on or before February 15, 1972, or with the presiding officer at the hearing. All written submissions received pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

After consideration of all information presented at the hearing or otherwise available to the Department, a determination will be made as to whether the quarantine will be extended.

Done at Washington, D.C., this 3d day of January 1972.

F. J. MULHERN,
Administrator,
Animal and Plant Health Service.

[FR Doc.72-255 Filed 1-6-72;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 3]

ANTIBACTERIAL INGREDIENTS IN DRUG AND COSMETIC PRODUCTS FOR REPEATED DAILY HUMAN USE

Proposed Statement of Policy

Many over-the-counter drug and cosmetic products intended for repeated daily human use contain one or more antibacterial ingredients, to achieve a specific drug or cosmetic purpose or to act as a preservative or both. Recent reports have raised questions about the widespread use of hexachlorophene in such products. These questions cannot be answered without consideration of the safety and effectiveness, of this entire class of antibacterial ingredients, for daily consumer use over long periods of time.

Any restrictions placed upon the use of one antibacterial ingredient in OTC drug and cosmetic products will undoubtedly result in a corresponding increase in the use of other antibacterial ingredients for the same purposes. Steps must therefore be taken to determine that every antibacterial ingredient intended for chronic daily use is adequately tested for safety.

Questions have also been raised about the medical justification for OTC antibacterial products designed for repeated daily use as prophylaxis against minor skin infections or transmission of disease. Most of these products are effective only against gram positive organisms and provide no protection against gram negative organisms. The total reduction in skin bacteria may not be significant in terms of prophylactic benefit. On the other hand, it is entirely possible that some individuals or conditions may benefit from the antibacterial action of these products, for example, food handlers, populations living under insanitary conditions, other persons subject to constant contact with potential disease-causing bacteria, and perhaps even the population at large. It is apparent that a full evaluation of the medical and scientific information available for this class of products is needed to resolve these issues before any final conclusion may be reached on the safety and effectiveness of these products.

The Food and Drug Administration is not aware of human toxicity produced from the use of hexachlorophene under recommended or normal conditions of use. However, animal studies and abnormal human use have shown toxicity, repeated daily use of drug and cosmetic products containing hexachlorophene has resulted in significant human blood hexachlorophene levels, and the margin of safety between present human exposure and the threshold toxicity level is uncertain. It appears that the toxicity of hexachlorophene is related to its concentration in the blood, and that the amount of hexachlorophene in human blood increases with the amount of exposure to hexachlorophene. Insufficient information is available on the number of consumer products containing hexacholorophene, their patterns of daily use, and the hexachlorophene blood levels resulting from their use singly or in combination. It is therefore prudent to reduce the total human exposure to hexachlorophene, in order to reduce any potential hazard, by eliminating its least important uses until adequate data are available to justify wider use.

Regulation of the use of hexachlorophene in all consumer products applied daily to the skin, whether they be legally classified as drugs or cosmetics, must be undertaken in order to prevent any potential human hazard. Serious consideration must be given not only to the safety and effectiveness of hexachlorophene, but also to the safety and effectiveness of alternative antibacterial ingredients that may be used as substitutes for hexachlorophene in drug and cosmetic products. In some instances, inadequate data are available to evaluate these ingredients. Manufacturers and the Food and Drug Administration must ascertain that such alternative ingredients are adequately tested and shown to be safe and effective prior to marketing.

It is fundamental that no manufacturer of a consumer product has the right to place that product on the market without first substantiating its safety. The marketing of a product constitutes an inherent implied warranty of fitness for its labeled purpose, including safety in use. In the case of a drug, the Federal Food, Drug, and Cosmetic Act requires approval by the Food and Drug Administration prior to marketing unless the drug is generally recognized as safe and effective. In the case of a cosmetic, although the act does not require approval by FDA prior to marketing, it necessarily contemplates that the manufacturer has obtained all data and information necessary and appropriate to substantiate the product's safety before marketing. Any product whose safety is not adequately substantiated prior to marketing may be adulterated, and would in any event be misbranded unless it candidly and prominently warns that the product has not been adequately tested for safety and may be hazardous.

On the basis of the animal and human data presently available on hexachlorophene and on alternative antibacterial ingredients, and in view of the gaps in present knowledge about these ingredients, and pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 502(a), (f), (j), 503(b), 505, 601(a), 602(a), (c), 701(a), 52 Stat. 1041, 1050–55 as amended; 21 U.S.C. 321(n), 352(a), (f), (j), 353(b), 355, 361(a), 362(a), (c), 371(a)) and under the authority delegated to him (21 CFR 2.120), the Commissioner proposes to add the following new section to Part 3:

§ 3.---- Antibacterial ingredients in drug and cosmetic products for repeated daily human use.

(a) An OTC drug advisory review panel is being convened under the procedures proposed in the FEDERAL REGISTER of January 5, 1972, to review the safety and effectiveness of all antibacterial ingredients used in OTC drugs for repeated daily consumer use as prophylaxis against minor skin infections or transmission of disease.

(1) On an interim basis, pending completion of such review, such products may contain hexachlorophene as an active ingredient at a level not greater than 0.75 percent. Such products are regarded as new drugs requiring an approved new-drug application. The marketing of these products may be continued if all the following conditions are met:

(i) Within 30 days following the date of publication of this section in the FEDERAL REGISTER, the label bears the statement:

"Caution: Contains Hexachlorophene. For external washing only. Rinse thoroughly."

(ii) Within 60 days following the date of publication of this section in the FEDERAL REGISTER, the holder of an approved new-drug application submits a supplement to provide for the revised label under which a consumer may use the drug safely and effectively.

(iii) Within 90 days following the date of publication of this section in the FEDERAL REGISTER, the holder of an approved new drug application submits a supplement to provide for the reformulation in accord with this section. Appropriate notices to withdraw existing approvals of nonconforming new-drug applications will be prepared for FEDERAL REGISTER publication.

(iv) Within 90 days from the date of publication of this section in the FEDERAL REGISTER, the manufacturer or distributor of such a drug for which a new-drug approval is not in effect submits a new-drug application in accord with § 130.4 of the new-drug regulations (21 CFR 130.4).

(2) On an interim basis, pending completion of such review, OTC drug products may contain hexachlorophene as a preservative at a level that is no higher than necessary to achieve the intended

preservative function, and in no event higher than 0.1 percent. Such use of hexachlorophene shall be limited to situations where an alternative preservative has not yet been shown to be as effective or where adequate integrity and stability data for the reformulated product are not yet available. This use of hexachlorophene will not, by itself, require an approved new drug application. Use of hexachlorophene as a preservative at a level higher than 0.1 percent is regarded as a new-drug use requiring an approved new-drug application, which must be submitted within the time limits set out in subparagraph (1) (ii) and (iii) of this paragraph.

(b) Hexachlorophene may be used as a bacteriostatic skin cleanser, including use of a surgical scrub, and in hospitals or other institutions for infection control, at a level higher than 0.75 percent. Such products are regarded as new drugs requiring a new-drug application and are not suitable for over-the-counter use. The marketing of these products may be continued if all the following conditions are met:

(1) Within 30 days following the date of publication of this section in the FEDERAL REGISTER, the label bears the legend:

"Caution: Federal law prohibits dispensing without prescription."

(2) Within 60 days following the date of publication of this section in the FEDERAL REGISTER, the holder of an approved new-drug application submits a supplement to provide for the revised label and full disclosure information under which a physician may use the drug safely and effectively.

(3) Within 90 days from the date of publication of this section in the FEDERAL REGISTER, the manufacturer or distributor of such a drug for which a new-drug approval is not in effect submits a new-drug application in accord with § 130.4 of the new-drug regulations (21 CFR 130.4).

(c) Hexachlorophene may be used as a preservative in cosmetic products, at a level that is no higher than necessary to achieve the intended preservative function, and in no event higher than 0.1 percent. Such use of hexachlorophene shall be limited to situations where an alternative preservative has not yet been shown to be as effective or where adequate integrity and stability data for the reformulated product are not yet available.

(1) Adequate safety data do not presently exist to justify wider use of hexachlorophene in cosmetics. Until such data are available, all such products shall be reformulated to comply with this subsection.

(2) Antibacterial ingredients used as substitutes for hexachlorophene in cosmetic products, and finished cosmetic products containing such ingredients, shall be adequately tested for safety prior to marketing. Any such ingredient or product whose safety is not adequately substantiated prior to marketing may be adulterated and will in any event be deemed misbranded unless it contains a conspicuous front panel statement that the product has not been adequately tested for safety and may be hazardous.

(d) Shipments of products falling within the scope of paragraph (a), (b), or (c) of this section which are not in compliance with the guidelines stated herein shall be the subject of regulatory proceedings after the effective date of the final order.

To the extent that they are consistent with this publication, the following prior notices are hereby superseded:

DESI No. 4749 (34 F.R. 15389, October 2, 1969), "Certain OTC Drugs for Topical Use," DESI No. 2855 (35 F.R. 12423, August 4, 1970), "Certain Mouthwash and Gargle Preparations," DESI No. 8940 (36 F.R. 14510, August 6, 1971), "Topical Cream Containing Pyrilamine Maleate, Benzocaine, Hexachlorophene, and Cetrimonium Bromide," and DESI No. 6270 (36 F.R. 23330, December 8, 1971), "Certain Preparations Containing Hexachlorophene."

The warning against total body bathing and rinsing thoroughly after use as required by DESI 6270 is not affected by this proposal.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: January 3, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-209 Filed 1-6-72;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 146]

[CGFR 71-170]

DANGEROUS CARGOES

Proposed Classification of Etiologic Agents

The Coast Guard is considering amending the dangerous cargoes regulations to add a new classification (etiologic agents) and to prescribe that they cannot be shipped except under special authorization of the Commandant.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the U.S. Coast Guard (MHM), 400 Seventh Street SW., Washington, DC 20590. Each person submitting comments should include his name and address, identify the notice (CGFR 71-170), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8306, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC.

The Coast Guard will hold an informal hearing on March 28, 1972, at 9:30 a.m. in Conference Room 8332, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. There will be no cross-examination of persons presenting statements. It is requested that anyone desiring to attend the hearing notify the U.S. Coast Guard (MHM), 400 Seventh Street SW., Washington, DC 20590.

The Commandant will evaluate all communications received before April 4, 1972 and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

By a separate document published at page 25163 of the December 29, 1971 FEDERAL REGISTER (36 F.R. 25163), the Hazardous Materials regulations Board of the Department of Transportation proposes amendments to Part 172 of Title 49, Code of Federal Regulations. For reasons fully stated in that document the Board has proposed these changes.

The hazardous materials regulations of the Department of Transportation in Title 49 apply to shippers by water, air, and land, and to carriers by air and land. The adoption of this proposed amendment to Title 46 would make the proposal of the Hazardous Materials Regulations Board applicable to carriers by water.

The Coast Guard proposes to incorporate the substance of the Board's proposal in 46 CFR 146.

In consideration of the foregoing, it is proposed that Part 146 of Title 46 of the Code of Federal Regulations be amended as follows:

1. By adding to § 146.05-4 "List of explosives and other dangerous articles and combustible liquids" in proper alphabetical sequence the following:

Article	Classed as	Label required
Etiologic agent, n.o.s.	Etiologic agent..	Etiologic agent.

2. By revising § 146.05-15 (a), (b), and (e) (1) by adding a new subparagraph (15) to paragraph (g), to read as follows:

§ 146.05-15 Marking and labeling.

(a) Department of Transportation regulations in effect at the time of shipments with respect to the marking and labeling of containers of explosives, inflammable liquids, inflammable solids, oxidizing materials, corrosive liquids, compressed gases, poisonous articles, and etiologic agents apply to shippers preparing shipments for transportation or storage on board vessels that are common carrier vessels and subject to the regulations of this part.

(b) Provisions of the regulations of the Department of Transportation with respect to marking and labeling of containers of explosives, inflammable liquids,