

in §358.720(b). The label states “dandruff/anti-itch shampoo” or “anti-dandruff/anti-itch shampoo”.

(2) [Reserved]

(b) *Indications.* The labeling of the product states, under the heading “Uses,” one or more of the phrases listed in this paragraph (b), as appropriate. Other truthful and nonmisleading statements, describing only the uses that have been established and listed in this paragraph (b), may also be used, as provided in §330.1(c)(2) of this chapter, subject to the provisions of section 502 of the Federal Food, Drug, and Cosmetic Act (the act) relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(1) *Combinations of control of dandruff and external analgesic active ingredients in §358.720(b).* The labeling states “[bullet] [select one of the following: ‘for relief of’ or ‘controls’] the symptoms of dandruff [bullet] [select one of the following: ‘additional’ or ‘extra’] relief of itching due to dandruff”.

(2) The following terms or phrases may be used in place of or in addition to the words “for the relief of” or “controls” in the indications in paragraph (b)(1) of this section: “fights,” “reduces,” “helps eliminate,” “helps stop,” “controls recurrence of,” “fights recurrence of,” “helps prevent recurrence of,” “reduces recurrence of,” “helps eliminate recurrence of,” “helps stop recurrence of.”

(3) The following terms may be used in place of the words “the symptoms of” in the indication in paragraph (b)(1) of this section: “scalp” (select one or more of the following: “itching,” “irritation,” “redness,” “flaking,” “scaling”) “associated with”.

(c) *Warnings.* The labeling of the product states, under the heading “Warnings,” the warning(s) listed in §358.750(c)(1) and (c)(2).

(d) *Directions.* The labeling of the product states, under the heading “Directions,” directions that conform to the directions established for each ingredient in the directions sections of the applicable OTC drug monographs, unless otherwise stated in this para-

graph (d). When the time intervals or age limitations for administration of the individual ingredients differ, the directions for the combination product may not contain any dosage that exceeds those established for any individual ingredient in the applicable OTC drug monograph(s), and may not provide for use by any age group lower than the highest minimum age limit established for any individual ingredient.

(1) *Combinations of control of dandruff and external analgesic active ingredients in §358.720(b).* The labeling states “[bullet] wet hair [bullet] apply shampoo and work into a lather [bullet] rinse thoroughly [bullet] for best results, use at least twice a week or as directed by a doctor”.

(2) [Reserved]

[72 FR 9852, Mar. 6, 2007]

## PART 361—PRESCRIPTION DRUGS FOR HUMAN USE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED: DRUGS USED IN RESEARCH

AUTHORITY: 21 U.S.C. 321, 351, 352, 353, 355, 371; 42 U.S.C. 262.

### §361.1 Radioactive drugs for certain research uses.

(a) Radioactive drugs (as defined in §310.3(n) of this chapter) are generally recognized as safe and effective when administered, under the conditions set forth in paragraph (b) of this section, to human research subjects during the course of a research project intended to obtain basic information regarding the metabolism (including kinetics, distribution, and localization) of a radioactively labeled drug or regarding human physiology, pathophysiology, or biochemistry, but not intended for immediate therapeutic, diagnostic, or similar purposes or to determine the safety and effectiveness of the drug in humans for such purposes (*i.e.*, to carry out a clinical trial). Certain basic research studies, *e.g.*, studies to determine whether a drug localizes in a particular organ or fluid space and to describe the kinetics of that localization, may have eventual therapeutic or diagnostic implications, but the initial

studies are considered to be basic research within the meaning of this section.

(b) The conditions under which use of radioactive drugs for research are considered safe and effective are:

(1) *Approval by Radioactive Drug Research Committee.* A Radioactive Drug Research Committee, composed and approved by the Food and Drug Administration in accordance with paragraph (c) of this section, has determined, in accordance with the standards set forth in paragraph (d) of this section, that:

(i) The pharmacological dose is within the limits set forth in paragraph (b)(2) of this section;

(ii) The radiation dose is within the limits set forth in paragraph (b)(3) of this section;

(iii) The radiation exposure is justified by the quality of the study being undertaken and the importance of the information it seeks to obtain;

(iv) The study meets the other requirements set forth in paragraph (d) of this section regarding qualifications of the investigator, proper licensure for handling radioactive materials, selection and consent of research subjects, quality of radioactive drugs used, research protocol design, reporting of adverse reactions, and approval by an appropriate Institutional Review Committee; and

(v) The use of the radioactive drug in human subjects has the approval of the Radioactive Drug Research Committee.

(2) *Limit on pharmacological dose.* The amount of active ingredient or combination of active ingredients to be administered shall be known not to cause any clinically detectable pharmacological effect in human beings. If the same active ingredients (exclusive of the radionuclide) are to be administered simultaneously, e.g., under a "Investigational New Drug Application" or for a therapeutic use in accordance with labeling for a drug approved under part 314 of this chapter, the total amount of active ingredients including the radionuclide shall be known not to exceed the dose limitations applicable to the separate administration of the active ingredients excluding the radionuclide.

(3) *Limit on radiation dose.* The amount of radioactive material to be administered shall be such that the subject receives the smallest radiation dose with which it is practical to perform the study without jeopardizing the benefits to be obtained from the study.

(i) Under no circumstances may the radiation dose to an adult research subject from a single study or cumulatively from a number of studies conducted within 1 year be generally recognized as safe if such dose exceeds the following:

Whole body, active blood-forming organs, lens of the eye, and gonads:

	Rems
Single dose .....	3
Annual and total dose commitment .....	5
Other organs:	
Single dose .....	5
Annual and total dose commitment .....	15

(ii) For a research subject under 18 years of age at his last birthday, the radiation dose shall not exceed 10 percent of that set forth in paragraph (b)(3)(i) of this section.

(iii) All radioactive material included in the drug either as essential material or as a significant contaminant or impurity shall be included when determining the total radiation doses and dose commitments. Radiation doses from x-ray procedures that are part of the research study (*i.e.*, would not have occurred but for the study) shall also be included. The possibility of followup studies shall be considered for inclusion in the dose calculations.

(iv) Numerical definitions of dose shall be based on an absorbed fraction method of radiation absorbed dose calculation, such as the system set forth by the Medical Internal Radiation Dose Committee of the Society of Nuclear Medicine, or the system set forth by the International Commission on Radiological Protection.

(c) A Radioactive Drug Research Committee, in order to comply with paragraph (b)(1) of this section, shall be composed, shall function, and shall obtain and maintain approval of the Food and Drug Administration in conformity with the following:

(1) *Membership.* A Radioactive Drug Research Committee shall consist of at

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least five individuals. Each committee shall include the following three individuals: (i) A physician recognized as a specialist in nuclear medicine, (ii) a person qualified by training and experience to formulate radioactive drugs, and (iii) a person with special competence in radiation safety and radiation dosimetry. The remainder of the committee shall consist of individuals qualified in various disciplines pertinent to the field of nuclear medicine (e.g., radiology, internal medicine, clinical pathology, hematology, endocrinology, radiation therapy, radiation physics, radiation biophysics, health physics, and radiopharmacy). Membership shall be sufficiently diverse to permit expert review of the technical and scientific aspects of proposals submitted to the committee. The addition of consultants in other pertinent medical disciplines is encouraged. A Radioactive Drug Research Committee shall be either associated with a medical institution operated for care of patients and with sufficient scientific expertise to allow for selection of committee members from its faculty, or with a committee established by a State authority to provide advice on radiation health matters. Joint committees involving more than one medical institution which have been established in order to achieve a high level and diversity of experience will be acceptable. The Director of the Center for Drug Evaluation and Research may modify any of the foregoing requirements in a particular situation where alternative factors provide substantially the same composition and association.

(2) *Function.* Each Radioactive Drug Research Committee shall select a chairman, who shall sign all applications, minutes, and reports of the committee. Each committee shall meet at least once each quarter in which research activity has been authorized or conducted. A quorum consisting of more than 50 percent of the membership must be present with appropriate representation of the required fields of specialization. Minutes shall be kept and shall include the numerical results of votes on protocols involving use in human subjects. No member shall vote on a protocol in which he is an investigator.

(3) *Reports.* Each Radioactive Drug Research Committee shall submit an annual report on or before January 31 of each year to the Food and Drug Administration, Center for Drug Evaluation and Research, HFD-160, 5600 Fishers Lane, Rockville, MD 20857. The annual report shall include the names and qualifications of the members of, and of any consultants used by, the Radioactive Drug Research Committee, and, for each study conducted during the preceding year, a summary of information presented in the following format:

#### REPORT ON RESEARCH USE OF RADIOACTIVE DRUG

1. Title of the research project.
2. Brief description of the purpose of the research project.
3. Name of the investigator responsible.
4. Pharmacological dose:
  - a. Active ingredients.
  - b. Maximum amount administered per subject.
5. Name of the radionuclide(s) used, including any present, as significant contaminants or impurities.
6. Radiation absorbed dose. Provide the maximum dose commitment to the whole body and each organ specified in 21 CFR 361.1(b)(3)(i) that was received by a representative subject and the calculations or references that were used to estimate these maximum dose commitments. The report shall include the dose contribution of both the administered radionuclide(s) and any X-ray procedures associated with the study. If the study elicits data on the uptake or excretion of the radioactive drug pertinent to the estimation of dose commitment, report the mean value and range of values. For each subject provide:
  - (a) Age, sex, and approximate weight.
  - (b) Total activity of each radionuclide administered for each radioactive drug used in the study. Report each X-ray procedure used in conjunction with the study.
  - (c) If the subject has participated in other radioactive drug research studies, report the name of the radioactive drug used in these other studies, the date of administration, and the total activity of each radionuclide administered. If any X-ray procedures were used, identify the X-ray procedure(s) and include an estimate of the absorbed radiation doses.
  - (d) If more than one administration of a radioactive drug per subject, cumulative radiation dose and dose commitment, expressed as whole body, active blood-forming organs, lens of the eye, gonads, and other organ doses from the administered radionuclides.

7. A claim of confidentiality, if any.

NOTE: Contents of this report are available for public disclosure unless confidentiality is requested by the investigator and it is adequately shown by the investigator that the report constitutes a trade secret or confidential commercial information as defined in 21 CFR 20.61.

Investigator

Chairman, Radioactive Drug  
Research Committee

At any time a proposal is approved which involves exposure either of more than 30 research subjects, or of any research subject under 18 years of age, the committee shall immediately submit to the Food and Drug Administration a special summary of information in the format shown in this paragraph. Contents of these reports are available for public disclosure, unless confidentiality is requested by the investigator and it is adequately shown by the investigator that the report constitutes a trade secret or confidential commercial information as defined in § 20.61 of this chapter.

(4) *Approval.* Each Radioactive Drug Research Committee shall be specifically approved by the Center for Drug Evaluation and Research of the Food and Drug Administration. Applications shall be submitted to the Food and Drug Administration, Center for Drug Evaluation and Research, HFD-160, 5600 Fishers Lane, Rockville, MD 20857, and shall contain the names and qualifications of the members of the committee, and a statement that the committee agrees to comply with the requirements set forth in this section. Approval shall be based upon an assessment of the qualifications of the members of the committee, and the assurance that all necessary fields of expertise are covered. Approval of a committee may be withdrawn at any time for failure of the committee to comply with any of the requirements of this section. Approval of a committee shall remain effective unless and until the FDA withdraws such approval. Changes in membership and applications for new members shall be submitted to the Food and Drug Administration as soon as, or before, vacancies occur on the committee.

(5) *Monitoring.* The Food and Drug Administration shall conduct periodic reviews of approved committees. Monitoring of the activities of the committee shall be conducted through review of its annual report, through review of minutes and full protocols for certain studies, and through on-site inspections.

(d) In making the determination required in paragraph (b)(1) of this section, a Radioactive Drug Research Committee shall consider the following requirements and assure that each is met:

(1) *Radiation dose to subjects.* To assure that the radiation dose to research subjects is as low as practicable to perform the study and meet the criteria of § 361.1(b)(3), the Radioactive Drug Research Committee shall require that:

(i) The investigator provide absorbed dose calculations based on biologic distribution data available from published literature or from other valid studies.

(ii) The investigator provide for an acceptable method of radioassay of the radioactive drug prior to its use to assure that the dose calculations actually reflect the administered dose.

(iii) The radioactive drug chosen for the study has that combination of half-life, types of radiations, radiation energy, metabolism, chemical properties, etc., which results in the lowest dose to the whole body or specific organs with which it is possible to obtain the necessary information.

(iv) The investigator utilize adequate and appropriate instrumentation for the detection and measurement of the specific radionuclide.

(2) *Pharmacological dosage.* To determine that the amount of active ingredients to be administered does not exceed the limitations set forth in paragraph (b)(2) of this section, the committee shall require that the investigator provide pharmacological dose calculations based on data available from published literature or from other valid human studies.

(3) *Qualifications of investigators.* Each investigator shall be qualified by training and experience to conduct the proposed research studies.

(4) *License to handle radioactive materials.* The responsible investigator or

institutions shall, in the case of reactor-produced isotopes, be licensed by the Nuclear Regulatory Commission or Agreement State to possess and use the specific radionuclides for research use or be a listed investigator under a broad license, or in the case of non-reactor-produced isotopes, be licensed by other appropriate State or local authorities, when required by State or local law, to possess and use the specific radionuclides for research use.

(5) *Human research subjects.* Each investigator shall select appropriate human subjects and shall obtain the review and approval of an institutional review committee that conforms to the requirements of part 56 of this chapter, and shall obtain the consent of the subjects or their legal representatives in accordance with part 50 of this chapter. The research subjects shall be at least 18 years of age and legally competent. Exceptions are permitted only in those special situations when it can be demonstrated to the committee that the study presents a unique opportunity to gain information not currently available, requires the use of research subjects less than 18 years of age, and is without significant risk to the subject. Studies involving minors shall be supported with review by qualified pediatric consultants to the Radioactive Drug Research Committee. Each female research subject of childbearing potential shall state in writing that she is not pregnant, or, on the basis of a pregnancy test be confirmed as not pregnant, before she may participate in any study.

(6) *Quality of radioactive drug.* The radioactive drug used in the research study shall meet appropriate chemical, pharmaceutical, radiochemical, and radionuclidic standards of identity, strength, quality, and purity as needed for safety and be of such uniform and reproducible quality as to give significance to the research study conducted. The Radioactive Drug Research Committee shall determine that radioactive materials for parenteral use are prepared in sterile and pyrogen-free form.

(7) *Research protocol.* No matter how small the amount of radioactivity, no study involving administration of a radioactive drug, as defined in § 310.3(n) of

this chapter, to research subjects under this section, shall be permitted unless the Radioactive Drug Research Committee concludes, in its judgment, that scientific knowledge and benefit is likely to result from that study. Therefore, the protocol shall be based upon a sound rationale derived from appropriate animal studies or published literature and shall be of sound design such that information of scientific value may result. The radiation dose shall be both sufficient and no greater than necessary to obtain valid measurement. The projected number of subjects shall be sufficient but no greater than necessary for the purpose of the study. The number of subjects shall also reflect the fact that the study is intended to obtain basic research information referred to in paragraph (a) of this section and not intended for immediate therapeutic, diagnostic or similar purposes or to determine the safety and effectiveness of the drug in humans for such purposes (*i.e.*, to carry out a clinical trial).

(8) *Adverse reactions.* The investigator shall immediately report to the Radioactive Drug Research Committee all adverse effects associated with the use of the radioactive drug in the research study. All adverse reactions probably attributable to the use of the radioactive drug in the research study shall be immediately reported by the Radioactive Drug Research Committee to the Food and Drug Administration, Center for Drug Evaluation and Research, HFD-160, 5600 Fishers Lane, Rockville, MD 20857.

(9) *Approval by an institutional review board.* The investigator shall obtain the review and approval of an institutional review board that conforms to the requirements of part 56 of this chapter.

(e) The results of any research conducted pursuant to this section as part of the evaluation of a drug pursuant to part 312 of this chapter shall be included in the submissions required under part 312 of this chapter.

(f) A radioactive drug prepared, packaged, distributed, and primarily intended for use in accordance with the requirements of this section shall be exempt from section 502(f)(1) of the act and §§ 201.5 and 201.100 of this chapter if the packaging, label, and labeling are

in compliance with Federal, State, and local law regarding radioactive materials and if the label of the immediate container and shielded container, if any, either separate from or as part of any label and labeling required for radioactive materials by the Nuclear Regulatory Commission or by State or local radiological health authorities bear the following:

- (1) The statement “Rx only”;
- (2) The statement “To be administered in compliance with the requirements of Federal regulations regarding radioactive drugs for research use (21 CFR 361.1)”;
- (3) The established name of the drug, if any;
- (4) The established name and quantity of each active ingredient;
- (5) The name and half-life of the radionuclide, total quantity of radioactivity in the drug product’s immediate container, and amount of radioactivity per unit volume or unit mass at a designated referenced time;
- (6) The route of administration, if it is for the other than oral use;
- (7) The net quantity of contents;
- (8) An identifying lot or control number from which it is possible to determine the complete manufacturing history of the package of the drug;
- (9) The name and address of the manufacturer, packer, or distributor;
- (10) The expiration date, if any;
- (11) If the drug is intended for parenteral use, a statement as to whether the contents are sterile;
- (12) If the drug is for other than oral use, the names of all inactive ingredients, except that:
  - (i) Trace amounts of harmless substances added solely for individual product identification need not be named.
  - (ii) If the drug is intended for parenteral use, the quantity or proportion of all inactive ingredients, except that ingredients added to adjust pH or to make the drug isotonic may be declared by name and a statement of their effect; if the vehicle is water for injection, it need not be named. *Provided, however,* That in the case of containers too small or otherwise unable to accommodate a label with sufficient space to bear all such information, the information required by paragraphs (f)

(1) and (12) of this section may be placed on the shielded container only.

[40 FR 31308, July 25, 1975, as amended at 40 FR 44543, Sept. 29, 1975; 42 FR 15674, Mar. 22, 1977; 43 FR 14646, Apr. 7, 1978; 46 FR 8955, Jan. 27, 1981; 49 FR 44460, Nov. 7, 1984; 50 FR 8996, Mar. 6, 1985; 55 FR 11582, Mar. 29, 1990; 56 FR 10806, Mar. 14, 1991; 67 FR 4907, Feb. 1, 2002]

## PART 369—INTERPRETATIVE STATEMENTS RE WARNINGS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE

### Subpart A—Definitions and Interpretations

Sec.

- 369.1 Purpose of issuance.
- 369.2 Definitions.
- 369.3 Warnings required on drugs exempted from prescription-dispensing requirements of section 503(b)(1)(C).
- 369.4 Warnings suggested for drugs by formal or informal statements of policy.
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- 369.7 Warnings required by official compendia.
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### Subpart B—Warning and Caution Statements for Drugs

- 369.20 Drugs; recommended warning and caution statements.
- 369.21 Drugs; warning and caution statements required by regulations.

AUTHORITY: 21 U.S.C. 321, 331, 351, 352, 353, 355, 371.

SOURCE: 39 FR 11745, Mar. 29, 1974, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 369 appear at 69 FR 13717, Mar. 24, 2004.

### Subpart A—Definitions and Interpretations

#### § 369.1 Purpose of issuance.

The warning and caution statements suggested in subparts B and C of this part, for inclusion in the label or labeling of drugs and devices subject to section 502(d) and (f)(2) and other relevant provisions of the Federal Food, Drug, and Cosmetic Act are issued for the