Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, effective September 15, 2010, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AEA MD D Patuxent River, MD [AMENDED]

Patuxent River NAS (Trapnell Field), MD
(Lat. 38°17′10″ N., long. 76°24′42″ W.)
Chesapeake Ranch Airpark, MD
(Lat. 38°21′40″ N., long. 76°24′19″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.5-mile radius of Patuxent River NAS (Trapnell Field) and within a .5-mile radius of Chesapeake Ranch Airpark excluding that airspace within Restricted Areas R–4005 and R–4007 when active. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport Facility Directory.

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AEA MD E2 Patuxent River, MD [NEW]

Patuxent River NAS (Trapnell Field), MD
(Lat. 38°17′10″N., long. 76°24′42″ W.)
Patuxent VORTAC
(Lat. 38°17′16″ N., long. 76°24′01″ W.)
Patuxent River NDB
(Lat. 38°17′09″ N., long. 76°24′11″ W.)
Chesapeake Ranch Airpark, MD
(Lat. 38°21′40″ N., long. 76°24′19″ W.)

That airspace extending upward from the surface within a 4.5-mile radius of Patuxent River NAS (Trapnell Field) and within 1.8 miles each side of the Patuxent VORTAC 045° radial extending from the 4.5-mile radius of Patuxent River NAS to 6.1 miles northeast of the VORTAC; and within 1.8 miles north of and 2.0 miles south of the Patuxent VORTAC 235° radial extending from the 4.5-mile radius to 6.6 miles southwest of the VORTAC; and within 1.8 miles each side of the Patuxent VORTAC 140° radial extending from the 4.5-mile radius to 10.5 miles southeast of the VORTAC; and within a .5-mile radius of Chesapeake Ranch Airpark, excluding that airspace within Restricted Areas R–4005 and R–4007 when active. This Class E airspace area is effective during those times when the Class D airspace is not in effect.

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D Surface Area.

* * * * *

AEA MD E4 Patuxent River, MD [AMENDED]

Patuxent River NAS (Trapnell Field), MD
(Lat. 38°17′10″ N., long. 76°24′42″ W.)
Patuxent VORTAC
(Lat. 38°17′16″ N., long. 76°24′01″ W.)
Patuxent River NDB
(Lat. 38°17′09″ N., long. 76°24′11″ W.)

That airspace extending upward from the surface within 1.8 miles each side of the Patuxent VORTAC 045° radial extending from the 4.5-mile radius of Patuxent River NAS (Trapnell Field) to 6.1 miles northeast of the VORTAC; and within 1.8 miles north of and 2.0 miles south of the Patuxent VORTAC 235° radial extending from the 4.5-mile radius to 6.6 miles southwest of the VORTAC; and within 1.8 miles each side of the Patuxent VORTAC 140° radial extending from the 4.5-mile radius to 10.5 miles southeast of the VORTAC, excluding that airspace within Restricted Areas R–4005 and R–4007 when active. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport Facility Directory.

Issued in College Park, Georgia, on September 17, 2010.

Myron A. Jenkins,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2010–24110 Filed 9–27–10; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 307

[RIN 3084-AB23]

Rescission of Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("FTC" or "Commission") is rescinding its smokeless tobacco regulations. Recent legislation transferred the FTC's authority for those regulations to the Secretary of the Department of Health and Human Services ("DHHS"). DHHS will now review and approve rotational warning plans for these products.

EFFECTIVE DATE: September 28, 2010.

ADDRESSES: Copies of this document are available from: Public Reference Branch, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, DC 20580. Copies of this document are also available on the Internet at the Commission's website: (*http://www.ftc.gov*).

FOR FURTHER INFORMATION CONTACT: Shira Modell, (202) 326-3116, Attorney, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C., 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Comprehensive Smokeless Tobacco Health Education Act of 1986 ("Smokeless Tobacco Act"), Pub. L. 99-252, 100 Stat. 30 (1986), required manufacturers, importers, and packagers of smokeless tobacco products to display on a rotating basis one of three statutory health warnings on product packages and in most advertising (other than billboards). The Smokeless Tobacco Act also directed the FTC to issue implementing regulations governing the format and display of the health warnings, and to review and approve (if appropriate) plans specifying how smokeless tobacco companies planned to comply with the rotational warning requirements specified in the Smokeless Tobacco Act and the implementing regulations. 15 U.S.C. 4402 (1986) (amended 2009). The Commission issued its smokeless tobacco regulations, 16 CFR Part 307, on November 4, 1986.[1] 51 FR 40015.

II. Basis for Removal of Regulations

On June 22, 2009, President Obama signed into law the Family Smoking Prevention and Tobacco Control Act, Pub. L. No. 111-31, 123 Stat. 1776 (2009) ("Family Smoking Prevention Act"). The Family Smoking Prevention Act, among other things, amended the Smokeless Tobacco Act to change the language of the existing three statutory health warnings and add a fourth warning, and to require new size, format, and display requirements for the statutory health warnings. Family Smoking Prevention Act, § 204. The Family Smoking Prevention Act also gave the Secretary of DHHS authority to change the warning statements and the size, format, and display requirements of those warnings, and transferred authority over the review and approval of rotational warning plans from the Commission to the Secretary. Family Smoking Prevention Act, § 205. These amendments to the Smokeless Tobacco Act became effective on June 22, 2010.

Earlier this year, the Commission terminated its regulatory review of the smokeless tobacco regulations, citing the enactment of the Family Smoking Prevention Act. 75 FR 3665 (Jan. 22,

[1] The regulations were amended in 1991 to include provisions for the rotation and display of the statutory warnings on utilitarian items. 56 FR 11654 (Mar. 20, 1991).

2010). The regulations themselves, however, remain in place.

The Commission has now concluded that, in light of the amendments to the Smokeless Tobacco Act, the regulations in 16 CFR Part 307 no longer serve any purpose and actually conflict with the new statutory provisions. As noted above, the Family Smoking Prevention Act revised the language of the smokeless tobacco health warning statements and adopted new requirements for the format, size, and location of those statements on smokeless tobacco packaging and in ads for smokeless tobacco products. These requirements supersede those adopted by the Commission pursuant to the 1986 statute. Accordingly, the Commission concludes that its regulations implementing the Smokeless Tobacco Act should be removed. Indeed, retention of these regulations could generate confusion if some smokeless tobacco manufacturers and importers mistakenly believe that they reflect current legal requirements.

Under 5 U.S.C. 553(b)(B), an agency may promulgate a rule without prior notice and an opportunity for public comment if the agency finds for good cause that this procedure is unnecessary. *Nat'l Customs Brokers & Forwarders Ass'n v. United States*, 59 F.3d 1219, 1223-1224 (Fed. Cir. 1995). In rescinding 16 CFR Part 307, the Commission finds that public comment is unnecessary because the FTC is rescinding its regulations in response to the transfer of its underlying regulatory authority to the Secretary of DHHS. Since the FTC has no discretion in that matter, there is no reason or need for public comment on this regulatory action. The Family Smoking Prevention Act amended 15 U.S.C. 4402 by repealing the Commission's authority to promulgate rules implementing the smokeless tobacco labels and related rotational plans. That Act provides the Secretary of DHHS the authority to promulgate rules regarding the smokeless tobacco labels and the authority to approve related rotational plans. Therefore, as of June 22, 2010, the effective date of Congress's amendments, the Commission's rules under 16 CFR Part 307 were no longer authorized by statute. Although 15 U.S.C. 4404(b) continues to refer to "[r]egulations issued by the Federal Trade Commission under [15 U.S.C. 4402]," it is clear from the amendments to 15 U.S.C. 4402 that the Commission no longer has the authority to promulgate such regulations. Moreover, the Commission's rules under 16 CFR Part 307, if left intact, would conflict with the unambiguously expressed intent of Congress to provide the Secretary with the authority to promulgate such regulations and to approve the related rotational plans. Therefore, immediate rescission of the outdated rules will help avoid confusion as to which agency has proper authority to promulgate these rules and to approve related rotational plans.[2] For all of these reasons, the Commission finds that public notice and comment are not necessary in rescinding 16 CFR Part 307.

In addition, the Commission finds that, under 5 U.S.C. 553(d)(1), the rescission may take effect immediately upon publication of this notice in the Federal Register. The removal of the regulations is exempt from the usual 30-day notice requirement as it merely "relieves a restriction" from FTC requirements. 5 U.S.C. 553(d)(1); *see also Indep. U.S. Tanker Owners Comm. v. Skinner*, 884 F.2d 587, 591 (D.C. Cir. 1989). The 30-day notice requirement does not apply under these circumstances, in which the Family Smoking Prevention Act has required the submission of rotational warning plans to DHHS since June 22, 2010. Therefore, affected companies do not need time to prepare for or take any action with regard to the rescission. *See Daniel Int'l Corp. v. Occupational Safety & Health Review Com.*, 656 F.2d 925, 931 (4th Cir. 1981) ("The purpose of the 30-day notice requirement in § 553(d) is to 'afford persons affected a reasonable time to prepare for the effective date of a rule or rules or to take any other action which the issuance of rules may prompt.' Administrative Procedure Act Legislative History, 79th Cong., 2d Sess. 201 (1946)").

III. Paperwork Reduction Act

The Commission's regulations implementing the Smokeless Tobacco Act impose reporting requirements that constitute a "collection of information" under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Accordingly, removal of these regulations will eliminate any burden on the public previously imposed by those requirements.

IV. Regulatory Flexibility Act

Because the Commission has determined that it may remove these regulations without public comment, the Commission is also not required to publish any initial or final regulatory flexibility analysis under the Regulatory Flexibility Act as part of such action. *See* 5 U.S.C. 603(a), 604(b).

List of Subjects in 16 CFR Part 307

Advertising, Labeling Smokeless Tobacco, Tobacco, Trade Practices.

■ Accordingly, for the reasons set forth above, and under the authority of 15 U.S.C. 4402 and 5 U.S.C. 553(d)(1), the Commission amends Title 16, Code of Federal Regulations, by removing and reserving part 307.

PART 307—REMOVED AND RESERVED

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2010–24220 Filed 9–27–10; 8:45 am]

BILLING CODE 6750–01–S

[2] Although the Commission no longer has the authority to promulgate regulations implementing the smokeless tobacco labels or to approve related rotational plans, the Commission continues to have authority to bring enforcement actions with respect to violations of 15 U.S.C. 4402 under 15 U.S.C. 4404(a).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

[Docket No. FDA–2010–N–0002]

Implantation and Injectable Dosage Form New Animal Drugs; Firocoxib

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an original new animal drug application (NADA) filed by Merial Ltd. The NADA provides for the veterinary prescription use of firocoxib injectable solution in horses for the control of pain and inflammation associated with osteoarthritis.

DATES: This rule is effective September 28, 2010.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8337, email: *melanie.berson@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Merial Ltd., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640 filed NADA 141–313 that provides for veterinary prescription use of EQUIOXX (firocoxib) Injection in horses for the control of pain and inflammation associated with osteoarthritis. The NADA is approved as of August 20, 2010, and the regulations are amended in 21 CFR part 522 by