The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–14462/Airspace Docket No. 03–ACE–15'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have a substantial direct effect 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. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565; 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Denison, IA

Denison Municipal Airport, IA
(Lat. 41°59′11″ N., long. 95°22′51″ W.)
Denison NDB
(Lat. 41°59′02″ N., long. 95°22′46″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Denison Municipal Airport and within 2.6 miles each side of the 116° bearing from the Denison NDB extending from the 6.5-mile radius to 7 miles southeast of the airport.

* * * * *

Issued in Kansas City, MO, on February 14, 2003.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 03–4797 Filed 2–27–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 530

[Docket No. 03N–0024]

New Animal Drugs; Phenylbutazone; Extralabel Animal Drug Use; Order of Prohibition

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (we) is issuing an order prohibiting the extralabel use of phenylbutazone animal and human drugs in female dairy cattle 20 months of age or older. We are issuing this order based on evidence that extralabel use of phenylbutazone in female dairy cattle 20 months of age or older will likely cause an adverse event in humans. We find that such extralabel use presents a risk to the public health for the purposes of the Animal Medicinal Drug Use Clarification Act of 1994 (AMDUCA).

DATES: This rule is effective May 29, 2003. We invite your written or electronic comments. We will consider all comments that we receive by April 29, 2003.

ADDRESSES: Submit your written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Gloria J. Dunnavan, Center for Veterinary Medicine (HFV–230), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–1168, e-mail: *gdunnava@cvm.fda.gov.*

SUPPLEMENTARY INFORMATION:

I. AMDUCA

AMDUCA (Public Law 103–396) was signed into law on October 22, 1994. It amended the Federal Food, Drug, and Cosmetic Act (the act) to permit licensed veterinarians to prescribe extralabel uses of approved animal and human drugs in animals. However,

section 512(a)(4)(D) of the act (21 U.S.C. 360b(a)(4)(D)) gives us authority to prohibit an extralabel drug use in animals if, after affording an opportunity for public comment, we find that such use presents a risk to the public health.

In the **Federal Register** of November 7, 1996 (61 FR 57732), we published the implementing regulations (codified at part 530 (21 CFR part 530)) for AMDUCA. The sections regarding prohibition of extralabel use of drugs in food-producing animals are found at §§ 530.21 and 530.25. These sections describe the basis for issuing an order prohibiting an extralabel drug use in food-producing animals and the procedure to be followed in issuing an order of prohibition.

We may issue a prohibition order if we find that extralabel use in animals presents a risk to the public health. Under § 530.3(e), this means that we have evidence that demonstrates that the use of the drug has caused or likely will cause an adverse event.

Section 530.25 provides for a public comment period of not less than 60 days. It also provides that the order of prohibition will become effective 90 days after the date of publication, unless we revoke the order, modify it, or extend the period of public comment. The list of drugs prohibited from extralabel use is found in § 530.41.

II. Phenylbutazone

Phenylbutazone became available for use in humans for the treatment of rheumatoid arthritis and gout in 1949 (Ref. 1), but is no longer approved, and thus not marketed, for any human use in the United States. This is because some patients treated with phenylbutazone have experienced severe toxic reactions, and other effective, less toxic drugs are available to treat the same conditions (Refs. 1 and 2).

Phenylbutazone is known for its ulcerogenic, nephrotoxic, and hemotoxic effects in horses, dogs, rats, and humans (Refs. 2, 4, 5, 6, 7, and 8). It is known to induce blood dyscrasias, including aplastic anemia, leukopenia, agranulocytosis, thrombocytopenia, and deaths (Refs. 7 and 8). The reported adverse reactions were associated with the human clinical use of 200 to 800 milligrams phenylbutazone per day (Refs. 7 and 8). Hypersensitivity reactions of the serum-sickness type have also been reported in patients with phenylbutazone. The threshold for this effect has not been defined. Therefore, it is unclear what level of exposure would be required to trigger such reactions in sensitive people. Moreover, phenylbutazone is a carcinogen, as determined by the National Toxicology Program (NTP) based on positive results in genotoxicity tests and some evidence of carcinogenicity seen in the rat and mouse in carcinogenicity bioassays NTP conducted (Ref. 3).

For animals, phenylbutazone is currently approved only for oral and injectable use in dogs and horses. Use in horses is limited to use in horses not intended for food. There are currently no approved uses of phenylbutazone in food-producing animals.

Investigation by FDA and state regulatory counterparts has recently found phenylbutazone on farms and identified tissue residues in culled dairy cattle. In addition, the U.S. Department of Agriculture's (USDA's) Food Safety Inspection Service has reported phenylbutazone residues in culled cattle presented for slaughter for human food throughout the United States in the past 2 calendar years. This evidence indicates that the extralabel use of phenylbutazone in female dairy cattle 20 months of age or older will likely result in the presence, at slaughter, of residues that are toxic to humans, including being carcinogenic, at levels that have not been shown to be safe. Because of the likelihood of this adverse event, we are issuing an order prohibiting the extralabel use of phenylbutazone drugs in female dairy cattle 20 months of age or older.

We will continue to monitor the extralabel use of phenylbutazone and will adjust the scope of this prohibition should we find that extralabel use in other species or classes of animals presents a risk to public health.

III. Request for Comments

We are providing 60 days from the date of this publication for you to comment. The order will become effective May 29, 2003, unless we revoke or modify the order, or extend the comment period. You may send written or electronic comments to the Dockets Management Branch (see **ADDRESSES**) by April 29, 2003. Submit a single copy of electronic comments to *http://www.fda.gov/dockets/ecomments* or two hard copies of any written comments, except that individuals may submit one hard copy. Please identify your comments with the docket number found in brackets in the heading of this document. You may read any comments that we receive at our Dockets Management Branch reading room (see **ADDRESSES**). The reading room is open from 9 a.m. to 4 p.m., Monday through Friday, except for Federal holidays.

IV. Order of Prohibition

Therefore, I hereby issue the following order under section 512(a)(4)(D) of the act and 21 CFR 530.21 and 530.25. We find that extralabel use of phenylbutazone animal drugs and human drugs in female dairy cattle 20 months of age or older likely will cause an adverse event which constitutes a finding under section 512(a)(4)(D) of the act that extralabel use of this drug presents a risk to the public health. Therefore, we are prohibiting the extralabel use of this drug in female dairy cattle 20 months of age or older.

V. References

The following references have been placed on display in the Dockets Management Branch (see **ADDRESSES**). You may view them between 9 a.m. and 4 p.m., Monday through Friday.

1. Insel, P. A., ''Analgesic-Antipyretics and Anti-inflammatory Agents, and Drugs Employed in the Treatment of Gout,'' Goodman and Gilman, *The Pharmacological Basis of Therapeutics*, 9th ed., edited by J. G. Hardman, L. E. Limbird, P. B. Molinoff, R. W. Ruddon, and A. G. Gilman, McGraw-Hill, pp. 642–643, 1996.

2. McEvoy, G. K., ''American Hospital Formulary Service B Drug Information 93,'' American Society of Hospital Pharmacists, Inc., Bethesda, MD, p. 1194, 1993.

3. National Toxicology Program, ''Toxicology and Carcinogenesis Studies of Phenylbutazone in F344/N rats and B6C3F1 Mice (gavage studies)'' National Toxicology Program Technical Report number 367, NIH publication number 90–2822, 1990.

4. Edited by R. J Anderson, J. G. Gambertoglio, and R. W. Schrier, ''Clinical Use of Drugs in Renal Failure,'' Charles C. Thomas, Springfield, IL, p. 6, 1976.

5. Carpenter, S. L., and W. M. McDonnell, ''Misuses of Veterinary Phenylbutazone,'' *Archives of Internal Medicine*, vol. 155, pp. 1229–1231, 1995.

6. Council on Drugs, ''Registry on Blood Dyscrasias,'' Report to the Council, *Journal of the American Medical Association*, vol. 179(11), pp. 888–890, 1962.

7. Hazardous Substances Data Bank, 2000. http://www.csi.micromedex.com/DATA/HS/HS3159F.htm

8. Humphreys, D. J., *Veterinary Toxicology*, Bailliére Tindall, p. 92, 1988.

List of Subjects in 21 CFR Part 530

Administrative practice and procedure, Advertising, Animal drugs,

Labeling, Reporting and recordkeeping requirements.

Accordingly, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Veterinary Medicine, 21 CFR part 530 is amended as follows:

PART 530--EXTRALABEL DRUG USE IN ANIMALS

1. The authority citation for 21 CFR part 530 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 351, 352, 353, 355, 357, 360b, 371, 379e.

§ 530.41 [Amended]

2. Section 530.41 is amended by adding paragraph (a)(12) to read as follows:

§ 530.41 Drugs prohibited for extralabel use in animals.

(a) * * *

(12) Phenylbutazone.

* * * * *

Dated: February 13, 2003.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 03–4741 Filed 2–27–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 864

[Docket No. 96P–0484]

Medical Devices; Hematology and Pathology Devices; Reclassification of Automated Blood Cell Separator Device Operating by Filtration Principle from Class III to Class II

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is reclassifying the automated blood cell separator (ABCS) device operating by filtration principle, intended for routine collection of blood and blood components, from class III to class II (special controls). The special control requirement for this device is an annual report with emphasis on adverse reactions to be filed by the manufacturer for a minimum of 3 years. The agency is taking this action in response to a petition submitted under the Federal Food, Drug, and Cosmetic Act (the act) as amended by the Medical Device Amendments of 1976 (the 1976 amendments), the Safe Medical Devices Act of 1990 (the SMDA), and the Food and Drug Administration Modernization Act of 1997 (FDAMA). The agency is reclassifying the automated blood cell separator devices operating by filtration principle into class II (special controls) because special controls, in addition to general controls, are capable of providing a reasonable assurance of safety and effectiveness of the device.

DATES: This rule is effective March 31, 2003.

FOR FURTHER INFORMATION CONTACT: Paula S. McKeever, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

The act (21 U.S.C. 301 *et seq.*), as amended by the 1976 amendments (Public Law 94–295), the SMDA (Public Law 101–629), and FDAMA (Public Law 105–115), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513(f)(1) of the act, devices that were not in commercial distribution before May 28, 1976, the date of enactment of the 1976 amendments, generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. Those devices remain in class III and require premarket approval, unless and until the device is reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, under section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807.

Under section 513(f)(3) of the act, FDA may initiate the reclassification of a device classified into class III under section 513(f)(1), or the manufacturer or importer of a device may petition the Secretary of Health and Human Services for the issuance of an order classifying the device in class I or class II. FDA's regulations in § 860.134 (21 CFR 860.134) set forth the procedures for the filing and review of a petition for reclassification of such class III devices. In order to change the classification of the device, it is necessary that the proposed new class have sufficient regulatory controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use.

II. Regulatory History of the Device

The AUTOPHERESIS–C SYSTEM, an ABCS, intended for the routine collection of blood and blood components, is a postamendments device classified into class III under section 513(f)(1) of the act. Therefore, the device cannot be placed in commercial distribution for the routine collection of blood and blood components unless it is reclassified under section 513(f)(3) of the act, or subject to an approved premarket approval application (PMA) under section 515 of the act (21 USC 360e). FDA is taking this action under section 513(f)(3) of the act and § 860.134, based on information submitted in a petition by Baxter Healthcare Corp. (Baxter) on June 17, 1996, requesting reclassification of the AUTOPHERESIS–C SYSTEM, intended for routine collection of blood and blood components, from class III to class II (Ref. 1). Although Baxter submitted its petition for reclassification under section 513(e) of the act, the request should have been submitted under section 513(f)(3), and therefore FDA has considered the petition filed under section 513(f)(3). Consistent with section 513(f)(3) of the act and § 860.134, FDA referred the petition to the Blood Products Advisory Committee, Medical Devices Panel (the Panel) for its recommendation on the requested change in classification. The Panel met on September 26, 1996, at a public meeting (Ref. 2).

III. Device Description

The AUTOPHERESIS–C SYSTEM, intended for routine collection of blood and blood components, is an automated plasmapheresis system. It utilizes a spinning membrane separation device to achieve rapid and gentle separation by filtration of whole blood into concentrated cellular components for reinfusion and into plasma for collection.

The instrument uses a system of pumps and sensors controlled by a microprocessor and it incorporates a variety of safety and alarm system