

### §310.519

(4) The warning statement shall appear on any labeling that contains warnings.

(5) The warning statement required by paragraph (a)(1) of this section shall be set off in a box by use of hairlines.

(b) The iron-containing inert tablets supplied in monthly packages of oral contraceptives are categorically exempt from the requirements of paragraph (a) of this section.

[68 FR 59715, Oct. 17, 2003]

### §310.519 Drug products marketed as over-the-counter (OTC) daytime sedatives.

(a) Antihistamines, bromides, and scopolamine compounds, either singly or in combinations, have been marketed as ingredients in over-the-counter (OTC) drug products for use as daytime sedatives. The following claims have been made for daytime sedative products: "occasional simple nervous tension," "nervous irritability," "nervous tension headache," "simple nervousness due to common every day overwork and fatigue," "a relaxed feeling," "calming down and relaxing," "gently soothe away the tension," "calmative," "resolving that irritability that ruins your day," "helps you relax," "restlessness," "when you're under occasional stress . . . helps you work relaxed." Based on evidence presently available, there are no ingredients that can be generally recognized as safe and effective for use as OTC daytime sedatives.

(b) Any OTC drug product that is labeled, represented, or promoted as an OTC daytime sedative (or any similar or related indication) is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act for which an approved new drug application under section 505 of the act and part 314 of this chapter is required for marketing.

(c) Clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted as an OTC daytime sedative (or any similar or related indication) is safe and effective for the purpose intended must comply with the requirements and procedures governing the use of investigational new drugs set forth in part 312 of this chapter.

### 21 CFR Ch. I (4-1-08 Edition)

(d) Any OTC daytime sedative drug product introduced into interstate commerce after December 24, 1979, that is not in compliance with this section is subject to regulatory action.

[44 FR 36380, June 22, 1979; 45 FR 47422, July 15, 1980, as amended at 55 FR 11579, Mar. 29, 1990]

### §310.527 Drug products containing active ingredients offered over-the-counter (OTC) for external use as hair growers or for hair loss prevention.

(a) Amino acids, aminobenzoic acid, ascorbic acid, benzoic acid, biotin and all other B-vitamins, dexpanthenol, estradiol and other topical hormones, jojoba oil, lanolin, nucleic acids, polysorbate 20, polysorbate 60, sulfanilamide, sulfur 1 percent on carbon in a fraction of paraffinic hydrocarbons, tetracaine hydrochloride, urea, and wheat germ oil have been marketed as ingredients in OTC drug products for external use as hair growers or for hair loss prevention. There is a lack of adequate data to establish general recognition of the safety and effectiveness of these or any other ingredients intended for OTC external use as a hair grower or for hair loss prevention. Based on evidence currently available, all labeling claims for OTC hair grower and hair loss prevention drug products for external use are either false, misleading, or unsupported by scientific data. Therefore, any OTC drug product for external use containing an ingredient offered for use as a hair grower or for hair loss prevention cannot be considered generally recognized as safe and effective for its intended use.

(b) Any OTC drug product that is labeled, represented, or promoted for external use as a hair grower or for hair loss prevention is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act), for which an approved new drug application under section 505 of the act and part 314 of this chapter is required for marketing. In the absence of an approved new drug application, such product is also misbranded under section 502 of the act.

(c) Clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted

for OTC external use as a hair grower or for hair loss prevention is safe and effective for the purpose intended must comply with the requirements and procedures governing the use of investigational new drugs set forth in part 312 of this chapter.

(d) After January 8, 1990, any such OTC drug product initially introduced or initially delivered for introduction into interstate commerce that is not in compliance with this section is subject to regulatory action.

[54 FR 28777, July 7, 1989]

**§ 310.528 Drug products containing active ingredients offered over-the-counter (OTC) for use as an aphrodisiac.**

(a) Any product that bears labeling claims that it will arouse or increase sexual desire, or that it will improve sexual performance, is an aphrodisiac drug product. Anise, cantharides, don qual, estrogens, fennel, ginseng, golden seal, gotu kola, Korean ginseng, licorice, mandrake, methyltestosterone, minerals, nux vomica, Pega Palo, sarsaparilla, strychnine, testosterone, vitamins, yohimbine, yohimbine hydrochloride, and yohimbinum have been present as ingredients in such drug products. Androgens (e.g., testosterone and methyltestosterone) and estrogens are powerful hormones when administered internally and are not safe for use except under the supervision of a physician. There is a lack of adequate data to establish general recognition of the safety and effectiveness of any of these ingredients, or any other ingredient, for OTC use as an aphrodisiac. Labeling claims for aphrodisiacs for OTC use are either false, misleading, or unsupported by scientific data. The following claims are examples of some that have been made for aphrodisiac drug products for OTC use: "acts as an aphrodisiac;" "arouses or increases sexual desire and improves sexual performance;" "helps restore sexual vigor, potency, and performance;" "improves performance, staying power, and sexual potency;" and "builds virility and sexual potency." Based on evidence currently available, any OTC drug product containing ingredients for use as an aphrodisiac cannot be generally recognized as safe and effective.

(b) Any OTC drug product that is labeled, represented, or prompted for use as an aphrodisiac is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act, (the act), for which an approved new drug application under section 505 of the act and part 314 of this chapter is required for marketing. In the absence of an approved new drug application, such product is also misbranded under section 502 of the act.

(c) Clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted for OTC use as an aphrodisiac is safe and effective for the purpose intended must comply with the requirements and procedures governing the use of investigational new drugs set forth in part 312 of this chapter.

(d) After January 8, 1990, any such OTC drug product initially introduced or initially delivered for introduction into interstate commerce that is not in compliance with this section is subject to regulatory action.

[54 FR 28786, July 7, 1989]

**§ 310.529 Drug products containing active ingredients offered over-the-counter (OTC) for oral use as insect repellents.**

(a) Thiamine hydrochloride (vitamin B-1) has been marketed as an ingredient in over-the-counter (OTC) drug products for oral use as an insect repellent (an orally administered drug product intended to keep insects away). There is a lack of adequate data to establish the effectiveness of this, or any other ingredient for OTC oral use as an insect repellent. Labeling claims for OTC orally administered insect repellent drug products are either false, misleading, or unsupported by scientific data. The following claims are examples of some that have been made for orally administered OTC insect repellent drug products: "Oral mosquito repellent," "mosquitos avoid you," "bugs stay away," "keep mosquitos away for 12 to 24 hours," and "the newest way to fight mosquitos." Therefore, any drug product containing ingredients offered for oral use as an insect repellent cannot be generally recognized as safe and effective.