TITLE 21--FOOD AND DRUGS

CHAPTER I--FOOD AND DRUG ADMINISTRATION,
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C--DRUGS: GENERAL

[DOCKET NO. 75P-0261]

PART 211--CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

AMENDMENT TO PRODUCTION AND CONTROL PROCEDURES TO ELIMINATE REFERENCE TO GLASS FIBER FILTERS

4-23-76

The Food and Drug Administration (FDA) is amending the current good manufacturing practice (CGMP) regulations for finished pharmaceuticals by deleting nonglass fiber filters from the definition of a non-fiber-releasing filter. The amendment is effective on (insert date of publication in the FEDERAL REGISTER).

In the FEDERAL REGISTER of September 28, 1973 (38 FR 27076), the Commissioner of Food and Drugs issued a proposal concerning asbestos particles in food and drugs. This proposal resulted from a petition submitted by the Center for Science in the Public Interest and the Environmental Defense Fund, and other available information. In the portion of the notice pertaining to drugs, the Commissioner proposed that the CGMP regulations be amended to require that filtration procedures for parenteral drugs use either a non-asbestos-containing or non-fiber-releasing filter, such as a membrane filter. He further proposed that if an asbestos-containing filter were necessary, an additional non-asbestos-containing or non-fiber-releasing filter, such as a membrane filter, be used to reduce asbestos fiber content to the minimum level feasible, unless so doing would compromise the safety, identity, strength,

quality, or purity of the product. The proposal also included a provision prohibiting the use of asbestos-containing talc as a food, as a food or drug product ingredient, or in food- and drug-packaging materials, within certain analytical restrictions.

After considering the comments received on the proposal, the Commissioner issued final regulations in the FEDERAL REGISTER of March 14, 1975 (40 FR 11865), concerning asbestos-form particles in drugs for injection into humans. That portion of the proposal pertaining to the use of talc in food and drugs was not made final, however, because the Commissioner concluded that the promulgation of such regulations should be deferred until more reliable data could be obtained.

The proposed regulation specified that "no asbestos containing or fiber-releasing filter may be used in the manufacture of a parenteral drug * * *", but it did not include a definition of a fiber-releasing filter. The final regulation added such a definition to § 211.40(j)(1) (formerly § 133.8(j)(1), recodified in the FEDERAL REGISTER of March 27, 1975 (40 FR 13996)), defining a non-fiber-releasing filter as "a non-asbestos, nonglass fiber filter which, after any appropriate pretreatment such as washing or flushing, will not continue to release fibers into the drug product or component which is being filtered." On April 11, 1975, counsel to Johns-Manville Fiber Glass, Inc. and Johns-Manville Sales Corp. (hereinafter referred to as Johns-Manville), submitted a document objecting to defining a non-fiber-releasing filter to exclude glass fiber filters. A similar document was received on September 15,

1975 from the Pharmaceutical Manufacturers Association (PMA), 1155 15th St. NW., Washington, DC. The PMA submitted a petition requesting, inter alia, that the Commissioner amend the final regulation so that the use of glass fiber filters would not be prohibited. Copies of the Johns-Manville submission and PMA's petition are on public display at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Both PMA and Johns-Manville alleged that the Commissioner's action contravened the rule making provisions of the Administrative Procedure Act because the final regulation included a substantive provision not set forth in the proposed regulation. Specifically, they pointed out that the final regulation prohibits the use of glass fiber filters in preparing drugs for injection into humans, although the proposal made no reference to such filters. PMA and Johns-Manville stated that this failure to mention glass fiber filters in the proposal effectively precluded interested persons from presenting written data, views, and arguments concerning glass fiber filters.

The Commissioner has carefully considered the arguments for withdrawing the portion of the final regulation that deals with glass fiber filters. He concludes that, although the terms of the notice were broad enough to apply to glass fiber filters, the failure of comments to address the use of such filters indicates that the notice of proposed

rule making may not have alerted interested persons that the prohibition of "asbestos-containing or fiber-releasing filter" would preclude the use of glass fiber filters. Therefore, to forestall any legal challenge to the regulations on the ground that the proposal was inadequate, the Commissioner concludes that § 211.40(j)(1) should be amended to delete, for the time being, nonglass fiber filters from the definition of non-fiber-releasing filters.

The Commissioner is aware that the proposal to revise all current good manufacturing practice regulations for human and veterinary drugs, published in the FEDERAL REGISTER of February 13, 1976 (41 FR 6878), contains in § 210.3(b)(6) (21 CFR 210.3(b)(6)) a proposed determination that filters containing glass fibers will also be deemed to be fiber-releasing filters subject to special restrictions, which are contained in proposed § 211.72 (21 CFR 211.72). The February 13 proposals are based in part upon § 211.40(j) and were intended to recodify the section. The Commissioner states that, because of the present amendment of § 211.40(j)(1), he will delete all references to glass fiber-containing filters when he makes final the February 13, 1976 proposal. He therefore is not soliciting further comments on that proposal regarding such filters.

The Commissioner also advises, however, that available scientific data suggest that the presence of glass fibers in parenteral drugs is of sufficient concern to justify prohibiting the use of glass fiber filters in the manufacture of parenteral drug products for human use. Therefore, the Commissioner is hereby alerting interested persons in the very near future he will propose that glass fiber filters be deemed to be fiber-releasing filters.

The Commissioner has concluded that good cause exists for publishing the amendment below without a period for public comment and for making the amendment effective immediately upon publication. The amendment relieves a restriction and, as indicated above, is being taken to obviate any legal challenge to the final regulation governing asbestos-containing filters on the basis that interested persons were not afforded an adequate notice of the scope of the original rule making.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 701, 52 Stat. 1049-1051, 1055-1056, as amended (21 U.S.C. 351, 352, 371)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 211 is amended by revising § 211.40(j)(1) to read as follows:

§ 211.40 Production and control procedures.

* * * * *

(j) Use of asbestos-containing or other fiber-releasing filters: (1) Filters used in the manufacture, processing, or packaging of components of drug products for parenteral injection in humans shall not release fibers into such products. No asbestos-containing or other fiber-releasing filter may be used in the manufacture, processing, or packaging of such products unless it is not possible to manufacture that drug product or component without the use of such a filter. Filtration, as needed, shall be through a non-fiber-releasing filter. For the purposes of this regulation a non-fiber-releasing filter is defined as a nonasbestos filter that, after any appropriate pretreatment such as washing or flushing, will

not continue to release fibers into the drug product or component that is being filtered. A fiber is defined as any particle with length at least 3 times greater than its width.

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Effective date. This amendment shall be effective (insert date of publication in the FEDERAL REGISTER).

(Secs. 501, 502, 701, 52 Stat. 1049-1051, 1055-1056, as amended (21 U.S.C. 351, 352, 371).)

Dated: APR 13 1976.

Sam D. Fine
Associate Commissioner for Compliance.

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Mary Evans