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disclosure, or not in any way discussed or disclosed in open session or otherwise disclosed to the public.

[44 FR 22351, Apr. 13, 1979, as amended at 54 FR 9037, Mar. 3, 1989]

§ 14.172 Utilization of an advisory committee at the request of an interested person.

Any interested person may request, under § 10.30, that a specific matter relating to a particular human prescription drug be submitted to an appropriate advisory committee for a hearing and review and recommendations. The request must demonstrate the importance of the matter and the reasons why it should be submitted for a hearing at that time. The Commissioner may grant or deny the request.

§ 14.174 Advice and recommendations in writing.

Advice and recommendations given by a committee on a specific drug or a class of drugs are ordinarily in the form of a written report. The report may consist of the approved minutes of the meeting or a separate written report. The report responds to the specific issues or questions which the Commissioner has addressed to the advisory committee, and states the basis of the advice and recommendations of the committee.

PART 15—PUBLIC HEARING BEFORE THE COMMISSIONER

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AUTHORITY: 5 U.S.C. 553; 15 U.S.C. 1451–1461; 21 U.S.C. 141–149, 321–393, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201, 262, 263b–263n, 264.

SOURCE: 44 FR 22366, Apr. 13, 1979, unless otherwise noted.

Subpart A—General Provisions

§ 15.1 Scope.

The procedures in this part apply when:

(a) The Commissioner concludes, as a matter of discretion, that it is in the public interest to permit persons to present information and views at a public hearing on any matter pending before the Food and Drug Administation.

(b) The act or regulation specifically provides for a public hearing before the Commissioner on a matter, e.g., § 330.10(a)(8) relating to over-the-counter drugs and sections 520 (b) and (f)(1)(B), and 521 of the act relating to proposals to allow persons to order custom devices, to proposed device good manufacturing practice regulations, and to proposed exemptions from preemption of State and local device requirements under § 808.25(e).

(c) A person who has right to an opportunity for a formal evidentiary public hearing under part 12 waives that opportunity and instead requests under § 12.32 a public hearing before the Commissioner, and the Commissioner, as a matter of discretion, accepts the request.

Subpart B—Procedures for Public Hearing Before the Commissioner

§ 15.20 Notice of a public hearing before the Commissioner.

(a) If the Commissioner determines that a public hearing should be held on a matter, the Commissioner will publish a notice of hearing in the FEDERAL REGISTER setting forth the following information:

(1) If the hearing is under § 15.1 (a) or (b), the notice will state the following:

(i) The purpose of the hearing and the subject matter to be considered. If a written document is to be the subject matter of the hearing, it will be published as part of the notice, or reference made to it if it has already been published in the FEDERAL REGISTER, or

the notice will state that the document is available from an agency office identified in the notice.

(ii) The time, date, and place of the hearing, or a statement that the information will be contained in a subsequent notice.

(2) If the hearing is in lieu of a formal evidentiary public hearing under § 15.1(c), all of the information described in § 12.32(e).

(b) The scope of the hearing is determined by the notice of hearing and any regulation under which the hearing is held. If a regulation, e.g., § 330.10(a)(10), limits a hearing to review of an existing administrative record, information not already in the record may not be considered at the hearing.

(c) The notice of hearing may require participants to submit the text of their presentations in advance of the hearing if the Commissioner determines that advance submissions are necessary for the panel to formulate useful questions to be posed at the hearing under § 15.30(e). The notice may provide for the submission of a comprehensive outline as an alternative to the submission of the text if the Commissioner determines that submission of an outline will be sufficient.

[44 FR 22366, Apr. 13, 1979, as amended at 47 FR 26375, June 18, 1982]

§ 15.21 Notice of participation; schedule for hearing.

(a) The notice of hearing will provide persons an opportunity to file a written notice of participation with the Division of Dockets Management within a specified period of time containing the information specified in the notice, e.g., name of participant, address, phone number, affiliation, if any, topic of presentation and approximate amount of time requested for the presentation. If the public interest requires, e.g., a hearing is to be conducted within a short period of time or is to be primarily attended by individuals without an organizational affiliation, the notice may name a specific FDA employee and telephone number to whom an oral notice of participation may be given or provide for submitting notices of participation at the time of the hearing. A written or oral notice of participation must be received by the designated person by the close of business of the day specified in the notice.

(b) Promptly after expiration of the time for filing a notice, the Commissioner will determine the amount of time allotted to each person and the approximate time that oral presentation is scheduled to begin. If more than one hearing is held on the same subject, a person will ordinarily be allotted time for a presentation at only one hearing.

(c) Individuals and organizations with common interests are urged to consolidate or coordinate their presentations and to request time for a joint presentation. The Commissioner may require joint presentations by persons with common interests.

(d) The Commissioner will prepare a hearing schedule showing the persons making oral presentations and the time alloted to each person, which will be filed with the Division of Dockets Management and mailed or telephoned before the hearing to each participant.

(e) The hearing schedule will state whether participants must be present by a specified time to be sure to be heard in case the absence of participants advances the schedule.

§ 15.25 Written submissions.

A person may submit information or views on the subject of the hearing in writing to the Division of Dockets Management, under § 10.20. The record of the hearing will remain open for 15 days after the hearing is held for any additional written submissions, unless the notice of the hearing specifies otherwise or the presiding officer rules otherwise.

§ 15.30 Conduct of a public hearing before the Commissioner.

(a) The Commissioner or a designee may preside at the hearing, except where a regulation provides that the Commissioner will preside personally. The presiding officer may be accompanied by other FDA employees or other Federal Government employees designated by the Commissioner, who may serve as a panel in conducting the hearing.

(b) The hearing will be transcribed.

(c) Persons may use their alloted time in whatever way they wish, consistent with a reasonable and orderly hearing. A person may be accompanied by any number of additional persons, and may present any written information or views for inclusion in the record of the hearing, subject to the requirements of § 15.25. The presiding officer may allot additional time to any person when the officer concludes that it is in the public interest, but may not reduce the time allotted for any person without the consent of the person.

(d) If a person is not present at the time specified for the presentation, the persons following will appear in order, with adjustments for those appearing at their scheduled time. An attempt will be made to hear any person who is late at the conclusion of the hearing. Other interested persons attending the hearing who did not request an opportunity to make an oral presentation will be given an opportunity to make an oral presentation at the conclusion of the hearing, in the discretion of the presiding officer, to the extent that time permits.

(e) The presiding officer and any other persons serving on a panel may question any person during or at the conclusion of the presentation. No other person attending the hearing may question a person making a presentation. The presiding officer may, as a matter of discretion, permit questions to be submitted to the presiding officer or panel for response by them or by persons attending the hearing.

(f) The hearing is informal in nature, and the rules of evidence do not apply. No motions or objections relating to the admissibility of information and views may be made or considered, but other participants may comment upon or rebut all such information and views. No participant may interrupt the presentation of another participant at any hearing for any reason.

(g) The hearing may end early only if all persons scheduled for a later presentation have already appeared or it is past the time specified in the hearing schedule, under § 15.21(e), by which participants must be present.

(h) The Commissioner or the presiding officer may, under § 10.19, suspend, modify, or waive any provision of this part.

Subpart C—Records of a Public Hearing Before the Commissioner

§ 15.40 Administrative record.

(a) The administrative record of a public hearing before the Commissioner consists of the following:

(1) All relevant FEDERAL REGISTER notices, including any documents to which they refer.

(2) All written submissions under § 15.25.

(3) The transcript of the oral hearing.

(b) The record of the administrative proceeding will be closed at the time specified in § 15.25.

§ 15.45 Examination of administrative record.

Section 10.20(j) governs the availability for public examination and copying of each document in the administrative record of the hearing

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

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Subpart B—Initiation of Proceedings

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Subpart C—Commissioner and Presiding Officer

16.40 Commissioner.
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Subpart D—Procedures for Regulatory Hearing

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