

## Appendix 2 to Subpart P of Part 404— Medical-Vocational Guidelines

### § 201.00 Maximum sustained work capability limited to sedentary work as a result of severe medically determinable impairment(s).

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(h)(1) The term *younger individual* is used to denote an individual age 18 through 49. For individuals who are age 45–49, age is a less advantageous factor for making an adjustment to other work than for those who are age 18–44. Accordingly, a finding of “disabled” is warranted for individuals age 45–49 who:

(i) Are restricted to sedentary work,  
(ii) Are unskilled or have no transferable skills,  
(iii) Have no past relevant work or can no longer perform past relevant work, and  
(iv) Are unable to communicate in English, or are able to speak and understand English but are unable to read or write in English.

(2) For individuals who are under age 45, age is a more advantageous factor for making an adjustment to other work. It is usually not a significant factor in limiting such individuals' ability to make an adjustment to other work, including an adjustment to unskilled sedentary work, even when the individuals are unable to communicate in English or are illiterate in English.

(3) Nevertheless, a decision of “disabled” may be appropriate for some individuals under age 45 (or individuals age 45–49 for whom rule 201.17 does not direct a decision of disabled) who do not have the ability to perform a full range of sedentary work. However, the inability to perform a full range of sedentary work does not necessarily equate with a finding of “disabled.” Whether an individual will be able to make an adjustment to other work requires an adjudicative assessment of factors such as the type and extent of the individual's limitations or restrictions and the extent of the erosion of the occupational base. It requires an individualized determination that considers the impact of the limitations or restrictions on the number of sedentary, unskilled occupations or the total number of jobs to which the individual may be able to adjust, considering his or her age, education and work experience, including any transferable skills or education providing for direct entry into skilled work.

(4) “Sedentary work” represents a significantly restricted range of work, and individuals with a maximum sustained work capability limited to sedentary work have very serious functional limitations. Therefore, as with any case, a finding that an individual is limited to less than the full range of sedentary work will be based on careful consideration of the evidence of the individual's medical impairment(s) and the limitations and restrictions attributable to it. Such evidence must support the finding that the individual's residual functional capacity is limited to less than the full range of sedentary work.

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[FR Doc. 01–21623 Filed 8–27–01; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 558

#### New Animal Drugs for Use in Animal Feeds; Nequinat; Oxytetracycline; Technical Amendment

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations that reflect approval of two new animal drug applications (NADAs) for combination drug Type C feeds containing nequinat. In a notice published in the **Federal Register** of February 28, 1978 (43 FR 8182), FDA withdrew approval of these NADAs. This action is being taken to improve the accuracy of the regulations.

**DATES:** This rule is effective August 28, 2001.

**FOR FURTHER INFORMATION CONTACT:** George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–4567, e-mail: ghaibel@cvm.fda.gov.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of February 28, 1978 (43 FR 8182), the agency published a notice that it was withdrawing approval of NADA 42–919 for combination use of nequinat and roxarsone, and NADA 48–205 for combination use of nequinat and oxytetracycline, both in chicken feed. These actions were requested by the sponsor, Ayerst Laboratories, because the products were no longer manufactured or marketed. However, a final rule published in the same issue of the **Federal Register** (43 FR 8134) did not amend all applicable portions of the regulations. At this time, the agency is amending the animal drug regulations in 21 CFR 558.365 and 558.450 to remove portions reflecting approval of these NADA's.

Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedure are unnecessary because FDA is merely making nonsubstantive changes.

This rule does not meet the definition of “rule” in 5 U.S.C. 804(3)(A) because it is a rule of “particular applicability.” Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

#### List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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 558 is amended as follows:

#### PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

**Authority:** 21 U.S.C. 360b, 371.

#### § 558.365 [Amended]

2. Section 558.365 *Nequinat* is amended by removing paragraphs (d)(1)(ii) and (d)(1)(iii), and by redesignating paragraphs (d)(1)(i)(a) and (d)(1)(i)(b) as paragraphs (d)(1)(ii) and (d)(1)(iii).

#### § 558.450 [Amended]

3. Section 558.450 *Oxytetracycline* is amended in table 1 in paragraphs (d)(1)(iv) and (d)(1)(vi) by removing the entries for “Nequinat 18.16 g/ton (0.002%)”.

Dated: August 20, 2001.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 01–21658 Filed 8–27–01; 8:45 am]

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## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### 30 CFR Parts 42, 47, 56, 57, and 77

#### RIN 1219-AA47

#### Hazard Communication

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Interim final rule; delay of effective date; re-opening of record; notice of public hearings; close of record.

**SUMMARY:** MSHA is delaying the effective date, re-opening the record, and holding additional public hearings on the interim final rule for hazard communication (HazCom). We are re-opening the record on our interim final rule to provide interested persons an additional opportunity to comment on any issue relevant to the rulemaking. Several commenters expressed concern that they had not had sufficient time to fully analyze the interim final rule and to develop and submit meaningful comments. This action also will assure that operators have sufficient time to

determine what is necessary for compliance.

**DATES:** The effective date of the interim final rule published on October 3, 2000 (65 FR 59048) is delayed from October 3, 2001 until June 30, 2002.

Comment Deadline and Close of Record: October 17, 2001.

Public Hearings: September 25, 27, October 2, 4, 10, 2001.

**ADDRESSES:** You may use mail, electronic mail, or facsimile to send your comments to MSHA.

Electronic mail (e-mail): [comments@msha.gov](mailto:comments@msha.gov).

Facsimile (FAX): MSHA, Office of Standards, Regulations, and Variances, 703-235-5551.

Mail: David L. Meyer, Director, Office of Standards, Regulations, and Variances; MSHA, 4015 Wilson Boulevard, Room 631; Arlington, VA 22203-1984.

Hearings: See **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:**

David L. Meyer, Director, Office of Standards, Regulations, and Variances, MSHA, 4015 Wilson Boulevard, Arlington, VA 22203-1984. Mr. Meyer can be reached at [meyer-david@msha.gov](mailto:meyer-david@msha.gov) (e-mail), 703-235-1910 (voice), or 703-235-5551 (fax). The interim final rule is on our website at [www.msha.gov/hazcom/hazcom.htm](http://www.msha.gov/hazcom/hazcom.htm).

**SUPPLEMENTARY INFORMATION:**

**I. Information for Public Hearings.**

If you wish to make an oral presentation for the record, we encourage you to contact Ms. Yvonne Quinn at the address or phone number above at least 5 days before the hearing date to inform us of your intent to speak and the length of your presentation. Attendees also may make same-day requests to speak.

All public hearings will begin at 9:00 a.m. and continue until all those who had requested in advance to speak have had an opportunity to do so. Any remaining time will be made available for those making same-day requests.

The public hearings will be held as follows:

*September 25—Pittsburgh, PA*

Hyatt Regency Pittsburgh International Airport, 1111 Airport Boulevard, Pittsburgh, PA, Phone: 724-899-6072

*September 27—Beckley, WV*

National Mine Health and Safety Academy, 1301 Airport Road, Beaver, WV, Phone: 304-256-3400

*October 2—Dallas, TX*

Wilson World Hotel and Suites, 4600 West Airport Freeway, Irving, TX, Phone: 972-513-0800

*October 2—Salt Lake City, UT*

Comfort Suites Airport, 171 North 2100 West, Salt Lake City, UT, Phone: 801-715-8688

*October 4—Birmingham, AL*

Radisson Hotel, 808 20th Street South, Birmingham, AL, Phone: 205-933-9000

*October 4—Reno, NV*

Best Western Airport Plaza Hotel & Conference Center, 1981 Terminal Way, Reno, NV, Phone: 775-348-6370

*October 10—Evansville, IN*

Days Inn Airport, 5701 Highway 41 North, Evansville, IN, Phone: 812-464-1010

**II. Background**

MSHA published the HazCom interim final rule on October 3, 2000 (65 FR 59048), with an effective date of October 3, 2001. The HazCom interim final rule has been challenged by a number of mine operators and trade associations [U.S. Court of Appeals for the District of Columbia, Nos. 00-1507, 01-1068 (consolidated)]. The United Mine Workers of America and the United Steelworkers of America have intervened in the litigation. We are asking the court to hold the briefing schedule in abeyance pending the outcome of this reopening of the rulemaking record. We hope that the issues in the litigation can either be narrowed or rendered moot by this delay of the effective date and reopening of the record.

In its October 3, 2000 notice, MSHA gave commenters until November 17, 2000, to submit comments on the interim final rule, on their experience under the Occupational Safety and Health Administration's Hazard Communication Standard, and on any changes in the mining industry since the publication of the proposed rule. On December 7, 2000, we notified all commenters and other interested persons of our decision to hold a public hearing in Washington, DC on December 14, 2000. The public notice of the hearing appeared in the **Federal Register** on December 11, 2000 (65 FR 77292).

MSHA received 22 written comments on the interim final rule and heard testimony from six persons at the public hearing. Commenters objected to what they considered to be an inadequate comment period and an inadequate

notice of the hearing. These commenters stated that they did not have sufficient time to fully analyze the impact of the interim final rule which affected their ability to develop and submit meaningful comments. They also stated that many operators were unable to testify at the hearing because they did not have enough time to prepare testimony and make plans to attend the hearing. Although MSHA believes that the comment period and the notice of the public hearing were legally sufficient, we are providing further opportunity for public comment on the interim final rule.

Members of the mining community have also stated that, because this is the first time MSHA promulgated an interim final rule, there is some confusion about their compliance obligations. The National Mining Association and the National Stone, Sand and Gravel Association have asked for a delay in the effective date of the interim final rule until we respond to their previous comments on it.

A delay in the effective date would provide MSHA with an opportunity to—

- Receive any new information that is available from the mining community;
- Promulgate a final rule that would respond to the concerns and comments of the mining community;
- Inform the industry and train inspectors about the final rule requirements to achieve the best possible compliance;
- Prepare training materials and compliance aids, such as model HazCom programs, particularly for small mines; and
- Help industry incorporate HazCom's final rule requirements into their existing health and safety programs.

Between now and October 3, 2001 (the interim final rule's effective date), there is not enough time to re-open the record, hold hearings, promulgate a final rule, and give industry time to comply.

Accordingly, MSHA finds that good cause exists to delay the effective date of the interim final rule to June 30, 2002, without notice and comment. MSHA believes that, under the circumstances described, notice and comment on the delay would be impracticable and contrary to the public interest. Opening the record on the interim final rule for additional public hearings and comment will enhance the Agency's ability to promulgate a final rule that reflects the fullest consideration of the mining community's concerns and promotes the public interest.

Dated: August 23, 2001.

**Dave D. Lauriski,**

*Assistant Secretary of Labor for Mine Safety and Health.*

[FR Doc. 01-21784 Filed 8-24-01; 2:56 pm]

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 153

#### Legal Assistance Matters

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** This part establishes a uniform approach for the execution of military testamentary instruments (including wills), powers of attorney, and advance medical directives. It seeks public comment on specific aspects of the activity.

**DATES:** This rule is effective June 12, 2001. Comments must be received by October 29, 2001.

**ADDRESSES:** Written comments and recommendations should be sent to the Office of the Under Secretary of Defense for Personnel & Readiness, Program Integration, Legal Policy, ATTN: Lt. Col. Patrick Lindemann, 4000 Defense Pentagon, Washington, DC 20301-4000.

**FOR FURTHER INFORMATION CONTACT:** Lt. Col. K. Kinlin, (703) 697-3387.

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866, "Regulatory Planning and Review"

It has been determined that 32 CFR part 153 is not a significant regulatory action. The rule does not:

(1) Have an annual effect to the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

#### Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)

It has been certified that this rule is not subject to the "Regulatory

Flexibility Act" (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule is being published to give notice to state attorneys and paralegals of 10 U.S.C. § 1044d. The Directive establishes a uniform approach for the execution of military testamentary instruments. Military testamentary instruments have the same legal effect as a testamentary instrument prepared and executed in accordance with the laws of the State in which it is presented for probate. Thus, it is exempt from any requirement of form, formality, or recording before probate that is provided for testamentary instruments under the laws of a State.

#### Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1995.

#### Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"

It has been certified that this rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

#### Executive Order 13132, "Federalism"

It has been certified that this rule does not have federalism implications. The rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### List of Subjects in 32 CFR Part 153

Military law, Military personnel.

Accordingly, 32 CFR part 153 is added to subchapter D to read as follows:

#### PART 153—LEGAL ASSISTANCE MATTERS

Sec.

153.1 Purpose.

153.2 Applicability.

153.3 Definitions.

153.4 Policy.

153.5 Responsibilities.

Appendix A to part 153—Military Testamentary Preamble

Appendix B to part 153—Military Testamentary Instrument Self-Proving Affidavit

Appendix C to part 153—Military Power of Attorney Preamble

Appendix D to part 153—Military Advance Medical Directive Preamble

**Authority:** 10 U.S.C. 301.

#### § 153.1 Purpose.

This part implements 10 U.S.C. 301 for persons eligible for military legal assistance by establishing a uniform approach for the execution of military testamentary instruments.

#### § 153.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps, and the Coast Guard when it is operating as a service in the Department of the Navy.

#### § 153.3 Definitions.

*Estate planning.* The continuing process of arranging for the use, conservation, and transfer of one's property and wealth during life and upon death. The process produces a plan that may include some or all of these: A testator/testatrix will, military testamentary instrument, a trust, life insurance, an advance medical directive, a healthcare power of attorney, designation of anatomical gifts, and other dispositive documents.

*Military advance medical directive.* A written document, prepared in accordance with this Part, which explains one's wishes about medical treatment if one becomes incompetent or unable to communicate, or which governs the withholding or withdrawal of life-sustaining treatment from the maker of the document in the event of an incurable or irreversible condition that will cause death within a relatively short period of time, and when the maker is no longer able/competent to make decisions regarding his/her medical treatment.

*Military legal assistance counsel.* A judge advocate, as defined in 10 U.S.C. 801(13) or a civilian attorney serving as a legal assistance officer, under the provisions of 10 U.S.C. 1044.

*Military power of attorney.* A written instrument prepared in accordance with this part, whereby one person, as principal, appoints another as his/her agent and confers authority to perform certain specified acts, kinds of acts or