

(f) Appointment as a member of TEPRSSC is conditioned on certification that the prospective member:

(1) Agrees to the procedures and criteria specified in this subpart.

(2) Has no conflict of interest as specified in paragraph (d) of this section.

(3) Will notify the executive secretary of TEPRSSC before any change in representative status on TEPRSSC which may be contrary to the conditions of the appointment.

(g) Members of TEPRSSC who are not full-time officers or employees of the United States receive compensation under § 14.95, in accordance with 42 U.S.C. 210(c).

**§ 14.130 Conduct of TEPRSSC meeting; availability of TEPRSSC records.**

(a) In accordance with 42 U.S.C. 263f(f)(1)(B), all proceedings of TEPRSSC are recorded, and the record of each proceeding is available for public inspection.

(b) All proceedings of TEPRSSC are open except when the Commissioner has determined, under § 14.27, that a portion of a meeting may be closed.

**Subpart H—Color Additive Advisory Committees**

**§ 14.140 Establishment of a color additive advisory committee.**

The Commissioner will establish a color additive advisory committee under the following circumstances:

(a) The Commissioner concludes, as a matter of discretion, that it would be in the public interest for a color additive advisory committee to review and make recommendations about the safety of a color additive on which important issues are pending before FDA and for interested persons to present information and views at an oral public hearing before a color additive advisory committee.

(b) There is an issue arising under section 721(b)(5)(B) of the act concerning the safety of a color additive, including its potential or actual carcinogenicity, that requires the exercise of scientific judgment and a person who would be adversely affected by the issuance, amendment, or repeal of a regulation listing a color additive requests that the matter, or the Commis-

sioner as a matter of discretion determines that the matter should, be referred to a color additive advisory committee.

(1) Paragraph (b) does not apply to any issue arising under the transitional provisions in section 203 of the Color Additive Amendments of 1960 relating to provisional listing of commercially established colors. A color additive advisory committee to consider any such matter will be established under paragraph (a) of this section.

(2) A request for establishment of a color additive advisory committee is to be made in accordance with § 10.30. The Commissioner may deny any petition if inadequate grounds are stated for establishing a color additive advisory committee. A request for establishment of a color additive advisory committee may not rest on mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires scientific judgment and justifies a hearing before a color additive advisory committee. When it conclusively appears from the request for a color additive advisory committee that the matter is premature or that it does not involve an issue arising under section 721(b)(5)(B) of the act or that there is no genuine and substantial issue of fact requiring scientific judgment, or for any other reason a color additive advisory committee is not justified, the Commissioner may deny the establishment of a color additive advisory committee.

(3) Establishment of a color additive advisory committee on the request of an interested person is conditioned upon receipt of the application fee specified in § 14.155.

(4) Any person adversely affected may request referral of the matter to a color additive advisory committee at any time before, or within 30 days after, publication of an order of the Commissioner acting upon a color additive petition or proposal.

**§ 14.142 Functions of a color additive advisory committee.**

(a) A color additive advisory committee reviews all available information relating to the matter referred to

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it, including all information contained in any pertinent color additive petition and in FDA files. All information reviewed is placed on public display and is available for review at the office of the Division of Dockets Management.

(b) The Commissioner specifies to the color additive advisory committee, in writing, the issues on which review and recommendations are requested.

(c) The date of the first meeting of a color additive advisory committee, following receipt of the administrative record by each of the committee members, is designated as the beginning of the period allowed for consideration of the matter by the committee. Within 60 days after the first meeting, unless the time is extended as provided in paragraph (d) of this section, the chairman of the committee shall certify to the Commissioner the report containing the recommendations of the committee, including any minority report. The report states the recommendations of the committee and the reasons or basis for them. The report includes copies of all material considered by the committee in addition to the administrative record furnished to it.

(d) If the chairman concludes that the color additive advisory committee needs additional time, the chairman shall so inform the Commissioner in writing and may certify the report of the committee to the Commissioner within 90 days instead of 60 days.

(e) More than one matter may be handled concurrently by a color additive advisory committee.

### § 14.145 Procedures of a color additive advisory committee.

(a) A color additive advisory committee is subject to all the requirements of the Federal Advisory Committee Act and this part.

(b) All interested persons have a right to consult with the color additive advisory committee reviewing a matter and to submit information and views to a color additive advisory committee, in accordance with the procedures in this part.

## 21 CFR Ch. I (4–1–07 Edition)

### § 14.147 Membership of a color additive advisory committee.

(a) The members of a color additive advisory committee are selected in the following manner:

(1) If a color additive advisory committee is established for purposes that do not include review of an issue arising under section 721(b)(5)(B) of the act, or is established on the initiative of the Commissioner, the Commissioner may use the procedure in paragraph (a)(2) of this section to select the members or may use an existing standing advisory committee listed in § 14.100, or may establish a new advisory committee under this subpart. Once the Commissioner has established a color additive advisory committee under this paragraph and has referred to it a matter relating to a color additive, no interested person may subsequently request that an additional or different color additive advisory committee be established to review and make recommendations about that color additive.

(2) If the Commissioner established a color additive advisory committee to review an issue arising under section 721(b)(5)(B) of the act on the request of an interested person, it shall be established under the following requirements:

(i) Except as provided in paragraph (a)(2) (ii) and (iii) of this section, the Commissioner will request the National Academy of Sciences to select the members of a color additive advisory committee from among experts qualified in the subject matter to be reviewed by the committee, and of adequately diversified professional backgrounds. The Commissioner will appoint one of the members as the chairman.

(ii) If the National Academy of Sciences is unable or refuses to select the members of a color additive advisory committee, the Commissioner will select the members.

(iii) If the Commissioner and the requesting party agree, section 721(b)(5)(D) of the act may be waived and the matter may be referred to any standing advisory committee listed in § 14.100 or to any advisory committee established under any other procedure that is mutually agreeable. Once the