(2) If the Commissioner determines upon review of the data and information submitted in the objections and request for a hearing that a hearing is not justified because no genuine and substantial issue of fact precludes the refusal to approve the application or the withdrawal of approval of the application (for example, the applicant has not identified any adequate and well-controlled clinical investigations to support the claims of effectiveness), the Commissioner will enter an order denying the hearing and stating the final findings and conclusions.

(3) If the Commissioner determines upon review of the data and information submitted in the objections and request for a hearing that a hearing is justified, the Commissioner will publish a notice setting forth the following:

(i) The regulation or order that is the subject of the hearing;

(ii) A statement specifying any part of the regulation or order that has been stayed by operation of law or in the Commissioner's discretion;

(iii) The parties to the hearing;

(iv) The specific issues of fact for resolution at the hearing;

(v) The presiding officer, or a statement that the presiding officer will be designated in a later notice; and

(vi) The date, time, and place of the prehearing conference, or a statement that the date, time, and place will be announced in a later notice. However, in the case of a denial of approval, the hearing must not occur more than 90 days after expiration of the 30-day time period in which to request a hearing, unless the presiding officer and the applicant otherwise agree; and in the case of withdrawal of approval, the hearing will occur as soon as practicable.

(d) The hearing will be open to the public; however, if the Commissioner finds that portions of the application which serve as a basis for the hearing contain information concerning a method or process entitled to protection as a trade secret, the part of the hearing involving such portions will not be public, unless the respondent so specifies in the request for a hearing.

[81 FR 52997, Aug. 11, 2016, as amended 88 FR 45066, July 14, 2023]

§ 514.201 Procedures for hearings.

Hearings relating to new animal drugs under section 512(d) and (e) of the act shall be governed by part 12 of this chapter.

[64 FR 63204, Nov. 19, 1999]

Subparts D–E [Reserved]

Subpart F—Judicial Review

§ 514.235 Judicial review.

(a) The transcript and record shall be certified by the Commissioner. In any case in which the Commissioner enters an order without a hearing pursuant to §314.200(g) of this chapter, the request(s) for hearing together with the data and information submitted and the Commissioner's findings and conclusions shall be included in the record certified by the Commissioner.

(b) Judicial review of an order withdrawing approval of a new drug application, whether or not a hearing has been held, may be sought by a manufacturer or distributor of an identical, related, or similar drug product, as defined in §310.6 of this chapter, in a United States court of appeals pursuant to section 505(h) of the act.

[42 FR 4717, Jan. 25, 1977]

PART 515—MEDICATED FEED MILL LICENSE

Subpart A—Applications

Sec.

Subpart B—Administrative Actions on Licenses

AUTHORITY: 21 U.S.C. 360b, 371.

SOURCE: 64 FR 63204, Nov. 19, 1999, unless otherwise noted.

Subpart A—Applications

§ 515.10 Medicated feed mill license applications.

(a) Medicated feed mill license applications (Form FDA 3448) may be obtained from the Public Health Service, Consolidated Forms and Publications Distribution Center, Washington Commerce Center, 3222 Hubbard Rd., Landover, MD 20785, or electronically from the Center for Veterinary Medicine at: *https://www.fda.gov/animal-veterinary/animal-food-feeds/medicated-feeds.*

(b) A completed medicated feed mill license must contain the following information:

(1) The full business name and address of the facility at which the manufacturing is to take place.

(2) The facility's FDA registration number as required by section 510 of the Federal Food, Drug, and Cosmetic Act (the act).

(3) The name, title, and signature of the responsible individual or individuals for that facility.

(4) A certification that the animal feeds bearing or containing new animal drugs are manufactured and labeled in accordance with the applicable regulations published under section 512(i) of the act or in accordance with the index listing published under section 572(e)(2) of the act.

(5) A certification that the methods used in, and the facilities and controls used for, manufacturing, processing, packaging, and holding such animal feeds conform to current good manufacturing practice as described in section 501(a)(2)(B) of the act and in part 225 of this chapter.

(6) A certification that the facility will establish and maintain all records required by regulation or order issued under sections 512(m)(5)(A) or 504(a)(3)(A) of the act, and will permit access to, or copying or verification of such records.

(7) A commitment that current approved or index listed Type B and/or Type C medicated feed labeling for each Type B and/or Type C medicated feed to be manufactured will be in the possession of the feed manufacturing facility prior to receiving the Type A medicated article containing such drug.

(8) A commitment to renew registration every year with FDA as required in part 207 of this chapter.

(c) Applications must be completed, signed, and submitted to the Food and Drug Administration, Center for Veterinary Medicine, Division of Food Compliance, 12225 Wilkins Ave., Rockville, MD 20852, or email (via attachment): *MedicatedFeedsTeamMail@fda.hhs.gov.*

(d) Applications that are facially deficient will be returned to the applicant. All reasons for the return of the application will be made known to the applicant.

(e) Upon approval, the application will be signed by an authorized employee of FDA designated by the Commissioner of Food and Drugs, and a copy will be returned to the applicant.

[64 FR 63204, Nov. 19, 1999, as amended at 72 FR 69121, Dec. 6, 2007; 81 FR 60221, Aug. 31, 2016; 87 FR 58960, Sept. 29, 2022; 89 FR 51966, June 21, 2024]

§ 515.11 Supplemental medicated feed mill license applications.

(a) After approval of a medicated feed mill license application to manufacture animal feed, a supplemental application shall be submitted for a change in ownership and/or a change in mailing address of the facility site.

(b) Each supplemental application should be accompanied by a fully completed Form FDA 3448 and include an explanation of the change.

(c) Within 30 working days after a supplemental application has been filed, if the Commissioner of Food and

Drugs determines that the application provides adequate information respecting the change in ownership and/or postal address of the facility site, then an authorized employee of the Food and Drug Administration designated by the Commissioner shall notify the applicant that it is approved by signing and mailing to the applicant a copy of the Form FDA 3448. Supplemental applications that do not provide adequate information shall be returned to the applicant and all reasons for the return of the application shall be made known to the applicant.

Subpart B—Administrative Actions on Licenses

§ 515.20 Approval of medicated feed mill license applications.

Within 90 days after an application has been filed under § 515.10, if the Commissioner of Food and Drugs (the Commissioner) determines that none of the grounds for denying approval specified in section 512(m)(3) of the Federal Food, Drug, and Cosmetic Act (the act) applies, an authorized employee of the Food and Drug Administration designated by the Commissioner shall notify the applicant that it is approved by signing and mailing to the applicant a copy of the Form FDA 3448.

§ 515.21 Refusal to approve a medicated feed mill license application.

(a) The Commissioner of Food and Drugs (the Commissioner) shall within 90 days, or such additional period as may be agreed upon by the Commissioner and the applicant, after the filing of an application under § 515.10, inform the applicant in writing of his/her intention to issue a notice of opportunity for a hearing on a proposal to refuse to approve the application, if the Commissioner determines upon the basis of the application, on the basis of a preapproval inspection, or upon the basis of any other information before him that:

(1) The application is incomplete, false, or misleading in any particular; or

(2) The methods used in and the facilities and controls used for the manufacturing, processing, and packaging of such animal feed are not adequate to preserve the identity, strength, quality, and purity of the new animal drug therein; or

(3) The facility manufactures animal feeds bearing or containing new animal drugs in a manner that does not accord with the specifications for manufacture or labels animal feeds bearing or containing new animal drugs in a manner that does not accord with the conditions or indications of use that are published under section 512(i) or 572(e)(2) of the act.

(b) The Commissioner, as provided in § 515.30, shall expeditiously notify the applicant of an opportunity for a hearing on the question of whether such application is approvable, unless by the 30th day following the date of issuance of the letter informing the applicant of the intention to issue a notice of opportunity for a hearing the applicant:

(1) Withdraws the application; or

(2) Waives the opportunity for a hearing; or

(3) Agrees with the Commissioner on an additional period to precede issuance of such notice of hearing.

[64 FR 63204, Nov. 19, 1999, as amended at 72 FR 69121, Dec. 6, 2007]

§ 515.22 Suspension and/or revocation of approval of a medicated feed mill license.

(a) The Secretary of Health and Human Services may suspend a medicated feed mill license approved under section 512(m)(2) of the Federal Food, Drug, and Cosmetic Act (the act) and give the person holding the medicated feed mill license application prompt notice of this action and afford the applicant the opportunity for an expedited hearing on a finding that there is an imminent hazard to the health of man or of the animals for which such animal feed is intended.

(b) The Commissioner of Food and Drugs (the Commissioner) shall notify in writing the person holding an application approved under section 512(m)(2) of the act and afford an opportunity for a hearing on a proposal to revoke approval of such application if the Commissioner finds:

(1) That the application contains any untrue statement of a material fact; or

(2) That the applicant has made any changes that would cause the application to contain any untrue statements of material fact or that would affect the safety or effectiveness of the animal feeds manufactured at the facility unless the applicant has supplemented the application by filing a supplemental application under § 515.11.

(c) The Commissioner may notify in writing the person holding an application approved under section 512(m)(2) of the act and afford an opportunity for a hearing on a proposal to revoke approval of such application if the Commissioner finds:

(1) That the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with a regulation or order under sections 512(m)(5)(A) or 504(a)(3)(A) of the act, or the applicant has refused to permit access to, or copying, or verification of, such records as required by sections 512(m)(5)(B) or 504(a)(3)(B) of the act; or

(2) That on the basis of new information before him, evaluated together with the evidence before him when such license was issued, the methods used in, or the facilities and controls used for, the manufacture, processing, packing, and holding of such animal feed are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drug therein, and were not made adequate within a reasonable time after receipt of written notice from the Commissioner specifying the matter complained of; or

(3) That on the basis of new information before him, evaluated together with the evidence before him when such license was issued, the labeling of any animal feeds, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Commissioner specifying the matter complained of; or

(4) That on the basis of new information before him, evaluated together with the evidence before him when such license was issued, the facility has manufactured, processed, packed, or held animal feed bearing or containing a new animal drug adulterated under section 501(a)(6) of the act, and the facility did not discontinue the manufacture, processing, packing, or holding of such animal feed within a reasonable time after receipt of written notice from the Commissioner specifying the matter complained of.

§ 515.23 Voluntary revocation of medicated feed mill license.

A license issued under section 512(m)(2) of the Federal Food, Drug, and Cosmetic Act (the act) will be revoked on the basis of a request for its revocation submitted in writing by a responsible individual holding such license on the grounds that the facility no longer manufactures any animal feed covered under § 558.4(b) of this chapter. A written request for such revocation shall be construed as a waiver of the opportunity for a hearing as otherwise provided for in this section. Revocation of approval of a medicated feed mill license under the provisions of this paragraph shall be without prejudice.

§ 515.24 Notice of revocation of a medicated feed mill license.

When a license approved under section 512 of the Federal Food, Drug, and Cosmetic Act (the act) is revoked by the Commissioner of Food and Drugs (the Commissioner), the Commissioner will give appropriate public notice of such action by publication in the FEDERAL REGISTER.

§ 515.25 Revocation of order refusing to approve a medicated feed mill license application or suspending or revoking a license.

The Commissioner of Food and Drugs (the Commissioner), upon his/her own initiative or upon request of an applicant stating reasonable grounds therefor and if the Commissioner finds that the facts so require, may issue an order approving a medicated feed mill license application that previously has had its approval refused, suspended, or revoked.

§ 515.26 Services of notices and orders.

All notices and orders under this part 515 and section 512 of the Federal Food,

Drug, and Cosmetic Act (the act) pertaining to medicated feed mill licenses shall be served:

(a) In person by any officer or employee of the Department of Health and Human Services designated by the Commissioner of Food and Drugs; or

(b) By mailing the order by certified mail addressed to the applicant or respondent at the applicant or respondent's last known address in the records of the Food and Drug Administration.

Subpart C—Hearing Procedures

§ 515.30 Contents of notice of opportunity for a hearing.

(a) The notice to the applicant of opportunity for a hearing on a proposal by the Commissioner of Food and Drugs (the Commissioner) to refuse to approve a medicated feed mill license application or to revoke the approval of a medicated feed mill license will specify the grounds upon which the Commissioner proposes to issue this order. On request of the applicant, the Commissioner will explain the reasons for the action. The notice of opportunity for a hearing will be published in the FEDERAL REGISTER and will specify that the applicant has 30 days after issuance of the notice within which the Commissioner is required to file a written appearance electing whether:

(1) To avail himself of the opportunity for a hearing; or

(2) Not to avail himself of the opportunity for a hearing.

(b) If the applicant fails to file a written appearance in answer to the notice of opportunity for hearing, this failure will be construed as an election not to avail himself of the opportunity for the hearing, and the Commissioner without further notice may enter a final order.

(c) If the applicant elects to avail himself of the opportunity for a hearing, the applicant is required to file a written appearance requesting the hearing within 30 days after the publication of the notice, giving the reason why the application should not be refused or the medicated feed mill license should not be revoked, together with a well-organized and full-factual analysis of the information the applicant is prepared to prove in support of his opposition to the Commissioner's proposal. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the information in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the refusal to approve the application or the revocation of approval of the application, the Commissioner will enter an order on this information, stating his/her findings and conclusions. If a hearing is requested and is justified by the applicant's response to the notice of opportunity for a hearing, the issues will be defined, an Administrative Law Judge will be named, and the Judge shall issue a written notice of the time and place at which the hearing will commence. In the case of denial of approval, such time shall be not more than 90 days after the expiration of such 30 days unless the Administrative Law Judge and the applicant otherwise agree; and, in the case of withdrawal of approval, such time shall be as soon as practicable.

(d) The hearing will be open to the public; however, if the Commissioner finds that portions of the application which serve as a basis for the hearing contain information concerning a method or process entitled to protection as a trade secret, the part of the hearing involving such portions will not be public, unless the respondent so specifies in the appearance.

§ 515.31 Procedures for hearings.

Hearings relating to new animal drugs under section 512(m)(3) and (m)(4) of the Federal Food, Drug, and Cosmetic Act (the act) shall be governed by part 12 of this chapter.

Subpart D—Judicial Review

§ 515.40 Judicial review.

The transcript and record shall be certified by the Commissioner of Food and Drugs (the Commissioner). In any case in which the Commissioner enters an order without a hearing under

§ 314.200(g) of this chapter, the request(s) for hearing together with the data and information submitted and the Commissioner's findings and conclusions shall be included in the record certified by the Commissioner.

PART 516—NEW ANIMAL DRUGS FOR MINOR USE AND MINOR SPECIES

Subpart A—General Provisions

Subpart B—Designation of a Minor Use or Minor Species New Animal Drug

Subpart C—Index of Legally Marketed Unapproved New Animal Drugs for Minor Species

Subpart D [Reserved]

Subpart E—Conditionally Approved New Animal Drugs For Minor Use and Minor Species

AUTHORITY: 21 U.S.C. 360ccc–1, 360ccc–2, 371.

SOURCE: 72 FR 41017, July 26, 2007, unless otherwise noted.

Subpart A—General Provisions

§ 516.1 Scope.

(a) This part implements section 573 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360ccc–2) and contains the following subparts:

(1) Subpart A—General Provisions.