Ready Reserve

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: This rule has been revised to update and clarify policy, procedures, and responsibilities for screening members of the Ready Reserve. The screening process prescribed was developed to ensure that all members of the Ready Reserve are immediately available for mobilization in the event of a national emergency or when otherwise called to active duty. The major changes incorporated in the revised rule are (a) new guidelines that employers can use to determine more effectively which positions (if any) within their organizations cannot be vacated during a national emergency or mobilization without impairing seriously the capability of their organizations to perform federally-mandated emergency functions; (b) a clearer and more useful definition of the term "key position"; and (c) extensive reorganization and editing intended to reduce the rule's bulk and improve its readability.

DATE: This rule was approved and signed by the Deputy Secretary of

Defense on April 6, 1984, and is effective as of that date.

FOR FURTHER INFORMATION CONTACT: CDR William L. Giles, USCG, Office of the Assistant Secretary of Defense (Reserve Affairs), the Pentagon, Room 3C980, Washington, DC 20301, 202-697-0624.

SUPPLEMENTARY INFORMATION: In FR Doc. 79-5867 appearing in the *Federal Register* on February 28, 1979 (44 FR 11215), the Office of the Secretary of Defense published this rule. It is now being revised and incorporates the changes described in the **SUMMARY** above.

List of Subjects in 32 CFR Part 44

Military personnel, Ready reserve, Armed Forces reserves.

Accordingly, 32 CFR is amended by revising Part 44, reading as follows:

PART 44—SCREENING THE READY RESERVE

Sec.

44.1 Purpose.

44.2 Applicability.

44.3 Definitions.

44.4 Policy.

44.5 Procedures.

44.6 Responsibilities.

44.7 Information requirements.

Appendix A—Letter Format to Cognizant Reserve Personnel Center Requesting That Employee Be Removed From the Ready Reserve

Appendix B—List of Reserve Personnel Centers to Which Reserve Screening Determination and Removal Requests Shall be Forwarded

Authority: Title 10, U.S.C., Sections 269, 271, 272, 652, 672, 673, 674, 685, and 1005 and E.O. 11190.

§ 44.1 Purpose.

This part updates and clarifies DoD policy, procedures, and responsibilities governing the screening of Ready Reservists, consistent with title 10, U.S.C., sections 269, 271, 272, 652, 672, 673, 674, 685, and 1005 and E.O. 11190.

§ 44.2 Applicability.

This part applies to the Office of the Secretary of Defense and the Military Departments (including their reserve components). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard (by agreement with the Department of Transportation). Reserve components include the Army National Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard, the Air Force Reserve, and the Coast Guard Reserve.

§ 44.3 Definitions.

(a) *Defense Support Industry.* Any business or corporation so determined by FEMA.

(b) *Extreme Community Hardship.* A situation that, because a reservist is mobilized, may have a substantially adverse effect on the health, safety, or welfare of the community. Any request for a determination of such hardship shall be made by the reservist and must be supported by documentation as required by the Secretary of the Military Department concerned.

(c) *Extreme Personal Hardship.* An adverse impact upon a reservist's dependents resulting from his or her mobilization. Any request for a determination of such hardship shall be made by the reservist and must be supported by documentation as required by the Secretary of the Military Department concerned.

(d) *Key Employee.* Any federal employee occupying a key position.

(e) *Key Position.* A federal position that cannot be vacated during a national emergency or mobilization without seriously impairing the capability of the parent federal agency or office to function effectively. There are three categories of federal key positions. The first two categories are, by definition, key positions. Only the final category requires a case-by-case determination and designation:

(1) The Vice President of the United States or any official specified in the order of presidential succession as set forth in 3 U.S.C. 19.

(2) Members of Congress, heads of federal agencies appointed by the President with the consent of the Senate, and the federal judiciary (District, Circuit, and Supreme Court judges and justices only; all other positions within the federal judiciary shall be considered under the provisions of paragraph (e)(3) of this section). For the purposes of the definition contained in this paragraph, the terms "heads of federal agencies" does not include any person appointed by the President with the consent of the Senate to a federal agency as a member of a multimember board or commission. Positions occupied by such persons may be designated as key positions only by the application of the criteria set forth in § 44.5(b)(2) of this part.

(3) Other federal positions determined by federal agency heads, or their designees, to be key positions in accordance with the guidelines specified in § 44.5(b)(2) of this part.

(f) *Ready Reserve.* Units and individual reservists liable for active duty as outlined in 10 U.S.C. 672 and 673.