

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 558**

**New Animal Drugs for Use in Animal Feeds; Lincomycin**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions of the regulations reflecting approval of two new animal drug applications (NADA's) held by Bioproducts, Inc., and I.M.S., Inc. The NADA's provide for the manufacture of a Type B medicated feed containing lincomycin. In a notice published elsewhere in this issue of the *Federal Register*, FDA is withdrawing approval of the NADA's.

**EFFECTIVE DATE:** October 7, 1991.

**FOR FURTHER INFORMATION CONTACT:** Mohammad I. Sharar, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8749.

**SUPPLEMENTARY INFORMATION:** In a notice published elsewhere in this issue of the *Federal Register*, FDA is withdrawing approval of NADA 132-659 held by Bioproducts, Inc., 8221 Brecksville Rd., Cleveland, OH 44141, and NADA 133-034 held by I.M.S., Inc., 13619 Industrial Rd., Omaha, NE 68137, for the manufacture of Type B medicated feed containing lincomycin.

This document removes those portions of the regulations that reflect approval of these NADA's in 21 CFR 558.325(a)(5).

**List of Subjects in 21 CFR Part 558**

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

**PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS**

1. The authority citation for 21 CFR part 558 continues to read as follows:

**Authority:** Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

**§ 558.325 [Amended]**

2. Section 558.325 *Lincomycin* is amended in paragraph (a)(5) by removing the phrase "Nos. 043733, 050639, and 051359" and replacing it with "No. 043733".

Dated: September 19, 1991.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 91-23193 Filed 9-25-91; 8:45 am]

**BILLING CODE** 4160-01-M

**DEPARTMENT OF JUSTICE**

**Drug Enforcement Administration**

**21 CFR Part 1310**

**Addition of New Listed Chemicals and Thresholds**

**AGENCY:** Drug Enforcement Administration (DEA), Justice.

**ACTION:** Final rule.

**SUMMARY:** The DEA is amending its regulations implementing the Chemical Diversion and Trafficking Act of 1988 (CDTA) to include the additional chemicals set forth in the Crime Control Act of 1990. The inclusion of these chemicals into the CDTA requires any handler of listed chemicals to comply with the requirements specified in 21 CFR 1310 and 1313. The DEA is also amending the threshold on two existing listed chemicals. The effective date listed below is the date on which the thresholds become effective; the effective date of the chemicals listed was October 31, 1990, which was the date of enactment of the Crime Control Act of 1990.

**EFFECTIVE DATE:** October 28, 1991.

**FOR FURTHER INFORMATION CONTACT:** Mr. G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, telephone (202) 307-7297.

**SUPPLEMENTARY INFORMATION:** The Crime Control Act of 1990 (Pub. L. 101-647) amends the list of chemicals which are subject to the requirements of the Chemical Diversion and Trafficking Act of 1988 (CDTA). On June 14, 1991, a notice of proposed rulemaking was published in the *Federal Register* (56 FR 27472) to allow interested parties to submit comments or objections to the thresholds set forth.

One comment was received which concerned the identification of the chemicals. It was recommended that the chemicals be identified by C.A.S. Number and that all commonly used

names be listed to assist in correct identification. This suggestion was addressed in the implementing regulations in 1989. At that time, DEA determined that the numbering systems were designed for other purposes and did not specifically meet the needs of the CDTA. However, DEA has produced a publication available to regulated persons which cross references the listed chemicals with various numbering systems and lists common names for the chemicals.

The Crime Control Act of 1990 adds twelve chemicals to the list of precursor chemicals, one of which was previously listed as an essential chemical and another, D-lysergic acid is and remains a controlled substance in Schedule III of the Controlled Substances Act. The new list under 21 CFR 1310.02(a) shows some of the chemicals with an additional name in parentheses. These names reflect the conventional spelling for the chemicals. The parenthetical name is the one listed in 21 CFR 1310.04(f).

In addition to the new listed chemicals, the threshold for two other listed chemicals is amended. The new threshold for hydriodic acid is set to be consistent with its reclassification as a precursor chemical rather than an essential chemical. The threshold on 3,4-methylenedioxyphenyl-2-propanone is lowered based upon information that quantities below the threshold level are being purchased to evade the requirements of the CDTA.

The Administrator of the Drug Enforcement Administration hereby certifies that this final rule will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 et. seq. This rule is not a major rule for purposes of Executive Order (E.O.) 12291 of February 17, 1981.

Pursuant to section 3(c)(3) and 3(e)(2)(C) of E.O. 12291, this action has been reviewed by the Office of Management and Budget.

This action has been analyzed in accordance with the principles and criteria contained in E.O. 12612, and it has been determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**List of Subjects in 21 CFR Part 1310**

Drug Enforcement Administration, Drug traffic control, Reporting and recordkeeping requirements.

For reasons set out above, 21 CFR part 1310 is amended as follows:

**PART 1310—[AMENDED]**

1. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b).

2. Section 1310.02 is amended by adding paragraphs (a)(13) through (a)(24) to read as follows:

**§ 1310.02 Substances covered.**

- (a) \* \* \*
- (13) Methylamine and its salts.
- (14) Ethylamine and its salts.
- (15) D-lysergic acid, its salts, optical isomers, and salts of optical isomers.
- (16) Propionic anhydride.
- (17) Isosafrole (Isosafrole).
- (18) Safrole.
- (19) Piperonal.
- (20) N-Methylephedrine, its salts, optical isomers, and salts of optical isomers (N-Methylephedrine).
- (21) N-Ethylephedrine, its salts, optical isomers, and salts of optical isomers.
- (22) N-Methylpseudoephedrine, its salts, optical isomers, and salts of optical isomers.
- (23) N-Ethylpseudoephedrine, its salts, optical isomers, and salts of optical isomers.
- (24) Hydriotic acid (Hydriotic Acid).

**§ 1310.02 Amended**

3. Section 1310.02 is amended by removing paragraph (b)(5) and redesignating paragraphs (b)(6) through (b)(8) as paragraphs (b)(5) through (b)(7).

4. Section 1310.04 is amended by revising paragraph (f)(1)(xii) and adding paragraphs (f)(1)(xiii) through (f)(1)(xxiv) to read as follows:

**§ 1310.04 Maintenance of records.**

- (f) \* \* \*
- (1) Listed Precursor Chemicals.

| Chemical   | Threshold by base weight |
|--|--------------------------|
| (xii) 3, 4-Methylenedioxyphenyl-2-propanone.                                     | 4 kilograms.             |
| (xiii) Methylamine and its salts   | 1 kilogram.              |
| (xiv) Ethylamine and its salts   | 1 kilogram.              |
| (xv) D-lysergic acid, its salts, optical isomers, and salts of optical isomers   | 10 grams.                |
| (xvi) Propionic anhydride  | 1 gram.                  |
| (xvii) Isosafrole  | 4 kilograms.             |
| (xviii) Safrole  | 4 kilograms.             |
| (xix) Piperonal  | 4 kilograms.             |
| (xx) N-Methylephedrine, its salts, optical isomers, and salts of optical isomers | 1 kilogram.              |

| Chemical   | Threshold by base weight              |
|--|---------------------------------------|
| (xxi) N-Ethylephedrine, its salts, optical isomers, and salts of optical isomers         | 1 kilogram.                           |
| (xxii) N-Methylpseudoephedrine, its salts, optical isomers, and salts of optical isomers | 1 kilogram.                           |
| (xxiii) N-Ethylpseudoephedrine, its salts, optical isomers, and salts of optical isomers | 1 kilogram.                           |
| (xxiv) Hydriotic acid (57%)  | 1.7 kilograms (or 1 liter by volume). |

**§ 1310.04 [Amended]**

5. Section 1310.04 is amended by removing paragraph (f)(2)(i)(E) and redesignating paragraphs (f)(2)(i)(F) through (f)(2)(i)(H) as paragraphs (f)(2)(i)(E) through (f)(2)(i)(G).

6. Section 1310.04 is amended by removing paragraph (f)(2)(ii)(E) and redesignating paragraphs (f)(2)(ii)(F) through (f)(2)(ii)(H) as paragraphs (f)(2)(ii)(E) through (f)(2)(ii)(G).

Dated: August 12, 1991.

Robert C. Bonner,  
 Administrator, Drug Enforcement Administration.  
 [FR Doc. 91-23060 Filed 9-25-91; 8:45 am]  
 BILLING CODE 4410-09-M

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[T.D. 8368]

RIN 1545-AP16

**Low-Income Housing Credit and FIRREA**

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final Income Tax Regulations concerning the low-income housing credit of section 42 of the Code. The final regulations address the question whether a building financed with the proceeds of a below market loan under an Affordable Housing Program established pursuant to section 721 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) is a federally subsidized building for purposes of section 42. This information will enable taxpayers who obtain financing under an Affordable Housing Program for a building eligible for the section 42 credit to determine the

correct applicable percentage under section 42(b).

**EFFECTIVE DATE:** The regulations are effective for Affordable Housing Program loans made after August 8, 1989 (the effective date of FIRREA).

**FOR FURTHER INFORMATION CONTACT:** Christopher J. Wilson, 202-377-6349 (not a toll-free call).

**SUPPLEMENTARY INFORMATION:**

**Background**

The notice of proposed rulemaking published in the Federal Register on February 5, 1991 (56 FR 4588), provides that a below market loan funded in whole or in part with funds from an Affordable Housing Program established under section 721 of FIRREA is not, solely by reason of the Affordable Housing Program funds, a below market Federal loan (as defined in section 42(i)(2)(D)), and that any building financed with the proceeds of such a loan is not, solely by reason of the Affordable Housing Program funds, a federally subsidized building for purposes of determining the applicable percentage under section 42(b). Section 42(i)(2)(D) defines a below market Federal loan, in part, as any loan funded in whole or in part with Federal funds.

This proposed rule was predicated upon an examination of the characteristics of the Federal Home Loan Banks and the Affordable Housing Programs. Analysis of these characteristics leads to the conclusion that funds loaned under the Affordable Housing Programs should not be considered Federal funds for purposes of section 42. As a result, a new building financed with the proceeds of an Affordable Housing Program loan will not, solely by reason of such proceeds, be ineligible for the applicable percentage described in section 42(b)(1)(A) (i.e., the appropriate monthly percentage that will yield, over a 10-year period, amounts of credit that have an aggregate present value equal to 70 percent of the qualified basis of the building).

**Public Comment**

All comments received by the Internal Revenue Service support the conclusion reached by the notice of proposed rulemaking. Several commentators urged that the final regulations also address the treatment of "direct subsidies" funded under an Affordable Housing Program. See, e.g., section 42(d)(5)(A). One commentator suggested that the final regulations clarify that a building that is financed with a below-market loan under an Affordable

Housing Program and that is not otherwise federally funded will not be considered a federally subsidized building if the loan is insured by the Federal Housing Administration. These comments exceed the scope of the regulations as proposed and are not addressed by the final regulations.

#### Special Analyses

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required.

Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f) of the Internal Revenue Code, the notice of the proposed rulemaking for the regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

#### Drafting Information

The principal author of these final regulations is Christopher J. Wilson, Office of the Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, other personnel from the Service and the Treasury Department participated in their development.

#### List of Subjects in 26 CFR 1.37-1 Through 1.44A-4

Credits, Income taxes, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

The amendments to 26 CFR part 1 are as follows:

#### PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

**Paragraph 1.** The authority for part 1 is amended by adding a citation to read as follows:

**Authority:** Sec. 7805, 68A Stat. 917 (26 U.S.C. 7805) \* \* \* Section 1.42-3 is also issued under 26 U.S.C. 42(n). \* \* \*

**Par. 2.** New 1.42-3 is added to read as follows:

#### § 1.42-3 Treatment of buildings financed with proceeds from a loan under an Affordable Housing Program established pursuant to section 721 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

(a) *Treatment under sections 42(i) and 42(b).* A below market loan funded in whole or in part with funds from an Affordable Housing Program established under section 721 of FIRREA is not, solely by reason of the Affordable Housing Program funds, a below market Federal loan as defined in section 42(i)(2)(D). Thus, any building with respect to which the proceeds of the loan are used during the tax year is not, solely by reason of the Affordable Housing Program funds, treated as a federally subsidized building for that tax year and subsequent tax years for purposes of determining the applicable percentage for the building under section 42(b).

(b) *Effective date.* The rules set forth in paragraph (a) of this section are effective for loans made after August 8, 1989.

**Fred T. Goldberg, Jr.,**  
*Commissioner of Internal Revenue.*

Approved: September 3, 1991.

**Kenneth W. Gideon,**  
*Assistant Secretary of the Treasury.*  
[FR Doc. 91-23152 Filed 9-25-91; 8:45 am]  
BILLING CODE 4830-01-M

#### DEPARTMENT OF JUSTICE

#### 28 CFR Part 0

[Order No. 1528-91]

#### Delegation of Authority Relating to Federal Tort Claims

**AGENCY:** Department of Justice.  
**ACTION:** Final rule.

**SUMMARY:** This Order delegates authority to specified components of the Department of Justice to settle administrative claims presented pursuant to the Federal Tort Claims Act where the amount of the settlement does not exceed \$10,000. This Order will alert the general public to the components' new authority, and is being codified in the CFR to provide a permanent record of this delegation.

**EFFECTIVE DATE:** September 26, 1991.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Axelrad, Director, Torts Branch, Civil Division, U.S. Department of Justice, Washington, DC 20530, (202) 501-7075.

**SUPPLEMENTARY INFORMATION:** This Order has been issued to delegate settlement authority and is a matter

solely related to division of responsibility within the Department of Justice. It does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). It is not a major rule within the meaning of Executive Order No. 12291.

#### List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Whistleblowing.

#### PART 0—[AMENDED]

Accordingly, part 0 of title 28 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 0 continues to read as follows:

**Authority:** 5 U.S.C. 301; 28 U.S.C. 509, 510, 515-519.

2. Section 0.172 is amended by revising paragraph (a) to read as follows:

#### § 0.172 Authority: Federal tort claims.

(a) The Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization, the Director of the United States Marshals Service and the Administrator of the Drug Enforcement Administration shall have authority to adjust, determine, compromise, and settle a claim involving the Bureau of Prisons, Federal Prison Industries, the Immigration and Naturalization Service, the U.S. Marshals Service and the Drug Enforcement Administration, respectively, under section 2672 of title 28, U.S. Code, relating to the administrative settlement of Federal tort claims, if the amount of a proposed adjustment, compromise, settlement or award does not exceed \$10,000. When in the opinion of one of the said Directors or one of the said Commissioners such a claim pending before him presents a novel question of law or a question of policy, he shall obtain the advice of the Assistant Attorney General in charge of the Civil Division.

\* \* \* \* \*  
Dated: September 18, 1991.  
**William P. Barr,**  
*Acting Attorney General.*

[FR Doc. 91-23045 Filed 9-25-91; 8:45 am]  
BILLING CODE 4410-01-M