

§ 14.122

provide consultation before the Commissioner prescribes any performance standard for an electronic product.

§ 14.122 Functions of TEPRSSC.

(a) In performing its function of advising the Commissioner, TEPRSSC—

(1) May propose electronic product radiation safety standards to the Commissioner for consideration;

(2) Provides consultation to the Commissioner on all performance standards proposed for consideration under 42 U.S.C. 263f; and

(3) May make recommendations to the Commissioner on any other matters it deems necessary or appropriate in fulfilling the purposes of the act.

(b) Responsibility for action on performance standards under 42 U.S.C. 263f rests with the Commissioner, after receiving the advice of TEPRSSC.

§ 14.125 Procedures of TEPRSSC.

(a) When the Commissioner is considering promulgation of a performance standard for an electronic product, or an amendment of an existing standard, before issuing a proposed regulation in the FEDERAL REGISTER the Commissioner will submit to TEPRSSC the proposed standard or amendment under consideration, together with other relevant information to aid TEPRSSC in its deliberations.

(b) The agenda and other material to be considered at any meeting will be sent to members whenever possible at least 2 weeks before the meeting.

(c) Ten members constitute a quorum, provided at least three members are present from each group specified in 42 U.S.C. 263f(f)(1)(A) and in § 14.127(a), i.e., Government, industry, and the public.

(d) The chairman of TEPRSSC will ordinarily submit a report to the Commissioner of the committee's consideration of any proposed performance standard for an electronic product within 60 days after consideration. If the chairman believes that more time is needed, the chairman will inform the Director of the Center for Devices and Radiological Health in writing, in which case an additional 30 days will be allowed to make the report.

(e) Sections 14.1 through 14.7 apply to TEPRSSC, except where other provi-

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sions are specifically included in §§ 14.120 through 14.130.

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§ 14.127 Membership of TEPRSSC.

(a) The Commissioner will appoint the members after consultation with public and private organizations concerned with the technical aspect of electronic product radiation safety. TEPRSSC consists of 15 members, each of whom is technically qualified by training and experienced in one or more fields of science or engineering applicable to electronic product radiation safety, as follows:

(1) Five members selected from government agencies, including State and Federal Governments.

(2) Five members selected from the affected industries after consultation with industry representatives.

(3) Five members selected from the general public, of whom at least one shall be a representative of organized labor.

(b) The Commissioner will appoint a committee member as chairman of TEPRSSC.

(c) Appointments of members are for a term of 3 years or as specified by the Commissioner.

(1) The chairman is appointed for a term concurrent with the chairman's term as a member of TEPRSSC. If the chairmanship becomes vacant without adequate notice, the executive secretary may appoint a committee member as temporary chairman pending appointment of a new chairman by the Commissioner.

(2) Members may not be reappointed for a second consecutive full term.

(d) A person otherwise qualified for membership is not eligible for selection as a member of TEPRSSC from Government agencies or the general public if the Commissioner determines that the person does not meet the requirements of the conflict of interest laws and regulations.

(e) Retention of membership is conditioned upon the following:

(1) Continued status as a member of the group from which the member was selected as specified in paragraph (a) of this section.

(2) Absence of any conflict of interest during the term of membership as specified in paragraph (d) of this section.

(3) Active participation in TEPRSSC activities.

(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 Commissioner 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.