

criteria from which waiver is sought, why the criteria are not reasonably applicable to the particular study, what alternative procedures, if any, are to be, or have been employed, and what results have been obtained. The petition is also required to state why the studies so conducted will yield, or have yielded, substantial evidence of effectiveness, notwithstanding nonconformance with the criteria for which waiver is requested.

(e) *Uncontrolled studies.* Uncontrolled studies or partially controlled studies are not acceptable as the sole basis for the approval of claims of effectiveness or target animal safety. Such studies, carefully conducted and documented, may provide corroborative support of adequate and well-controlled studies regarding effectiveness and may yield valuable data regarding safety of the new animal drug. Such studies will be considered on their merits in light of the characteristics listed here. Isolated case reports, random experience, and reports lacking the details which permit scientific evaluation will not be considered.

[63 FR 10770, Mar. 5, 1998]

EFFECTIVE DATE NOTE: At 63 FR 10770, Mar. 5, 1998, § 514.117 was added, effective Apr. 6, 1998.

§ 514.120 Revocation of order refusing to approve an application or suspending or withdrawing approval of an application.

The Commissioner, upon his own initiative or upon request of an applicant stating reasonable grounds therefor and if he finds that the facts so require, may issue an order approving an application that previously has had its approval refused, suspended, or withdrawn.

§ 514.121 Service of notices and orders.

All notices and orders under this subchapter E and section 512 of the act pertaining to new animal drug applications shall be served:

(a) In person by any officer or employee of the Department designated by the Commissioner; or

(b) By mailing the order by certified mail addressed to the applicant or respondent at his last known address in

the records of the Food and Drug Administration.

Subpart C—Hearing Procedures

§ 514.200 Contents of notice of opportunity for a hearing.

(a) The notice to the applicant of opportunity for a hearing on a proposal by the Commissioner to refuse to approve an application or to withdraw the approval of an application will specify the grounds upon which he proposes to issue his order. On request of the applicant, the Commissioner will explain the reasons for his action. The notice of opportunity for a hearing will be published in the FEDERAL REGISTER and will specify that the applicant has 30 days after issuance of the notice within which he is required to file a written appearance electing whether:

(1) To avail himself of the opportunity for a hearing; or

(2) Not to avail himself of the opportunity for a hearing.

(b) If the applicant fails to file a written appearance in answer to the notice of opportunity for hearing, his failure will be construed as an election not to avail himself of the opportunity for the hearing, and the Commissioner without further notice may enter a final order.

(c) If the applicant elects to avail himself of the opportunity for a hearing, he is required to file a written appearance requesting the hearing within 30 days after the publication of the notice, giving the reason why the application should not be refused or should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition to the Commissioner's proposal. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and a factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the refusal to approve the application or the withdrawal of

approval of the application (for example, no adequate and well-controlled clinical investigations to support the claims of effectiveness have been identified), the Commissioner will enter an order on this data, stating his findings and conclusions. If a hearing is requested and is justified by the applicant's response to the notice of opportunity for a hearing, the issues will be defined, an Administrative Law Judge will be named, and he shall issue a written notice of the time and place at which the hearing will commence. In the case of denial of approval, such time shall be not more than 90 days after the expiration of such 30 days unless the Administrative Law Judge and the applicant otherwise agree; and, in the case of withdrawal of approval, such time shall be as soon as practicable.

(d) The hearing will be open to the public; however, if the Commissioner finds that portions of the application which serve as a basis for the hearing contain information concerning a method or process entitled to protection as a trade secret, the part of the hearing involving such portions will not be public, unless the respondent so specifies in his appearance.

[40 FR 13825, Mar. 27, 1975, as amended at 43 FR 1941, Jan. 13, 1978]

§ 514.201 Procedure for hearings.

Hearings relating to new animal drugs under section 512 (d), (e), (m)(3), and (m)(4) of the act shall be governed by part 12 of this chapter.

[42 FR 4717, Jan. 25, 1977, as amended at 42 FR 10980, Feb. 25, 1977; 42 FR 15675, Mar. 22, 1977]

Subparts D-E [Reserved]

Subpart F—Judicial Review

§ 514.235 Judicial review.

(a) The transcript and record shall be certified by the Commissioner. In any case in which the Commissioner enters an order without a hearing pursuant to § 314.200(g) of this chapter, the request(s) for hearing together with the data and information submitted and the Commissioner's findings and con-

clusions shall be included in the record certified by the Commissioner.

(b) Judicial review of an order withdrawing approval of a new drug application, whether or not a hearing has been held, may be sought by a manufacturer or distributor of an identical, related, or similar drug product, as defined in § 310.6 of this chapter, in a United States court of appeals pursuant to section 505(h) of the act.

[42 FR 4717, Jan. 25, 1977]

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

Sec.

- 520.23 Acepromazine maleate tablets.
- 520.44 Acetazolamide sodium soluble powder.
- 520.45 Albendazole oral dosage forms.
- 520.45a Albendazole suspension.
- 520.45b Albendazole paste.
- 520.48 Altrenogest solution.
- 520.62 Aminopentamide hydrogen sulphate tablets.
- 520.82 Aminopropazine fumarate oral dosage forms.
- 520.82a Aminopropazine fumarate tablets.
- 520.82b Aminopropazine fumarate, neomycin sulfate tablets.
- 520.88 Amoxicillin oral dosage forms.
- 520.88a Amoxicillin trihydrate film-coated tablets.
- 520.88b Amoxicillin trihydrate for oral suspension.
- 520.88c Amoxicillin trihydrate oral suspension.
- 520.88d Amoxicillin trihydrate soluble powder.
- 520.88e Amoxicillin trihydrate boluses.
- 520.88f Amoxicillin trihydrate tablets.
- 520.88g Amoxicillin trihydrate and clavulanate potassium film-coated tablets.
- 520.88h Amoxicillin trihydrate and clavulanate potassium for oral suspension.
- 520.90 Ampicillin oral dosage forms.
- 520.90a Ampicillin capsules.
- 520.90b Ampicillin trihydrate tablets.
- 520.90c Ampicillin trihydrate capsules.
- 520.90d Ampicillin trihydrate for oral suspension.
- 520.90e Ampicillin trihydrate soluble powder.
- 520.90f Ampicillin trihydrate boluses.
- 520.100 Amprolium oral dosage forms.
- 520.100a Amprolium drinking water.
- 520.100b Amprolium drench.
- 520.100c Amprolium crumbles.
- 520.110 Apramycin sulfate soluble powder.
- 520.154 Bacitracin oral dosage forms.