Republic of the Philippines
Department of Health
OFFICE OF THE SECRETARY

June 24, 2004

ADMINISTRATIVE ORDER
No. 156 Series 2004

SUBJECT: Implementing Rules and Regulations for the Transition from Chlorofluorocarbon (CFC) / Ozone Depleting Substances (ODS) - containing Metered Dose Inhalers (MDIs) to CFC/ODS-free Alternatives-Drugs used in the Treatment of Bronchial Asthma (BA) and Chronic Obstructive Pulmonary Disease (COPD), year 2004 to year 2010

I. RATIONALE

Pursuant to the Montreal Protocol on Substances that Deplete the Ozone Layer, which has been ratified by the Philippine Senate in 1993 and RA 3720 (Food, Drugs, Devices and Cosmetics Act) as amended by EO 175, this Order is issued to implement the systematic transition from CFC/ODS-containing MDIs to CFC/ODS-free alternatives. This Order provides guidelines to affected parties and instructions to the Bureau of Food and Drugs (BFAD) as lead implementing agency, on the transition.

The timely phase-out of CFC/ODS used as propellant in MDIs is undertaken to contribute to the restoration of the stratospheric ozone layer, while ensuring that the health and safety of patients are safeguarded, by phasing in CFC/ODS-free alternatives, and phasing-out CFC/ODS-containing MDIs only as soon as sufficient CFC/ODS-free technically and economically feasible alternatives (TEFAs) are available and sustainable in the market. (See Part III Section 5)

II. SCOPE/COVERAGE

This Order covers CFC/ODS-containing MDIs and CFC/ODS-free alternatives used in the treatment of bronchial asthma and Chronic Obstructive Pulmonary Disease, as well as other diseases. The active ingredients of these products belong to the following pharmacological categories-adrenergic bronchodilators, corticosteroids, anticholinergics, and other drugs.

III. DEFINITION OF TERMS

For the purpose of this A.O., terms are defined as follows:

1. Ozone Depicting Substance (ODS)

An Ozone Depleting Substance, or ODS for short, is a chemical which destroys the Ozone

molecules in the stratosphere, thus, depleting the stratospheric ozone layer which protects the earth from the harmful effects of the sun's ultraviolet radiation.

2. Metered Dose Inhalers (MDI)

Metered Dose Inhaler is a type of pharmaceutical preparation where the active ingredient is contained in a pressurized canister with propellant. With each actuation, a measured dose of the active ingredient is delivered directly to the lungs by inhalation, with the excipient propellant as vehicle. Propellants used in MDIs may be either CFC/ODS or non-CFC/ODS.

3. Dry Powder Inhaler (DPI)

Dry Powder Inhaler is a type of pharmaceutical preparation where a measured dose of the active ingredient is released into a chamber, and then inhaled actively by the patient. In this preparation there is no need for propellant, in contradistinction to MDIs.

4. Regulatory phase-out end date

Regulatory phase-out end date means the date set in advance by BFAD for the complete removal from the market of a regulated CFC/ODS-containing MDI product. After said end date, the CFC/ODS-containing MDI product is deemed adulterated under Section 18. (a) (3) of RA 3720, as amended by EO 175, and therefore violative and subject to confiscation from the market.

5. Technically and Economically Feasible Alternative (TEFA)

A TEFA or technically and economically feasible alternative is:

(1) CFC/ODS-free and non-ozone depleting

(2) Has the same active ingredient and strength as the counterpart CFC/ODS-containing MDI; If of different strength, it must be easily managed by the doctor to produce the same therapeutic effect desired by changing dosage and administration

(3) In the form of either a dry powder inhaler without propellant, or an MDI using a non-ozone-depleting propellant such as Norflurane or HFA134a or HFA 227

(4) Reasonably priced compared to its CFC/ODS-containing counterpart, and available and sustainable in the market

These criteria may be further refined and developed by the BFAD Expert Panel on the Transition (BEPT), as needed. (See Part IV Section 3A.2.)

IV. GUIDELINES AND PROCEDURES

1. Types of Products for Phase-out / Phase-in

A. Products For Phase-out

The products for regulatory phase-out are those CFC/ODS-containing MDIs, which use as propellants CFCs or ozone-depleting substances (ODS) in Annex A Group I Controlled Substances of the Montreal Protocol, shown below with their corresponding ozone depleting potential.

ODP is an index pertaining to the extent to which a chemical product may cause ozone depletion, using the ozone depleting potential of 1 for CFCl3 or CFC-11, as reference.

Other chemical substances used in MDIs that may later be classified as ozone depleting substances are also subject to phase-out under this Order.

B. Products For Phase-in

The CFC/ODS-free alternatives to be phased-in are:

(1) Breath-activated dry powder inhalers without propellant

(2) Pressurized MDIs using propellants that have no ozone-depleting potential, such as Norflurane or HFA 134a or HFA 227

2. Regulatory Phase-out End Dates Schedule

2.1 Initial regulatory phase-out end date

For CFC/ODS-containing Salbutamol MDIs - end of year 2007

2.2 Final regulatory phase-out end date

For all other CFC/ODS-containing MDIs - end of year 2010

2.3 Exemption from the final regulatory phase-out end date

After the final regulatory phase-out end date, a specific CFC/ODS-containing MDI may be exempted from the final regulatory phase-out end date, provided that it is needed for compelling health reasons, and there is no TEFA or alternative therapeutic equivalent in the market, as determined by BFAD Expert Panel on the Transition (BEPT) and the BFAD. (See Part IV Section 3)

2.4 Intermediate regulatory phase-out end dates

Anytime between end of 2007 and end of 2010, in advance of the final regulatory phase-out end date, an intermediate regulatory phase-out end date for a specific CFC/ODS-containing MDI may be set, provided that sufficient TEFAs for that product are already present in the market.

2.5 The BFAD Director shall issue the Bureau Order enforcing a regulatory phase-out end date, no later than 9 months after declaration of the existence of sufficient TEFAs by the BEPT.

3. BFAD Expert Panel on the Transition (BEPT)

The BFAD shall create the BFAD Expert Panel on the Transition (BEPT) by end of 2004 through a Bureau Order. The BEPT shall be responsible for making recommendations to the BFAD Director on all TEFA-related matters.

A. Functions and Responsibilities

1. Ensure that the health and safety of patients are safeguarded, and that the needs of patient subpopulations such as children, pregnant women and elderly are met

2. Further refine and develop the criteria for TEFA (See Part III Section 5) as well as the criteria for regulatory phase-out (listed below), before a CFC/ODS-containing MDI in the market is to be phased out.

Criteria for Regulatory Phase-out of CFC/ODS-containing MDIs

(1) There should be sufficient quantities of CFC/ODS-free technically and economically feasible alternatives (TEFAs) to assure uninterrupted supply of medication

(2) Post-marketing surveillance data must confirm the safety of the CFC/ODS-free TEFAs

(3) There should be sufficient types of CFC/ODS-free TEFAs available to meet the needs of different patient sub-groups

(4) Manufacturers of the TEFAs shall confirm that they can adequately supply the local market

3. Assess presence of sufficient TEFAs for each CFC/ODS-containing MDI product existing in the market, as soon as warranted, as indicated by the updated BFAD data on registered CFC/ODS-containing MDIs and CFC/ODS-free alternatives. (See Part IV. Section 3C.).

4. Recommend intermediate regulatory phase-out end dates for specific CFC/ODS-containing MDIs in advance of the final end date-end of 2010. (See Part IV Section 2.4)

5. Determine, if necessary, exemptions from the final regulatory phase-out end date for specific

CFC/ODS-containing MDIs for compelling health reasons, or in cases where sufficient CFC/ODS-free TBFAs are not available. (See Part IV Section 2.3)

6. Formally declare the presence of sufficient TEFAs, and submit Declaration to the BFAD Director to serve as basis for issuance of Bureau Order enforcing regulatory phase-out end dates

7. The BEPT shall assess and formally declare presence of sufficient TEFAs no later than 9 months before the set regulatory phase-out end dates of 2007 for CFC/ODS-containing Salbutamol MDIs, and 2010 for all remaining CFC/ODS-containing MDIs.

B. Composition

The BEPT will be composed of five members taken from the sectors listed below. The Director of BFAD shall appoint the members of the BEPT through a Bureau Order.

(1) Adult Pulmonary Medicine Specialists
(2) Pediatric Pulmonary Medicine Specialists
(3) Philippine Society of Experimental & Clinical Pharmacology (PSECP)
(4) National pharmaceutical industry associations, such as Pharmaceutical and Health Care Association of the Philippines (PHAP), Philippine Association of Pharmacists in the Pharmaceutical Industry (PAPPI), Pharmaceutical Manufacturers Association of the Philippines (PMAP)
(5) Patients (with BA or COPD) (Consumer Group)
(6) Interested Non-Government Organizations (NGOs)
(7) Drug Store Association of the Philippines
(8) Bureau of Food and Drugs
(9) National Drug Information Center (NDIC)
(10) Toxicologist from the National Poison Control and Information Services of the University of the Philippines

The members, once formally appointed should elect their Chairperson, who shall preside in the BEPT's meetings.

C. Technical Working Group on the Transition (TWG)

A Technical Working Group composed of BFAD personnel shall assist the BEPT in the performance of their functions and responsibilities.

1. Maintain and update BFAD data on registered CFC/ODS-containing MDIs and CFC/ODS-free alternatives
2. Keep the BEPT informed of availability of TEFA candidates
3. Serve as the BEPT Secretariat

D. Reporting

The BEPT shall report directly to the BFAD Director. All recommendations of the BEPT are subject to the review and approval of the BFAD Director.

4. Product Evaluation and Registration

A. Validity of Registration

Effective 15 days after the publication of this Order, initial and renewal applications for registration of CFC/ODS-containing MDIs will only be given a 1-year validity, to signal their eventual regulatory phase-out.

Limiting validity to 1-year will give advance signal of the Transition to affected pharmaceutical companies.

B. Labeling

Effective July 1, 2005, all CFC/ODS-free alternatives, i.e. all dry powder inhalers without propellant and all CFC/ODS-free MDIs with non-ozone depleting propellant, will be required to place a distinctive green color CFC/ODS-free logo on the product to identify such products as CFC/ODS-free/Environmentally-friendly, for approval by BFAD. This distinctive green color CFC/ODS-free logo on the product label is intended to give advance signal of the Transition to concerned parties and the public.

C. Priority Lane

New applications for registration of CFC/ODS-free alternatives will pass through the usual product evaluation process to ensure safety, efficacy and quality before they are given a Certificate of Product Registration.

To encourage the phase-in of CFC/ODS-free alternatives, these new applications for registration for CFC/ODS-free alternatives will be given a special priority lane guaranteeing approval within 6 months, provided that their supporting papers are complete and meet the requirements of BFAD, and that the following additional certifications are attached:

(1) Certification from a good Drug Regulatory Authority (DRA) acceptable to BFAD, that the product is safe, efficacious & of good quality, and has been given marketing authorization by said DRA

(2) Certification from a good Drug Regulatory Authority (DRA) acceptable to BFAD, that the product indeed uses only CFC/ODS-free and non-ozone-depleting propellants, or is without propellant

5. Post-marketing surveillance

A. Testing for CFC/ODS

BFAD will conduct tests for the presence of CFC/ODS on a random sample and/or on suspect samples of MDIs, as a check for possible product misrepresentation as CFC/ODS-free.

For this purpose, BFAD will develop its own capability to do said check for CFC/ODS, or arrange a system for conducting said tests by a competent external facility, here or abroad.

B. Adverse Drug Reaction Monitoring (ADRM)

BFAD will monitor reports of any adverse drug reactions from the clinical use of the CFC/ODS-free MDIs phased-in, as part of its continuing Adverse Drug Reaction Monitoring Program which is part of the international ADRM of the World Health Organization.

6. Advertisements and Promotions Control

A. Partnership with Industry in Information Dissemination

After July 1, 2005 when all CFC/ODS-free alternatives shall have complied with the requirement of a green CFC/ODS-free logo on the product label, BFAD will encourage companies with registered CFC/ODS-free alternatives to assist with the 2nd, 3rd, and 4th waves of the Information Education Communication campaign (See Part IV Section 7B) by asking them to release ads containing pertinent information on the transition, in particular the following information are required:

(1) CFC/ODS-containing Salbutamol MDIs will be phased out in 2007 to contribute to the restoration of the ozone layer that protects us from the harmful effects of ultraviolet radiation from the sun,

(2) CFC/ODS-free alternatives with the same active ingredient as its CFC/ODS-containing counterpart are already available in the market, identified through the green CFC/ODS-free logo on the product label.

B. Temporary Advertising Privilege for CFC/ODS-free alternatives

In addition to the required information spelled out above, as an incentive, within a limited timeframe per IEC wave, said companies may be allowed to mention their CFC/ODS-free alternative products in the ad, subject to prior review and approval by BFAD before actual airing/publication.

This advertising privilege is a temporary exception to the rule that prescription drugs cannot be advertised in mass media,

The timeframe and other detailed guidelines of this temporary advertising privilege will be the

subject of a Bureau Order to be issued by 1st quarter of 2005.

7. Stakeholder Information Dissemination

A. Information. Education and Communication (IEC) Activities

BFAD shall conduct the following Information, Education and Communication (IEC) activities to increase the awareness of stakeholders and the public on the transition:

1. Organize a Speakers Bureau that will actively seek opportunities to disseminate information on the transition e. g. national conventions of health professionals and other interested associations

2. Prepare and distribute information & education materials, such as posters, pamphlets, fliers and primers, designed for target groups is. health professionals, patients and the general public

3. Disseminate information and communication to the public through mass media-print & broadcast

4. Develop, together with the DENR, a Web Site in the Internet on the phase-out of CF C/ODS used as propellant in MDIs, CFCs and the Ozone Layer, and the rationale, mechanics, and other relevant information on the Transition

5. Train BFAD regulation officers and inspectors, and BFAD partners e. g. Customs, DTI, DENR, and the Police on the implementation and monitoring as provided for in this Order.

B. IEC Campaign Waves

BFAD shall conduct all or part of the above IEC activities in 4 waves as needed:

(1) 1st wave - upon the publication of this A.O., within the 3rd & 4th quarter of 2004

(2) 2nd wave - within the 3rd & 4th quarter of 2005 (upon effectivity of the new requirement of a distinctive green marker on the label for all CFC/ODS-free alternatives)

(3) 3rd wave - leading to the initial regulatory phase-out end date, within the 3rd at 4th quarter of 2007

(4) 4th wave - leading to the final regulatory phase-out end date, within the 3rd & 4th quarter of 2010

8. Violations and Penalties

Any person, natural or juridical who violates any of the provisions of this A.O. shall be administratively and criminally liable pursuant to Section 11(b) and Section 12 (a) of RA 3720 or Foods, Drugs, and Devices and Cosmetics Act as amended by E.O. 175 and such other applicable

laws as may be warranted.

9. Termination of the above transitory provisions

After 2010 - the end of the transition period from CFC/ODS-containing MDIs to CFC/ODS-free alternatives, the BFAD shall make the determination whether or not to order the termination of any or all of the following transitory provisions: Part IV. Sections 3 to 7 (mentioned above), and revert to policies, rules, and regulations prior to this Order.

V. SEPARABILITY/REPEALING CLAUSE

If any provision of these guidelines is declared null and void, for any reason, the remaining provisions shall not be affected thereby and shall remain valid.

VI. EFFECTIVITY

This A.O. shall take effect 15 days after its publication in at least two (2) newspapers of general circulation.

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