

PART 383—CIVIL PENALTIES

Sec.

383.1 Basis and purpose.

383.2 Amount of penalty.

Authority: Sec. 503, Pub. L. 108–176, 117 Stat. 2490.

§ 383.1 Basis and purpose.

(a) Basis. This part implements the civil penalty provisions of Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108–176; 117 Stat. 2490, December 12, 2003, section 503) (Vision 100). Because this statute revises or reaffirms all civil penalty provisions under 49 U.S.C. 46301, no further adjustments to account for inflation are required under the terms of Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890) and the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, section 31001). The latter requires that federal agencies adjust civil penalties at least every four years to reflect any inflation which may have occurred.

(b) Purpose. This part incorporates the civil penalty liability amounts prescribed in 49 U.S.C. 46301(a), as modified by Vision 100.

§ 383.2 Amount of penalty.

Civil penalties payable to the U.S. Government for violations of Title 49, Chapters 401 through 421, pursuant to 49 U.S.C. 46301(a) as revised by Vision 100, are as follows:

(a) A general civil penalty of not more than \$25,000 (or \$1,100 for individuals or small businesses) applies to violations of statutory provisions and rules or orders issued under those provisions, other than those listed in paragraph (b) of this section, (see 49 U.S.C. 46301(a)(1));

(b) With respect to small businesses and individuals, notwithstanding the general \$1,100 civil penalty, the following civil penalty limits apply:

(1) A maximum civil penalty of \$10,000 applies for violations of most provisions of Chapter 401, including the anti-discrimination provisions of sections 40127 (general provision), and 41705 (discrimination against the disabled) and rules and orders issued thereunder (see 49 U.S.C. 46301 (a)(5) (A));

(2) A maximum civil penalty of \$5,000 applies for violations of section 41719 and rules and orders issued thereunder (see 49 U.S.C. 46301 (a)(5)(C)); and

(3) A maximum civil penalty of \$2,500 applies for violations of section 41712 or consumer protection rules or orders (see 49 U.S.C. 46301 (a)(5)(D)).

Issued this 26th day of June, 2004, in Washington, DC.

Norman Y. Mineta,
Secretary.

[FR Doc. 04–15549 Filed 7–8–04; 8:45 am]

BILLING CODE 4910–62–P

COMMODITY FUTURES TRADING COMMISSION**17 CFR Parts 1, 4, 31, 140, 145 and 190****Corrections to Regional Office Information, References to Section 4d(2) and Criteria for CPO Registration Exemption**

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (“Commission”) is amending its regulations to make a series of technical corrections, as follows: To delete references to the Western Regional Office, which was closed in 2003; to update addresses for other regional offices; to correct references to section 4d(2) of the Commodity Exchange Act to read section 4d(a)(2) instead; and to clarify that the participant criteria for exemption from commodity pool operator (“CPO”) registration under Rule 4.13(a)(3) include persons who meet the participant criteria of Rule 4.13(a)(4).

DATES: Effective: July 9, 2004.

FOR FURTHER INFORMATION CONTACT: Thelma Diaz, Special Counsel, at (202) 418–5137, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW., Washington DC 20581; electronic mail at tdiaz@cftc.gov.

SUPPLEMENTARY INFORMATION:**I. Amendments To Update Regional Office Information**

Commission Rule 140.2 describes the organization of four regional offices for the Commission (the Eastern, Central, Southwestern and Western Regional offices). Among other things, Rule 140.2 specifies for each regional office a list of states for which the office is “responsible for enforcement of the [Commodity Exchange Act] and administration of programs of the Commission”.¹ In 2002, the Eastern and Central Regional Offices moved to new locations, and the Western Regional Office was closed in 2003. The

Commission is therefore amending Rule 140.2 to update the address information for the Eastern and Central Regional Offices, and to delete the reference to the Western Regional Office. Rule 140.2 is also amended to add to the list of states for the Southwestern Regional Office those states that are currently in the list for the Western Regional Office (Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming).²

Commission Rules 1.10, 1.12, 1.17 and 31.13 must also be revised to reflect the closing of the Western Regional Office. These rules specify various reports or notices that are to be filed with the Commission, and state further that such reports and notices are considered filed when received by the regional office that is the nearest to a firm’s principal place of business, with the proviso that firms under the jurisdiction of the Western Regional Office should file with the Southwestern Regional Office instead. The proviso is no longer necessary, and the Commission is accordingly amending each of these regulations to delete the proviso.

The Commission is also amending the list of addresses provided in Rule 145.6 for requests for public records directed to regional offices. As amended, the rule will no longer include the address of the closed Division of Enforcement office in the Western Region.

II. Amendments To Update References to Section 4d

Several Commission regulations include references to section 4d(2) of the Commodity Exchange Act. With the enactment of Commodity Futures Modernization Act of 2000 (“CFMA”), section 4d(2) has now been redesignated as section 4d(a)(2).³ The Commission is therefore amending Rules 1.16, 1.17, 1.23, 1.30, 31.13, and 190.07 to change the references to section 4d(2) to read section 4d(a)(2).

² The Commission is also making a technical correction to Rule 140.99, which currently includes two different paragraphs that are both designated as paragraph (d)(2). In 2002, the Commission adopted amendments to Rule 140.99 that added the text in the first paragraph designated as (d)(2) and deleted the text found in the second paragraph. See 67 FR 62350, 62353–4 (October 7, 2002). The publisher of the Code of Federal Regulations, however, incorrectly included the text of both paragraphs, and this final rule adopts a technical correction to delete the second of the two paragraphs designated as (d)(2).

³ Sec. 1(a)(5) of Pub. L. 106–554 (title II, Sec. 251(f)).

¹ The Commodity Exchange Act may be found at 7 U.S.C. 1 *et seq.* (2000).

III. Amendments To Clarify That the Participant Criteria for Exemption From CPO Registration Under Rule 4.13(a)(3) Include Persons Who Meet the Criteria of Rule 4.13(a)(4)

In August 2003, the Commission adopted rules that provide for additional exemptions from registration as a CPO.⁴ To be eligible for exemption from CPO registration under Rule 4.13(a)(3), the CPO seeking exemption must operate pools whose participants meet certain sophistication criteria⁵ and that abide by restrictions on the amount of the pool's commodity interest trading. To be eligible for exemption under Rule 4.13(a)(4), the CPO must operate pools whose participants meet significantly higher sophistication criteria.⁶ The latter rule does not restrict the amount of the pool's commodity interest trading. The Commission is amending Rule 4.13(a)(3) to make clear that participants who meet the higher sophistication criteria of Rule 4.13(a)(4) may also participate in a pool for which the operator claims exemption from CPO registration under Rule 4.13(a)(3).⁷

Related Matters

A. Administrative Procedure Act

The Administrative Procedure Act ("APA") generally requires notice of proposed agency rulemaking and procedures for public comment prior to the adoption of final rules.⁸ The APA provides for an exception from this process for "interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice," or whenever the agency for good cause finds that such notice and comment opportunity are "impracticable, unnecessary, or contrary to the public interest."⁹ The APA also provides that the required publication of a substantive rule shall be made not less than 30 days

before its effective date, but provides several express exceptions to this requirement, including where the rule "grants or recognizes an exemption or relieves a restriction."¹⁰

The amendments to revise office address information in Rules 1.10, 1.12, 1.17, 31.13, 140.2, and 145.6 relate to the agency's internal organization, and will also benefit the public by providing correct information for the filing of required documents with the Commission.¹¹ Moreover, when adopting amendments to Rules 4.13(a)(3) and (4) last year to provide exemptive relief from CPO registration, the Commission determined that such amendments would be effective immediately because they granted or recognized an exemption or relieved a restriction.¹² The amendments to Rule 4.13(a) hereby adopted clarify and further confirm for industry participants the availability of exemptive relief under the rule amendments adopted in August of 2003. Accordingly, the Commission has determined to make the amendments adopted in this final rulemaking effective immediately upon publication in the **Federal Register**.

B. Cost-Benefit Analysis

Section 15 of the Commodity Exchange Act, as amended by the CFMA, requires the Commission to consider the costs and benefits of its action before promulgating a new regulation under the Act.¹³ The Commission undertook such an analysis last year when adopting amendments to Rules 4.13(a)(3) and (a)(4) to provide exemptive relief from CPO registration.¹⁴ The amendments to Rule 4.13(a) adopted in this final rulemaking do not affect nor alter the Commission's prior analysis, and the Commission has further determined that its prior

analysis supports the adoption of such amendments to Rule 4.13(a).

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 ("PRA") imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA.¹⁵ The rule amendments do not require a new collection of information on the part of any entities subject to such rule amendments. Accordingly, for purposes of the PRA, the Commission certifies that these rule amendments will not impose any new reporting or recordkeeping requirements.

Lists of Subjects

17 CFR Part 1

Brokers, Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 4

Advertising, Commodity pool operators, Commodity trading advisors, Commodity futures, Commodity options, Customer protection, Reporting and Recordkeeping.

17 CFR Part 31

Leverage transactions; Reporting and recordkeeping requirements.

17 CFR Part 140

Authority delegations (Government agencies), Organization and functions (Government agencies).

17 CFR Part 145

Confidential business information, Freedom of information.

17 CFR Part 190

Bankruptcy.

■ Accordingly, 17 CFR parts 1, 4, 31, 140, 145 and 190 are amended as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

■ 1. The authority citation for part 1 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 16a, 19, 21, 23, and 24, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106-554, 114 Stat. 2763 (2000).

§ 1.10 [Amended]

■ 2. Section 1.10 is amended by:

⁴ See 68 FR 47221 (August 8, 2003).

⁵ Each participant must be an "accredited investor" or "knowledgeable employee" under the Federal securities laws, a trust formed by an accredited investor for a family member, or a "qualified eligible person" under Rule 4.7(a)(2)(viii)(A). 17 CFR 4.7(a)(2)(viii)(A) (2003).

⁶ Each natural person participant must be a "qualified eligible person" under Rule 4.7(a)(2) and each non-natural person must be a "qualified eligible person" under Rule 4.7 or an "accredited investor" under sub-paragraphs (a)(1) through (a)(3), (a)(7) or (a)(8) of Rule 501 under the Securities Act of 1933. 17 CFR 230.501(a)(1)-(3), (a)(7) or (a)(8) (2003).

⁷ In this regard, by letter dated April 14, 2004, Commission staff confirmed that persons who meet the participant criteria of Rule 4.13(a)(4) may also participate in a pool operated pursuant to Rule 4.13(a)(3). See CFTC Interpretative Letter No. 04-13, available on the Commission's Web site at <http://www.cftc.gov/tm/letters/04letters/tm04-13.htm>.

⁸ 5 U.S.C. 551 *et seq.*

⁹ 5 U.S.C. 553(b).

¹⁰ 5 U.S.C. 553(d).

¹¹ The public will also benefit from the correction of obsolete references to section 4d(2) in Rules 1.16, 1.17, 1.23, 1.30, 31.13, 140.99, and 190.07.

¹² 68 FR at 47230.

¹³ Section 15(a)(2) specifies that such costs and benefits shall be evaluated in light of five broad areas of market and public concern: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Because the amendments that update address information relate to internal agency organization, the Commission has determined that none of the considerations enumerated in section 15(a) are applicable to such amendments. Furthermore, the amendments that update references to the Commodity Exchange Act in the Commission's rules do not revise any existing regulatory requirement, and therefore do not change any existing cost or benefit associated with such regulation.

¹⁴ 68 FR at 47230.

¹⁵ 44 U.S.C. 3501 *et seq.*

■ a. Removing from paragraph (c) the two parentheticals that currently read “(except that a registrant under the jurisdiction of the Commission’s Western Regional Office must file such reports with the Southwestern Regional Office)” and “(except that an applicant under the jurisdiction of the Commission’s Western Regional Office must file such reports with the Southwestern Regional Office)”, and

■ b. Removing from paragraphs (e)(1), (e)(2), and (f)(2) the parentheticals that currently read “(except that an applicant under the jurisdiction of the Commission’s Western Regional Office must file such a notice with the Southwestern Regional Office)”.

§ 1.12 [Amended]

■ 3. Section 1.12 is amended by removing from paragraph (i)(1) the parenthetical that currently reads “(except that an applicant, registrant or self regulatory organization under the jurisdiction of the Commission’s Western Regional Office must file such notices and reports with the Southwestern Regional Office)”.

§ 1.16 [Amended]

■ 4. Section 1.16 is amended by removing from paragraph (d)(1) the words “section 4d(2)” wherever they appear in the paragraph and adding in their place the words “section 4d(a)(2)”.

§ 1.17 [Amended]

■ 5. Section 1.17 is amended by removing from paragraph (h)(3)(vi) the parenthetical that currently reads “(except that a registrant under the jurisdiction of the Commission’s Western Regional Office shall file such copies with the Southwestern Regional Office)”.

§ 1.23 [Amended]

■ 6. Section 1.23 is amended by removing the words “section 4d(2)” and adding in their place the words “section 4d(a)(2)”.

§ 1.30 [Amended]

■ 7. Section 1.30 is amended by removing the words “section 4d(2)” and adding in their place the words “section 4d(a)(2)”.

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

■ 8. The authority citation for part 4 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 6(c), 6b, 6c, 6l, 6m, 6n, 6o, 12a and 23.

■ 9. Section 4.13 is amended by:

■ a. Revising paragraph (a)(3)(iii)(C) and paragraph (a)(3)(iii)(D), and

■ b. Adding new paragraph (a)(3)(iii)(E), to read as follows:

§ 4.13 Exemption from registration as a commodity pool operator.

(a) * * *

(3) * * *

(iii) * * *

(C) A “knowledgeable employee,” as that term is defined in § 270.3c–5 of this title;

(D) A “qualified eligible person,” as that term is defined in § 4.7(a)(2)(viii)(A) of this chapter; or

(E) A person eligible to participate in a pool for which the pool operator can claim exemption from registration under paragraph (a)(4) of this section; and

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PART 31—LEVERAGE TRANSACTIONS

■ 10. The authority citation for part 31 continues to read as follows:

Authority: 7 U.S.C. 12a and 23, unless otherwise noted.

§ 31.13 [Amended]

■ 11. Section 31.13 is amended by:

■ a. Removing from paragraph (c) the words “section 4d(2)” and adding in their place the words “section 4d(a)(2)”, and

■ b. Removing from paragraph (e) all of the text following the colon until the end of the paragraph, and by removing the colon and adding a period instead.

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

■ 12. The authority citation for part 140 continues to read as follows:

Authority: 7 U.S.C. 2 and 12a.

■ 13. Section 140.2 is revised read as follows:

§ 140.2 Regional Offices—Regional Directors.

Each of the Regional offices described herein functions as set forth in this section under the direction of a Regional Director, who is delegated authority and responsibility for the enforcement of the Act and administration of the programs of the Commission in the particular Region.

(a) The Eastern Regional Office is located at 140 Broadway, New York, New York, 10005 and is responsible for enforcement of the Act and administration of programs of the Commission in the States of Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland,

Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia.

(b) The Central Regional Office is located at 525 West Monroe Street, Suite 1100, Chicago, Illinois 60661 and is responsible for enforcement of the Act and administration of programs of the Commission in the States of Illinois, Indiana, Michigan, Ohio and Wisconsin.

(c) The Southwestern Regional office is located at 4900 Main Street, Suite 721, Kansas City, Missouri 64112, with a sub-office at Room 510, Grain Exchange Building, Fourth Street and Fourth Avenue, South, Minneapolis, Minnesota 55415, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

§ 140.99 [Amended]

■ 14. Section 140.99 is amended by removing the second of the two paragraphs that are currently both designated (d)(2).

PART 145—COMMISSION RECORDS AND INFORMATION

■ 15. The authority citation for Part 145 continues to read as follows:

Authority: Pub. L. 99–570, 100 Stat. 3207; Pub. L. 89–554, 80 Stat. 383; Pub. L. 90–23, 81 Stat. 54; Pub. L. 98–502, 88 Stat. 1561–1564 (5 U.S.C. 552); Sec. 101(a), Pub. L. 93–463, 88 Stat. 1389 (5 U.S.C. 4a(j)); unless otherwise noted.

■ 16. Section 145.6 is amended by revising paragraph (a) to read as follows:

§ 145.6 Commission offices to contact for assistance; registration records available.

(a) Whenever this part directs that a request be directed to the FOI, Privacy and Sunshine Acts compliance staff at the principal office of the Commission in Washington, DC, the request shall be made in writing and shall be addressed or otherwise directed to the Assistant Secretary for FOI, Privacy and Sunshine Acts Compliance, Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Requests for public records directed to a regional office of the Commission pursuant to §§ 145.0(c) and 145.2 should be sent to:

Commodity Futures Trading Commission,
140 Broadway, New York, New York
10005, Telephone: (646) 746-9700

Commodity Futures Trading Commission,
525 West Monroe Street, Suite 1100 North,
Chicago, Illinois 60661, Telephone: (312)
596-0700

Commodity Futures Trading Commission,
510 Grain Exchange Building,
Minneapolis, Minnesota 55415, Telephone:
(612) 370-3255

Commodity Futures Trading Commission,
4900 Main Street, Suite 721, Kansas City,
Missouri 64112, Telephone: (816) 931-
7600

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PART 190—BANKRUPTCY

■ 17. The authority citation for part 190 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4a, 6c, 6d, 6g, 7a, 12, 19, and 24, and 11 U.S.C. 362, 546, 548, 556, and 761-766, unless otherwise noted.

Application No.	21 CFR Section	Trade Name
NADA 007-076	520.2325a	SULFA-NOX (sulfaquinoxaline) Liquid
NADA 008-244	520.2325a	SULFA-NOX (sulfaquinoxaline) Concentrate
NADA 043-215	524.900	PURINA Grub-Kill (famphur)
NADA 092-150	520.2045	PURINA Horse & Colt Wormer (pyrantel tartrate)

Accordingly, the agency is amending the regulations in 21 CFR 520.2045, 520.2325a, and 524.900 to reflect the transfer of ownership.

Following these changes of sponsorship, PM Resources, Inc., is no longer the sponsor of an approved application. Accordingly, § 510.600(c) is being amended to remove the entries for PM Resources, Inc.

This rule does not meet the definition of “rule” in 5 U.S.C. 804(3)(A) because it is a rule of “particular applicability.” Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801-808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520 and 524

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR

§ 190.07 [Amended]

■ 18. Section 190.07 is amended by removing from paragraph (b)(3)(v) the words “section 4d(2)” and adding in their place the words “section 4d(a)(2)”.

Issued in Washington, DC, on July 1, 2004, by the Commission.

Catherine D. Dixon,

Assistant Secretary of the Commission.

[FR Doc. 04-15523 Filed 7-8-04; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, and 524

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for four new animal drug applications (NADAs) from PM Resources, Inc., to Virbac AH, Inc.

DATES: This rule is effective July 9, 2004.

FOR FURTHER INFORMATION CONTACT:

David R. Newkirk, Center for Veterinary Medicine (HFV-100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-6967, e-mail: davidnewkirk@fda.gov.

SUPPLEMENTARY INFORMATION:

PM Resources, Inc., 13001 St. Charles Rock Rd., Bridgeton, MO 63044, has informed FDA that it has transferred ownership of, and all rights and interest in, the following four approved NADAs to Virbac AH, Inc., 3200 Meacham Blvd., Ft. Worth, TX 76137:

parts 510, 520, and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

■ 2. Section 510.600 is amended in the table in paragraph (c)(1) by removing the entry for “PM Resources, Inc.” and in the table in paragraph (c)(2) by removing the entry for “060594”.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.2045 [Amended]

■ 4. Section 520.2045 is amended in paragraph (b)(2) by removing “060594” and by adding in its place “051311”.

§ 520.2325a [Amended]

■ 5. Section 520.2325a is amended in paragraph (a)(2) by removing “060594” and by adding in its place “051311”.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 6. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 524.900 [Amended]

■ 7. Section 524.900 is amended in paragraph (c) by removing “060594” and by adding in its place “051311”.

Dated: June 18, 2004.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 04-15568 Filed 7-8-04; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Penicillin G Potassium in Drinking Water

AGENCY: Food and Drug Administration, HHS.