

## § 17.48

granting summary decision shall constitute the final decision of FDA and shall be final and binding on the parties 30 days after the declination by the entity deciding the appeal.

(k) The standard of review on a disputed issue of fact is whether the initial decision is supported by substantial evidence on the whole record. The standard of review on a disputed issue of law is whether the initial decision is erroneous.

### § 17.48 Harmless error.

No error in either the admission or the exclusion of evidence, and no error or defect in any ruling or order or in any act done or omitted by the presiding officer or by any of the parties is grounds for vacating, modifying, or otherwise disturbing an otherwise appropriate ruling or order or act, unless refusal to take such action appears to the presiding officer or the Commissioner of Food and Drugs or other entity deciding the appeal (currently the DAB) to be inconsistent with substantial justice. The presiding officer and the entity deciding the appeal at every stage of the proceeding will disregard any error or defect in the proceeding that does not affect the substantial rights of the parties.

### § 17.51 Judicial review.

(a) The final decision of the Commissioner of Food and Drugs or other entity deciding the appeal (currently the DAB) constitutes final agency action from which a respondent may petition for judicial review under the statutes governing the matter involved. Although the filing of a petition for judicial review does not stay a decision under this part, a respondent may file a petition for stay of such decision under § 10.35 of this chapter.

(b) The Chief Counsel of FDA has been designated by the Secretary of Health and Human Services as the officer on whom copies of petitions for judicial review are to be served. This officer is responsible for filing the record on which the final decision is based. The record of the proceeding is certified by the entity deciding the appeal (currently the DAB).

(c) Exhaustion of an appeal to the entity deciding the appeal (currently the

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DAB) is a jurisdictional prerequisite to judicial review.

### § 17.54 Deposit in the Treasury of the United States.

All amounts assessed pursuant to this part shall be delivered to the Director, Division of Financial Management (HFA-100), Food and Drug Administration, rm. 11-61, 5600 Fishers Lane, Rockville, MD 20857, and shall be deposited as miscellaneous receipts in the Treasury of the United States.

## PART 19—STANDARDS OF CONDUCT AND CONFLICTS OF INTEREST

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19.55 Permanent disqualification of former employees.

AUTHORITY: 21 U.S.C. 371.

SOURCE: 42 FR 15615, Mar. 22, 1977, unless otherwise noted.

### Subpart A—General Provisions

#### § 19.1 Scope.

This part governs the standards of conduct for, and establishes regulations to prevent conflicts of interest by, all Food and Drug Administration employees.

#### § 19.5 Reference to Department regulations.

(a) The provisions of 45 CFR part 73, establishing standards of conduct for all Department employees, are fully applicable to all Food and Drug Administration employees, except that such