

tenth month following their receipt are countable as resources at that time.

(c) *Exception:* For any payments described in paragraph (a) of this section received before March 2, 2004, we will exclude for the month following the month of receipt the unspent portion of any such payment.

■ 8. Amend § 416.1236 by revising paragraph (a)(24) and adding a new paragraph (a)(25) to read as follows:

**§ 416.1236 Exclusions from resources; provided by other statutes.**

(a) \* \* \*

(24) Assistance provided for flood mitigation activities under section 1324 of the National Flood Insurance Act of 1968, pursuant to section 1 of Public Law 109-64 (119 Stat. 1997, 42 U.S.C. 4031).

(25) Payments made to individuals under the Energy Employees Occupational Illness Compensation Program Act of 2000, pursuant to section 1, app. [Div. C. Title XXXVI section 3646] of Public Law 106-398 (114 Stat. 1654A-510, 42 U.S.C. 7385e).

\* \* \* \* \*

■ 9. Revise § 416.1240 to read as follows:

**§ 416.1240 Disposition of Resources.**

(a) Where the resources of an individual (and spouse, if any) are determined to exceed the limitations prescribed in § 416.1205, such individual (and spouse, if any) shall not be eligible for payment except under the conditions provided in this section. Payment will be made to an individual (and spouse, if any) if the individual agrees in writing to:

(1) Dispose of, at current market value, the nonliquid resources (as defined in § 416.1201(c)) in excess of the limitations prescribed in § 416.1205 within the time period specified in § 416.1242; and

(2) Repay any overpayments (as defined in § 416.1244) with the proceeds of such disposition.

(b) Payment made for the period during which the resources are being disposed of will be conditioned upon the disposition of those resources as prescribed in paragraphs (a)(1) and (a)(2) of this section. Any payments so made are (at the time of disposition) considered overpayments to the extent they would not have been paid had the disposition occurred at the beginning of the period for which such payments were made.

(c) If an individual fails to dispose of the resources as prescribed in paragraphs (a)(1) and (a)(2) of this section, regardless of the efforts he or

she makes to dispose of them, the resources will be counted at their current market value and the individual will be ineligible due to excess resources. We will use the original estimate of current market value unless the individual submits evidence establishing a lower value (e.g., an estimate from a disinterested knowledgeable source).

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 522**

[Docket No. FDA-2009-N-0665]

**Implantation or Injectable Dosage Form New Animal Drugs; Hyaluronate Sodium**

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Anika Therapeutics, Inc. The supplemental NADA provides for a revised human food safety warning for use of hyaluronate sodium injectable solution in horses.

**DATES:** This rule is effective January 11, 2010.

**FOR FURTHER INFORMATION CONTACT:** Melanie R. Berson, Center for Veterinary Medicine (HFV-110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240-276-8337, e-mail: [melanie.berson@fda.hhs.gov](mailto:melanie.berson@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Anika Therapeutics, Inc., 236 W. Cummings Park, Woburn, MA 01801, filed a supplement to NADA 122-578 that provides for the veterinary prescription use of HYVISC (hyaluronate sodium) Sterile Injection in horses. The supplemental NADA provides for a revised human food safety warning on product labeling. The supplemental NADA is approved as of December 11, 2009, and the regulations are amended in 21 CFR 522.1145 to reflect the approval.

Approval of this supplemental NADA did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

FDA has determined under 21 CFR 25.33 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.

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 in 21 CFR Part 522**

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

**PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS**

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

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

**§ 522.1145 [Amended]**

■ 2. In paragraph (f)(3)(iii) of § 522.1145, remove the third sentence and in its place add "Do not use in horses intended for human consumption."

Dated: December 31, 2009.

**Bernadette Dunham,**

*Director, Center for Veterinary Medicine.*

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 522**

[Docket No. FDA-2009-N-0665]

**Implantation or Injectable Dosage Form New Animal Drugs; Flornfenicol and Flunixin**

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an original new animal drug application (NADA) filed by Intervet, Inc. The NADA provides for veterinary prescription use of a combination injectable solution containing