

Leasing Act, 15 U.S.C. 1667e, or provide the member with greater protections or benefits than the Consumer Leasing Act. You are also subject to the lending rules set forth in § 701.21 of this chapter, except as provided in § 714.8 and § 714.9 of this part. The lending rules in § 701.21 address the preemption of other state and federal laws that impact on credit transactions.

[FR Doc. 00-13509 Filed 5-30-00; 8:45 am]

BILLING CODE 7535-01-U

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 173

[Docket No. 00F-0786]

#### Secondary Direct Food Additives Permitted in Food for Human Consumption

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of chlorine dioxide produced by treating an aqueous solution of sodium chlorite with hydrogen peroxide in the presence of sulfuric acid. This action is in response to a petition filed by Eka Chemicals, Inc.

**DATES:** This rule is effective May 31, 2000. Submit written objections and requests for a hearing by June 30, 2000.

**ADDRESSES:** Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204-0001, 202-418-3074.

**SUPPLEMENTARY INFORMATION:** In a notice published in the *Federal Register* of March 2, 2000 (65 FR 11319), FDA announced that a food additive petition (FAP 0A4716) had been filed by Eka Chemicals, Inc., c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in § 173.300 *Chlorine dioxide* (21 CFR 173.300) to provide for the safe use of chlorine dioxide produced by treating an aqueous solution of sodium chlorite

with hydrogen peroxide in the presence of sulfuric acid.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and, therefore, that the regulation in § 173.300 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

In the notice of filing, FDA gave interested parties an opportunity to submit comments on the petitioner's environmental assessment. FDA received no comments in response to that notice.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by June 30, 2000. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in

support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

#### List of Subjects in 21 CFR Part 173

Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 173 is amended as follows:

#### PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

**Authority:** 21 U.S.C. 321, 342, 348.

2. Section 173.300 is amended by revising paragraph (a) to read as follows:

#### § 173.300 Chlorine dioxide.

\* \* \* \* \*

(a) The additive is generated by one of the following methods: Treating an aqueous solution of sodium chlorite with either chlorine gas or a mixture of sodium hypochlorite and hydrochloric acid, or treating an aqueous solution of sodium chlorate with hydrogen peroxide in the presence of sulfuric acid. In either case, the generator effluent contains at least 90 percent (by weight) of chlorine dioxide with respect to all chlorine species as determined by Method 4500-ClO<sub>2</sub> E in the "Standard Methods for the Examination of Water and Wastewater," 18th ed., 1992, or an equivalent method. Method 4500-ClO<sub>2</sub> E is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the Center for Food Safety and Applied Nutrition (HFS-200), Food and Drug Administration, 200 C St. SW., Washington, DC 20204-0001, and the American Public Health Association, 1015 Fifteenth St. NW., Washington, DC 20005, or may be examined at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

\* \* \* \* \*

Dated: May 19, 2000.

**L. Robert Lake,**

*Director of Regulations and Policy, Center for Food Safety and Applied Nutrition.*

[FR Doc. 00-13477 Filed 5-30-00; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 270

[RIN 0790-AG67]

#### Compensation of Certain Former Operatives Incarcerated by the Democratic Republic of Vietnam

**AGENCY:** Office of Under Secretary of Defense for Personnel and Readiness, DoD.

**ACTION:** Final rule.

**SUMMARY:** This rule adopts as final an interim rule implementing section 657 of the National Defense Authorization Act for Fiscal Year 1997, which authorizes the Secretary of Defense to make payments to persons captured and incarcerated by the Democratic Republic of Vietnam. The rule established policy and procedures concerning the payments to these persons. The rule amended regulations to reflect changes necessary as a result of new language in section 658 of the FY99 National Defense Authorization Act. Section 658 expands the field of beneficiaries of the Vietnamese Commandos Compensation Commission to parents and siblings of deceased Commandos. It also added words "notwithstanding any agreement (including a power of attorney) to the contrary, the actual disbursement" must be made directly to the person who is eligible for the payment. The rule also amended regulations to reflect necessary technical changes to accommodate the new language. The Department of Defense is adopting the Interim Final Rule as a Final Rule without change.

**EFFECTIVE DATE:** This rule is effective October 17, 1998.

**FOR FURTHER INFORMATION CONTACT:** LTC Frank Hudson, (703) 588-6570 or Mr. Chuck Witschonke, (703) 693-1059, Directorate of Compensation, Office of the Secretary of Defense, 4000 Defense Pentagon, Washington, DC, 20301

**SUPPLEMENTARY INFORMATION:** The Department of Defense published an Interim Final Rule with a request for comments on December 10, 1998 (63 FR 68194). The following comments were received:

**Comment:** *The Statute Requires Prompt Payment In A Manner Requested By The Awardee.*

Section 657(d)(2) of Pub. L. 104-201, as amended, states that "Subject to subsection (f), if the Secretary determines that the claimant is eligible for the payment, the Secretary *shall promptly pay the claim.*" (Emphasis added.) Subsection (f) provides notwithstanding any agreement (including a power of attorney) to the contrary, the actual disbursement of a payment under this section may be made only to the person who is eligible for payment under subsection (a) or (b) and only—upon the appearance of that person, in person, at the designated distribution office in the United States or its territories; or as such other location or in such manner as that person may request in writing.

The only change made to this subsection by the FY 99 National Defense Authorization Act was the addition of "[n]otwithstanding any agreement (including a power of attorney) to the contrary" at the beginning of Subsection (f)(1).

The statutory requirements for disbursement are clearly stated. First, the payment must be disbursed to the person eligible for payment. Thus, the check must be made payable to the intended beneficiary and not to a third party, such as the person's attorney or another designee or assignee, regardless of any agreement to the contrary.

The second condition for payment is that it be made: (1) in person at a designated distribution office in the United States or its territories or, (2) if the beneficiary requests in writing, at such other location or in such other manner as that person may request. The statute recognizes that many payment recipients may not be able to appear in person to receive their payments. Many, for instance, still live in Vietnam under a repressive government that denies them the ability to travel or even to correspond freely. Hence the statute allows the eligible person to request alternative methods of payment.

The Secretary of Defense has complete discretion in determining whether a claim is justified and such determinations are considered final and conclusive. Pub. L. 104-201, section 657(d). However, once DoD has determined that a person is eligible for payment under the provisions of the Vietnamese Commando Compensation Act, that discretion ends. The agency is mandated by statute to promptly pay the claim. DoD may not establish unreasonable regulations that hinder payments to those persons eligible for the compensation established by

Congress. In fact, section 657(f)(2) provides that DoD shall hold funds in trust for eligible persons only until such time as "*the person makes an election*" (emphasis added) to appear in person at a disbursing office or to request payment at another location or in another manner.

**Response:** Section 657(f) provides that the actual disbursement of a payment may be made only to an eligible claimant, notwithstanding any agreement to the contrary. The statute does not require that payment be made in any manner requested by a claimant; rather, it authorizes the Department, in its discretion, to grant requests by eligible claimants to receive their payments at a particular location or in a manner other than the personal appearance of the claimant at a designated distribution office. This provision does not negate the independent requirement that only eligible claimants may receive payments.

**Comment:** *The Interim Regulation Violates The Statute And Inflicts Hardship.*

The interim regulation drastically curtails the statutory right of eligible persons to receive their payments in the manner they request. As revised, regulation states that:

The Commission [on Compensation] may, in its discretion, require the person who is eligible for the payment to appear at any designated Defense Finance Accounting Service disbursement office in the United States to receive payment. The Commission may, in its discretion, coordinate with other U.S. governmental agencies to facilitate disbursement of payments to persons eligible for payments who reside outside the United States. If an eligible person makes a written request that payment be made at an alternate location or in an alternative manner, the Commission may, in its discretion, grant such request, provided that the *actual payment (i.e., the physical delivery of the payment) is made only to the eligible person.* The Commission will not disburse payment to any person other than an eligible person, notwithstanding any written request, assignment of rights, power of attorney, or other agreement.

32 CFR 270.11. (Emphasis added.)

By requiring that all payments be made by "physical delivery of the payment" only to the eligible person, DoD has imposed an unreasonable burden on the intended beneficiaries of the Congressionally mandated compensation. By imposing such an arbitrary condition on payments, DoD set an unnecessary hurdle which many persons eligible for compensation will be unable to clear. Such arbitrary action violates DoD's statutory obligation to