| Actions | Compliance | Procedures |
|---|---|---|
| (4) When you install new wings (both left and right) on your airplane, the AFM and replacement requirements of paragraph (d)(2) of this AD apply. | *AFM incorporation:* Upon the accumulation of 450 hours TIS in the Acrobatic category and/or Utility category; and<br>*Replacement:* Upon the accumulation of 5,500 hours TIS in all operations. | See paragraph (d)(2) of this AD. |

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

**Note 1:** This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Moravan, Inc., 765 81 Otrokovice, Czech Republic; telephone: +420 67 767 3940; facsimile: +420 67 792 2103. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

**Note 2:** The subject of this AD is addressed in Czech Republic AD Number CAA–AD–T–099/2000R1, dated June 28, 2001.

Issued in Kansas City, Missouri, on September 26, 2002.

**James E. Jackson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 02–25208 Filed 10–3–02; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 310 and 358

**[Docket No. 02N–0359]**

**RIN 0910–AA01**

## Ingrown Toenail Relief Drug Products for Over-the-Counter Human Use

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing a proposed rule to establish conditions under which over-the-counter (OTC) ingrown toenail relief drug products containing sodium sulfide 1 percent in a gel vehicle are generally recognized as safe and effective and not misbranded. This rule also proposes to amend the regulation that lists nonmonograph active ingredients in OTC drug products for ingrown toenail relief by removing sodium sulfide from that list. This proposal is part of FDA's ongoing review of OTC drug products.

**DATES:** Submit written or electronic comments by December 3, 2002. Please see section IX of this document for the effective date of any final rule that may publish based on this proposal.

**ADDRESSES:** Submit 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:** Nahid Mokhtari, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2222.

**SUPPLEMENTARY INFORMATION:**

### I. Background

In the **Federal Register** of September 9, 1993 (58 FR 47602), FDA published a final rule establishing that any ingrown toenail relief drug product for OTC human use is not generally recognized as safe and effective and is misbranded. (See 21 CFR 310.538.) In that final rule, sodium sulfide 1 percent was considered effective but not safe for the temporary relief of pain associated with ingrown toenails because of its potential for causing adverse reactions, particularly burning sensations and skin irritation.

A manufacturer subsequently conducted an additional safety study and requested the agency to find sodium sulfide 1 percent in a gel vehicle safe and effective for this OTC use (Ref. 1). The study involved four treatment groups who applied sodium sulfide nonahydrate gel: (1) One percent twice daily using a retainer ring system, (2) 2 percent twice daily using a retainer ring system, (3) 2 percent once daily using a retainer ring system, and (4) 2 percent twice daily using an absorptive bandage system. The gel was applied for 7 days or until the nail became sufficiently softened to allow for trimming, whichever occurred first. Of 64 ingrown toenail sufferers enrolled, 61 completed all aspects of the study. No adverse reactions were reported during the study, and no subjects reported any irritation. Four subjects noted some stinging and burning on day 1 and moderate discomfort on days 3 and 4, but the subjects did not discontinue treatment. The manufacturer stated that of the two systems tested the retainer ring is the preferred one because it provides ease of use and cushioning while further enhancing safety through the use of a medical grade adhesive. The design of the system allows for easy administration of sodium sulfide to the affected area by the consumer while retaining the drug in contact with the toe. The manufacturer requested approval of its revised instructions using the retainer ring system.

The agency found this study inadequate for a number of reasons. First, it was not designed as a safety study. There was no vehicle control, and safety cannot be determined without a vehicle control. The trial size was too small. The daily supervision by a podiatrist was not reflective of OTC use. Safety has to be assessed in context with the indications; the ''days to trimming'' in the study were outside of the prior proposed monograph description of product uses. The agency concluded that the study was not adequate to resolve the outstanding

safety concerns for using sodium sulfide for ingrown toenail relief (Ref. 2). The manufacturer subsequently conducted additional safety studies and submitted new data to the agency (Ref. 3).

## II. The Agency's Evaluation of the New Data

The new data were in a study entitled ''An Investigator-Blind, Vehicle-Controlled and Retainer Ring/Taping-controlled, Parallel Study of the Safety of a 1 percent Sodium Sulfide Nonahydrate Gel Used Topically for the Temporary Relief of Discomfort (Pain) from Ingrown Toenails.'' The data resulted from a randomized, two-center, three-arm, evaluator-blind safety study involving 157 subjects over 18 years of age with painful ingrown toenail. Eligible subjects were randomized into treatment arms that used sodium sulfide 1 percent gel with a taped retainer ring, gel vehicle with a taped retainer ring, and the taped retainer ring alone in a 3:1:1 ratio.

The gel vehicle was an aqueous, semisolid system with large organic molecules interpenetrated with a liquid (Ref. 4). The retainer ring was die cut from polyethylene foam coated on one side with a medical grade acrylic pressure-sensitive adhesive and had slots, center-cut completely through the foam with the cut of sufficient size to allow for application of the product to the ingrown toenail (Ref. 4). All subjects were to apply the test product twice daily for 7 days after cleansing and adequately drying the foot. Each subject had a daily diary in which to record product applications and any discomfort resulting from the test product. At each study visit (days 1, 4, and 8), the investigator also asked the subject, ''How are you feeling?'', recorded any subject-reported adverse events, and reviewed the daily diary for compliance and concomitant medications. The investigator also evaluated and recorded the condition of the skin surrounding the target ingrown toenail for erythema, edema, and maceration using the following scale: 0 = none, 1 = mild, 2 = moderate, and 3 = severe.

The majority of the subjects in both the sodium sulfide 1 percent gel and vehicle groups (65 percent and 55 percent, respectively) experienced no discomfort. Most discomfort occurred in the first 3 days of treatment. During this period, the frequency of discomfort appeared somewhat higher in the control gel treatment group than in the sodium sulfide 1 percent gel group. Pain and burning were the most commonly reported diary entries in all groups. The data suggested that the incidence of pain and burning using sodium sulfide 1 percent gel was comparable to or less than that observed in the two control groups, except that burning from use of the sodium sulfide gel was greater than for the retainer ring alone, but less than for the control gel vehicle. No serious adverse events were recorded.

At baseline, the proportion of subjects with mild or moderate erythema (skin redness) was generally comparable among treatment groups. Over the course of the study, erythema decreased in all three groups, suggesting that sodium sulfide 1 percent gel is not an irritant. A similar pattern was observed for mild or moderate edema (swelling), although the decreases at day 4 were less dramatic. At day 8, the change from baseline was most pronounced in the gel vehicle group. Percentage changes in the sodium sulfide and retainer ring groups appeared comparable. No subject in any of the treatment groups had maceration (skin degeneration). The agency's detailed comments on the data are on file in the Dockets Management Branch (see **ADDRESSES**) (Ref. 5).

## III. The Agency's Tentative Conclusions

The agency tentatively concludes that the new safety data and the agency's previous determination of effectiveness (58 FR 47602 at 47604) support OTC drug monograph status for 1 percent sodium sulfide in a gel vehicle applied topically for the relief of discomfort (pain) of ingrown toenail. The product is used with a retainer ring to keep the product at the area of application. The agency, since 1989, has believed that monograph ingredients need to be recognized in an official United States Pharmacopeia-National Formulary (USP-NF) drug monograph. (See 54 FR 13480 at 13486, April 3, 1989, and 54 FR 40808 at 40810, October 3, 1989.) The agency recently included such a requirement in § 330.14(i) (21 CFR 330.14(i)). (See 67 FR 3060 at 3076, January 23, 2002.) A USP-NF monograph currently exists for sodium sulfide gel (Ref. 6). Accordingly, the agency is proposing a new monograph in part 358, subpart D (21 CFR part 358, subpart D) for ingrown toenail relief drug products that includes 1 percent sodium sulfide gel. The agency is also amending § 310.538 to state that it no longer applies to sodium sulfide.

The manufacturer stated its intent to market only the retainer ring/bandage strip system at this time, but noted that its safety and effectiveness data also support use of a bandage system (without a retainer ring) (Ref. 4). The only safety data for use with a bandage system were included in the manufacturer's first submission (Ref. 1), which the agency found inadequate to support safety (Ref. 2). The key data that adequately support safety involved use with the retainer ring system (Ref. 3). Therefore, the agency is including a warning that states: ''When using this product [bullet] use with a retainer ring''.

The manufacturer requested that it be allowed to begin marketing 1 percent sodium sulfide gel upon publication of this proposed rule. Current § 310.538 prohibits marketing of ingrown toenail relief drug products containing sodium sulfide. The agency today is proposing to allow the marketing of such products, but until the agency's final conclusions on the status of these products are presented in a final rule and § 310.538 is amended in a future issue of the **Federal Register**, any such product initially introduced or initially delivered for introduction into interstate commerce is subject to regulatory action.

## IV. Analysis of Impacts

FDA has examined the impacts of this proposed rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, if a rule has a significant economic impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of the rule on small entities. Section 202(a) of the Unfunded Mandates Reform Act requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure in any one year by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation).

The agency believes that this proposed rule is consistent with the principles set out in the Executive order and in these two statutes. FDA has determined that the proposed rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order. As explained later in this section, FDA believes that the proposed rule will not have a significant economic impact

on a substantial number of small entities. The Unfunded Mandates Reform Act does not require FDA to prepare a statement of costs and benefits for this proposed rule, because the proposed rule is not expected to result in any 1–year expenditure that would exceed $100 million adjusted for inflation. The current inflation adjusted statutory threshold is about $110 million.

The purpose of this proposed rule is to establish a monograph for ingrown toenail relief drug products for OTC human use and include sodium sulfide 1 percent in a gel vehicle in the monograph. This proposal, when finalized, will provide for OTC availability of this type of product.

Manufacturers who wish to market this type of product will have the standard costs associated with the introduction of any new product. These include preparation of labeling, stability testing, and implementing manufacturing procedures. Any cost incurred will be voluntary if manufacturers elect to market this type of product. This cost may vary from manufacturer to manufacturer; however, the burden on small manufacturers is not greater than that for large manufacturers. Manufacturers will not incur any costs related to proving safety and effectiveness of the active ingredient for this intended use.

Under the Regulatory Flexibility Act, if a rule has a significant impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of a rule on small entities. This proposed rule would allow manufacturers to market OTC ingrown toenail relief drug products containing sodium sulfide 1 percent in a gel vehicle without having to obtain an approved new drug application, as is currently required, and would be beneficial to small entities. Thus, this proposed rule will not impose a significant economic burden on affected entities. Therefore, under the Regulatory Flexibility Act, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. No further analysis is required.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on manufacturers who wish to market OTC ingrown toenail relief drug products. Comments regarding the impact of this rulemaking on such manufacturers should be accompanied by appropriate documentation. The agency is providing a period of 60 days from the date of publication of this proposed rulemaking in the **Federal Register** for comments to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

## V. Paperwork Reduction Act of 1995

FDA tentatively concludes that the labeling requirements in this document are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the labeling statements are a ''public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public ''(5 CFR 1320.3(c)(2)).

## VI. Environmental Impact

The agency has determined under 21 CFR 25.31(a) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

## VII. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the proposed rule does not contain policies that have substantial direct effects 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. Accordingly, the agency tentatively concludes that the proposed rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement has not been prepared.

## VIII. Request for Comments

Three copies of all written comments are to be submitted. Individuals submitting written comments or anyone submitting electronic comments may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

## IX. Proposed Effective Date

The agency is proposing that any final rule that may issue based on this proposal become effective 30 days after its date of publication in the **Federal Register**.

## X. References

The following references are on display in the Dockets Management Branch (see **ADDRESSES**) under Docket No. 80N–0348 and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Comment No. CP1.
2. Comment No. PDN1.
3. Comment No. CP2.
4. Letter from A. Mart, Schering-Plough HealthCare Products, to W. Ellenberg, FDA, dated December 21, 2000.
5. Comment No. LET3.
6. The United States Pharmacopeia 24--The National Formulary 19, The United States Pharmacopeial Convention, Inc., Rockville, MD, Supplement 2, p. 2858, July 1, 2000.

## List of Subjects

*21 CFR Part 310*

Administrative practice and procedure, Drugs, Labeling, Medical devices, Reporting and recordkeeping requirements.

*21 CFR Part 358*

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 310 and 358 are amended as follows:

## PART 310—NEW DRUGS

1. The authority citation for 21 CFR part 310 continues to read as follows:

**Authority:** 21 U.S.C. 321, 331, 351, 352, 353, 355, 360b–360f, 360j, 361(a), 371, 374, 375, 379e; 42 U.S.C. 216, 241, 242(a), 262, 263b–263n.

2. Section 310.538 is amended by removing the ingredient sodium sulfide in paragraph (a) and adding new paragraph (e) to read as follows:

**§ 310.538 Drug products containing active ingredients offered over-the-counter (OTC) for use for ingrown toenail relief.**

* * * * *

(e) This section does not apply to sodium sulfide labeled, represented, or promoted for OTC topical use for ingrown toenail relief in accordance with part 358, subpart D of this chapter after [effective date of final rule].

## PART 358—MISCELLANEOUS EXTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

3. The authority citation for 21 CFR part 358 continues to read as follows:

**Authority:** 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

4. Part 358 is amended by adding new subpart D, consisting of § § 358.301 to 358.350, to read as follows:

## Subpart D—Ingrown Toenail Relief Drug Products

Sec.
358.301 Scope.
358.303 Definitions.
358.310 Ingrown toenail relief active ingredient.
358.350 Labeling of ingrown toenail relief drug products.

## Subpart D—Ingrown Toenail Relief Drug Products

### § 358.301 Scope.

(a) An over-the-counter ingrown toenail relief drug product in a form suitable for topical administration is generally recognized as safe and effective and is not misbranded if it meets each condition in this subpart and each general condition established in § 330.1 of this chapter.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to chapter I of title 21 unless otherwise noted.

### § 358.303 Definitions.

As used in this subpart:

(a) *Ingrown toenail relief drug product.* A drug product applied to an ingrown toenail that relieves pain or discomfort either by softening the nail or by hardening the nail bed.

(b) *Retainer ring.* A die cut polyethylene foam pad coated on one side with medical grade acrylic pressure-sensitive adhesive. The retainer ring has slots, center-cut completely through the foam with the cut of sufficient size to allow for localization of an active ingredient in a gel vehicle to a specific target area. The retainer ring is used with adhesive bandage strips to place over the retainer ring to hold it in place.

### § 358.310 Ingrown toenail relief active ingredient.

The active ingredient of the product is sodium sulfide 1 percent in a gel vehicle. The gel vehicle is an aqueous, semisolid system with large organic molecules interpenetrated with a liquid.

### § 358.350 Labeling of ingrown toenail relief drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the product, if any, and identifies the product as an ''ingrown toenail relief product'' or as an ''ingrown toenail discomfort reliever.''

(b) *Indications.* The labeling of the product states, under the heading ''Use,'' the following: ''for temporary relief of'' [select one or both of the following: 'pain' or 'discomfort'] ''from ingrown toenails''. Other truthful and nonmisleading statements, describing only the use that has 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.

(c) *Warnings.* The labeling of the product contains the following warnings under the heading ''Warnings'':

(1) ''For external use only'' in accord with § 201.66(c)(5)(i) of this chapter.

(2) ''Do not use [bullet][1] on open sores''.

(3) ''Ask a doctor before use if you have [bullet] diabetes [bullet] poor circulation [bullet] gout''.

(4) ''When using this product [bullet] use with a retainer ring''.

(5) ''Stop use and ask a doctor if [bullet] redness or swelling of your toe increases [bullet] discharge is present around the nail [bullet] symptoms last more than 7 days or clear up and occur again within a few days''.

(d) *Directions.*The labeling of the product contains the following statements under the heading ''Directions'':

(1) ''[Bullet] adults and children 12 years and over:''

(i) ''[Bullet] wash the affected area and dry thoroughly [bullet] place retainer ring on toe with slot over the area where the ingrown nail and the skin meet. Smooth ring down firmly. [bullet] apply enough gel product to fill the slot in the ring [bullet] place round center section of bandage strip directly over the gel-filled ring to seal the gel in place. Smooth ends of bandage strip around toes.''

(ii) ''[Bullet] repeat twice daily (morning and night) for up to 7 days until discomfort is relieved or until the nail can be lifted out of the nail groove and easily trimmed''.

(2) ''[Bullet] children under 12 years: ask a doctor''.

Dated: September 25, 2002.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 02–25251 Filed 10–3–02; 8:45 am]

BILLING CODE 4160–01–S

[1]See § 201.66(b)(4) of this chapter for definition of bullet.

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[MA–083–7213b; A–1–FRL–7375–1]**

## Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Volatile Organic Compound Reasonably Available Control Technology (RACT) Plans and Regulation

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve several State Implementation Plan (SIP) revisions submitted by the Commonwealth of Massachusetts. These revisions establish reasonably available control technology (RACT) requirements for major volatile organic compound (VOC) sources. The intended effect of this action is to approve these requirements into the Massachusetts SIP. EPA is taking this action in accordance with the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before November 4, 2002.

**ADDRESSES:** Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of Massachusetts' submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA and Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

**FOR FURTHER INFORMATION CONTACT:** Anne Arnold, (617) 918–1047.

**SUPPLEMENTARY INFORMATION:** In the Final Rules Section of this **Federal Register**, EPA is approving Massachusetts' SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no relevant adverse comments in response to this rule, we contemplate no further activity. If EPA receives relevant adverse comments, we will