

Food and Drug Administration, HHS

§ 5.31

(h) These officials may not further redelegate this authority.

§ 5.30 Authority to select temporary voting members for advisory committees and authority to sign conflict of interest waivers.

(a) Each Center director is authorized to select members of, and consultants to, scientific and technical FDA advisory committees under that Center's management to serve temporarily as voting members on another advisory committee under that Center's management when expertise is required that is not available among current voting standing members of a committee or to comprise a quorum when, because of unforeseen circumstances, a quorum is or will be lacking. When additional voting members are added to a committee to provide needed expertise not available among current voting standing members of a committee, a quorum will be based on the total of regular and added members. Authority to select temporary voting members to advisory committees, if such voting members are serving on an advisory committee managed by another Center, has not been redelegated. This authority will continue to be exercised by the Commissioner of Food and Drugs (Commissioner) or the Senior Associate Commissioner, Office of the Commissioner.

(b) Each Center director is authorized, under 18 U.S.C. 208(b)(1), to sign conflict of interest waivers for special Government employees without substantial interest to serve as consultants to advisory committees or in any other capacity within the Centers except as advisory committee members.

(c) These officials may not further redelegate this authority.

§ 5.31 Enforcement activities.

(a) Designated officers and employees of the Food and Drug Administration who have been issued the Food and Drug Administration official credentials consisting of Form FDA-200A, Identification Record, and Form FDA-200B, Specification of General Authority, are authorized:

(1) To conduct examinations, inspections, and investigations; to collect and obtain samples; to have access to

and to copy and verify records as authorized by law; to make seizures of items under section 702(e)(5) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 372 (e) (5)); and to supervise compliance operations for the enforcement of the act, the Fair Packaging and Labeling Act (15 U.S.C. 1451-1461), the Federal Caustic Poison Act (44 Stat. 140b; see also Public Law 86-613, section 19, formerly section 18), the Import Milk Act (21 U.S.C. 141-149), the Filled Milk Act (21 U.S.C. 61-64), and sections 351 and 361 of the PHS Act (42 U.S.C. 262 and 264).

(2) To administer oaths and affirmations under section 1 of the act of January 31, 1925 (Ch. 124, 43 Stat. 803); sections 12 to 15 of Reorganization Plan No. IV, effective June 30, 1940; and Reorganization Plan No. 1 of 1953, effective April 11, 1953.

(b) Any officer or employee of the Food and Drug Administration who has been designated by the Commissioner of Food and Drugs (Commissioner) to conduct examinations, investigations, or inspections under the act relating to counterfeit drugs and issued the Food and Drug Administration Official Credential consisting of Form FDA-200D, Special Authority for Criminal Investigators, is authorized to do the following:

(1) As set forth under section 702(e)(1) through (e)(5) of the act (21 U.S.C. 372 (e)(1)-(e)(5)):

- (i) Carry firearms;
- (ii) Serve and execute search warrants and arrest warrants;
- (iii) Execute seizure by process issued under libel under section 304 of the act (21 U.S.C. 334);

(iv) Make arrests without warrant for an offense under the act with respect to counterfeit drugs if the offense is committed in the presence of the criminal investigator or, in the case of a felony, if the investigator has probable cause to believe that the person so arrested has committed, or is committing, such offense; and

(v) Make, prior to the institution of libel proceedings under section 304(a)(2) of the act (21 U.S.C. 334(a)(2)), seizures of drugs or containers or of equipment, punches, dies, plates, stones, labeling, or other things, if they are, or the criminal investigator has reasonable