

cannot be considered generally recognized as safe and effective.

(b) Any OTC drug product that is labeled, represented, or promoted for use as a stomach acidifier is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act, for which an approved new drug application under section 505 of the act and part 314 of this chapter is required for marketing. In the absence of an approved new drug application, such product is also misbranded under section 502 of the act.

(c) Clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted as a stomach acidifier for OTC use is safe and effective for the purpose intended must comply with the requirements and procedures governing the use of investigational new drugs set forth in part 312 of this chapter.

(d) After the effective date of the final regulation, any such OTC drug product initially introduced or initially delivered for introduction into interstate commerce that is not in compliance with this section is subject to regulatory action.

[53 FR 31271, Aug. 17, 1988]

**§ 310.541 Over-the-counter (OTC) drug products containing active ingredients offered for use in the treatment of hypophosphatemia.**

(a) Hypophosphatemia is a condition in which an abnormally low plasma level of phosphate occurs in the blood. This condition is not amenable to self-diagnosis or self-treatment. Treatment of this condition should be restricted to the supervision of a physician. For this reason, any drug product containing ingredients offered for OTC use in the treatment of hypophosphatemia cannot be considered generally recognized as safe and effective.

(b) Any drug product that is labeled, represented, or promoted for OTC use in the treatment of hypophosphatemia is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act), for which an approved application under section 505 of the act and part 314 of this chapter is required for marketing. In the absence of an approved

application, such product is also misbranded under section 502 of the act.

(c) Clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted for OTC use in the treatment of hypophosphatemia is safe and effective for the purpose intended must comply with the requirements and procedures governing the use of investigational new drugs set forth in part 312 of this chapter.

(d) After November 12, 1990, any such OTC drug product initially introduced or initially delivered for introduction into interstate commerce that is not in compliance with this section is subject to regulatory action.

[55 FR 19858, May 11, 1990]

**§ 310.542 Over-the-counter (OTC) drug products containing active ingredients offered for use in the treatment of hyperphosphatemia.**

(a) Hyperphosphatemia is a condition in which an abnormally high plasma level of phosphate occurs in the blood. This condition is not amenable to self-diagnosis or self-treatment. Treatment of this condition should be restricted to the supervision of a physician. For this reason, any drug product containing ingredients offered for OTC use in the treatment of hyperphosphatemia cannot be considered generally recognized as safe and effective.

(b) Any drug product that is labeled, represented, or promoted for OTC use in the treatment of hyperphosphatemia is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act), for which an approved application under section 505 of the act and part 314 of this chapter is required for marketing. In the absence of an approved application, such product is also misbranded under section 502 of the act.

(c) Clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted for use in the treatment of hyperphosphatemia is safe and effective for the purpose intended must comply with the requirements and procedures governing use of investigational new drugs set forth in part 312 of this chapter.

(d) After November 12, 1990, any such OTC drug product initially introduced