

limited and/or the advertised products are available only at some outlets.

**§ 424.2 Defense.**

No violation of § 424.1 shall be found if: (a) The advertised products were ordered in adequate time for delivery in quantities sufficient to meet reasonably anticipated demands; (b) the retailer offers a "raincheck" for the advertised products; (c) the retailer offers at the advertised price, the same type of product at least comparable in value to the advertised product; or (d) the retailer offers other compensation at least equal to the advertised value.

By direction of the Commission.

Emily H. Rock,

Secretary.

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Parts 182 and 186**

[Docket No. 78N-0032]

**Tall Oil; Tentative Affirmation of GRAS Status as Indirect Human Food Ingredient**

*Correction*

In FR Doc. 85-23472, beginning on page 40204, in the issue of Wednesday, October 2, 1985, make the following correction:

On page 40205, in the third column, in § 186.1557(b) in the second line, "he" should read "the".

BILLING CODE 1505-01-M

**21 CFR Part 355**

[Docket No. 80N-0042]

**Anticaries Drug Products for Over-the-Counter Human Use; Tentative Final Monograph**

*Correction*

In FR Doc. 85-23223 beginning on page 39854 in the issue of Monday, September 30, 1985, make the following correction:

On page 39863, first column, third complete paragraph, ninth line, "0.02=" should have read "0.02-".

BILLING CODE 1505-01-M

**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**23 CFR Part 12**

[FHWA Docket No. 85-23]

**Federal-Aid Highway Program: State Internal Audit Responsibilities**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This Notice of Proposed Rulemaking (NPRM) requests comments on proposed revisions to existing FHWA regulations that set forth a State highway agency's (SHA) responsibilities for audit of its financial operations and the standards under which the audits will be accomplished. The major purpose of this action is to implement the requirements of the Single Audit Act of 1984 (Pub. L. 98-502, 98 Stat. 2327).

**DATE:** Comments must be received on or before November 25, 1986.

**ADDRESS:** Submit written comments, preferably in triplicate, to FHWA Docket No. 85-23, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination between 8:30 a.m. and 3:30 p.m., ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Max I. Inman, Office of Fiscal Services, (202) 426-0562, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0762, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

**SUPPLEMENTARY INFORMATION:** The proposed revisions are necessary to implement the requirements of the Single Audit Act of 1984 (Act). The Act established uniform requirements for the audit of Federal financial assistance provided to State and local governments. In accordance with the Act, the Office of Management and Budget (OMB) issued Circular A-128, Audits of State and Local Governments, on April 12, 1985, which prescribes the policies, procedures, and guidelines to implement the Act. Each Federal agency is required to include the provisions of OMB Circular A-128 in its regulations. On August 19, 1985, the U.S. Department of Transportation (DOT) issued a regulation in 49 CFR Part 90 (50 FR

33339) that requires the recipients of DOT funds to comply with the provisions of OMB Circular A-128. DOT also issued an Order, number 4600.15<sup>1</sup> dated May 16, 1985, that establishes procedures to be followed by the operating administrations of DOT. The Order primarily defines cognizant agency responsibilities within DOT.

To implement the new audit policies established by the Act, OMB, and DOT, FHWA is proposing to revise 23 CFR Part 12 which will now be titled, "Single Audit Requirements". Each section of the proposed revision is discussed below, briefly explaining any significant change.

*Section 12.1 Purpose.*

The section would be revised to exclude references to OMB Circular A-102 and DOT Order 4600.9B and to incorporate a reference to the Act.

*Section 12.3 Definitions.*

The section heading would be changed from "Definitions" to "Audit requirements". The definitions of terms are contained elsewhere in the regulations. The new section, "Audit requirements", would incorporate by reference the audit requirements which have been established in 49 CFR Part 90 for all DOT recipients. These audit requirements are the same requirements specified in OMB Circular A-128 dated April 12, 1985. However, the requirements of 49 CFR Part 90 are amended or clarified by this proposed rule to comply with specific legal or procedural requirements. One amendment to 49 CFR Part 90 is contained in this section to clarify that the determination of eligible costs is based on the provisions of 23 CFR instead of OMB Circulars A-87 and A-102. These OMB circulars contain general requirements and do not recognize the provisions of Title 23, United States Code, that prohibit the payment of administrative, overhead, and noncash costs.

*Section 12.5 Applicability.*

The section heading would be changed from "Applicability" to "SHA responsibilities". The existing section is not needed because the applicability of the audit requirements is specified in 49 CFR Part 90. The new section, "SHA responsibilities", would prescribe the specific responsibilities of the SHAs as the recipients of Federal-aid highway funds.

<sup>1</sup> DOT directives are available for inspection and copying as prescribed at 49 CFR Part 7, Appendix A.