

III. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires agencies in proposing rules, to consider the impact of those rules on small businesses. The fees implemented in this release affect contract markets (also referred to as "exchanges") and a registered futures association. The Commission has previously determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, 47 FR 18618 (April 30, 1982). Therefore, the Chairperson, on behalf of the Commission, certifies, pursuant to 5 U.S.C. 605(b), that the fees herein will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, DC on June 2, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99-14390 Filed 6-7-99; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 97F-0421]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending a final rule that appeared in the **Federal Register** of January 19, 1999 (64 FR 2854). The document amended the food additive regulations to provide for the safe use of di-*tert*-butyl-*m*-cresyl phosphonite condensation product with biphenyl for use as an antioxidant and/or stabilizer for olefin polymers intended for use in contact with food. The document was published with an error. This document corrects that error.

DATES: This regulation is effective January 19, 1999.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS-206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3086.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 19, 1999 (64

FR 2854), FDA amended the food additive regulations to provide for the safe use of di-*tert*-butyl-*m*-cresyl phosphonite condensation product with biphenyl for use as an antioxidant and/or stabilizer for olefin polymers intended for use in contact with food. The nomenclature of the additive was modified to include the term "meta" (*m*). This term was placed between "butyl" and "cresyl" in the name of the subject additive and between "butyl" and "cresol" in the name of one of the starting materials to provide more accurate and descriptive names.

In the preferred chemical nomenclature, the addition of "*m*" necessitates the use of a different numbering convention in the name of the starting material than is used in the absence of "*m*". In the final rule, the agency inadvertently omitted this renumbering in the name of the starting material. Therefore, the agency is amending 21 CFR 178.2010 to correct the error.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

§ 178.2010 [Amended]

2. Section 178.2010 *Antioxidants and/or stabilizers for polymers* is amended in the table in paragraph (b) in the entry for "di-*tert*-butyl-*m*-cresyl phosphonite * * *" by removing "2,4-di-*tert*-butyl-*m*-cresol" and by adding in its place "4,6-di-*tert*-butyl-*m*-cresol".

Dated: June 1, 1999.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99-14518 Filed 6-7-99; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Decoquinatate; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending a final rule that provided for adding a dry powder containing decoquinatate to whole milk to be fed to calves for prevention of coccidiosis. The document incorrectly referred to those calves as replacement calves in the heading of § 520.534(d) (21 CFR 520.534(d)) for conditions of use. This document amends the regulation to state that decoquinatate is for use in calves.

EFFECTIVE DATE: March 2, 1999.

FOR FURTHER INFORMATION CONTACT:

Janis R. Messenheimer, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-7578.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 2, 1999 (64 FR 10103), FDA added § 520.534 to reflect approval of Alpharma Inc.'s new animal drug application (NADA 141-060) for use of 0.8 percent decoquinatate powder in whole milk for ruminating and nonruminating calves including veal calves. In the heading for § 520.534(d), the document incorrectly stated that decoquinatate medicated milk was for use in replacement calves. This document amends the heading for § 520.534(d) to state that decoquinatate is for use in calves by removing the word "replacement".

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.534 [Amended]

2. Section 520.534 *Decoquinatate* is amended in the heading for paragraph

(d) by removing the phrase "Replacement calves" and adding the word "Calves".

Dated: May 25, 1999.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 99-14517 Filed 6-7-99; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA-125-FOR]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects and explains an OSM decision on provisions of a proposed amendment to the Pennsylvania regulatory program (hereinafter referred to as the Pennsylvania Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 et seq., as amended. OSM published its decision on the amendment in the March 26, 1999, **Federal Register** (64 FR 14610). On May 5, 1999, Pennsylvania submitted a letter requesting that OSM reconsider portions of this decision. Specifically, Pennsylvania requested that OSM rescind its disapprovals of Pennsylvania's definition of "no-cost reclamation contract," a portion of the definition of "government-financed construction contract," a portion of Section 4.8(e)(52 P.S. 1396.4h(e)) and all of Section 4.8(g)(52 P.S. 1396.4h(g)), as they pertain to no-cost contracts. Pennsylvania also requested that OSM rescind its requirements that Pennsylvania amend PA SMCRA to delete the specified provisions.

EFFECTIVE DATE: June 8, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Third Floor, Suite 3C Harrisburg Transportation Center (Amtrack), 415 Market Street, Harrisburg, Pennsylvania 17101. Telephone: (717) 782-4036.

SUPPLEMENTARY INFORMATION: By letter dated November 21, 1997 (Administrative Record NO. PA-855.00), the Pennsylvania Department of Environmental Protection (PADEP)

submitted proposed program amendment No. 2 to the Pennsylvania Abandoned Mine Land Reclamation (AMLR) Plan. By letters dated October 8 and October 13, 1998, PADEP submitted portions of its state law which it believed provided specific authorization for the proposed changes to the AMLR Plan. (Administrative Record No. PA 855.12). On March 26, 1999, OSM approved portions of the amendment, but disapproved sections referencing no-cost reclamation contracts. (64 FR 14610). By letter dated May 6, 1999 (Administrative Record No. PA-855.17), the PADEP submitted a letter to OSM, requesting that OSM rescind its disapprovals of the portions of the statutory amendment pertaining to no-cost reclamation contracts. This document revises and explains OSM's decisions with respect to no-cost reclamation contracts. In March 26, 1999, **Federal Register**, Notice, OSM determined that:

Any expenses incurred directly or indirectly by the AML agency, including the costs of project design, solicitation, management and oversight, qualify as government financing. However, Pennsylvania defines no-cost contracts as those contracts that do not involve the expenditure of any government funding, either as direct payments or as indirect expenses such as those listed above. Therefore, Pennsylvania's definition of "government financed reclamation contract" is less effective than the Federal definition of "government-financed construction," at 30 CFR 707.5, to the extent that it would allow incidental coal extraction or coal refuse removal, without a permit, pursuant to no-cost contracts.

64 FR at 14616.

As a result of this determination, OSM disapproved the definition of the term "no-cost reclamation contract," and also disapproved other portions of the statutory amendment which contained the term "no-cost contract" or "no-cost reclamation contract." Finally, OSM required PADEP to amend its program to delete all statutory language in the amendment pertaining to "no-cost reclamation contracts." 30 CFR 938.16 (cccc), (dddd), (eeee), and (ffff).

In discussions with OSM after publication of the March 26, 1999, decision, PADEP provided additional information pertaining to its definition of "no-cost reclamation contracts." OSM requested that this information be provided in writing for further consideration. PADEP's letter dated May 6, 1999 (Administrative Record No. PA-855.17), explained that its definition of "no-cost reclamation contract" clearly envisions PADEP incurring indirect costs in reviewing information provided by a contractor, and in determining

whether a contractor is eligible for a contract. PADEP also explained that the prohibition on the expenditure of Commonwealth funds, contained in the definition of "no-cost reclamation contract" refers only to "what OSM considers direct expenditures. In Pennsylvania, 'expenditures of Commonwealth Funds' would be a direct payment of money to the contractor from the Commonwealth to perform the reclamation." Therefore, PADEP contended, only direct payments to contractors are prohibited, but indirect project costs can, and indeed must, be allowed. Since the definition of "no-cost reclamation contract" does not prohibit indirect costs, PADEP stated that the definition is no less effective than and in accordance with the federal definition of "government financed construction" at 30 CFR 707.5. Finally, the PADEP argued that if the definition of "no-cost reclamation contract" can be approved, then all of the statutory sections of the amendment which contain references to "no-cost reclamation contracts" should also be approved.

Upon further consideration, and in view of the May 5, 1999, clarification provided by the PADEP, OSM hereby rescinds the following disapprovals:

52 P.S. 1396.3, the definition of "government-financed reclamation contract," paragraph (1)(i), the phrase "including a reclamation contract where less than five hundred (500) tons is removed and the government's cost of financing reclamation will be assumed by the contractor under the terms of a no-cost contract"; and, paragraph (1)(ii), the phrase "including where reclamation is performed by the contractor under the terms of a no-cost contract with the department, not involving any reprocessing of coal refuse on the project area or return of any coal refuse material to the project area."

52 P.S. 1396.3, the definition of "no-cost reclamation contract."

52 P.S. 1396.4h(e), the following language: For no-cost reclamation projects in which the reclamation schedule is shorter than two (2) years the bond amount shall be a per acre fee, which is equal to the department's average per acre cost to reclaim abandoned mine lands; provided, however, for coal refuse removal operations, the bond amount shall only apply to each acre affected by the coal refuse removal operations. For long-term, no-cost reclamation projects in which the reclamation schedule extends beyond two (2) years, the department may establish a lesser bond amount. In these contracts, the department may in the alternative establish a bond amount which reflects the cost of the proportionate amount of reclamation which will occur during a period specified.

52 P.S. 1396.4h(g), in its entirety.

In addition, OSM is removing the required amendments at 30 CFR