

the right to make a unilateral filing with FERC to modify this Agreement under any applicable provision of the Federal Power Act and FERC's rules and regulations; provided that each party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations, except to the extent that the parties otherwise agree as provided herein."

**Magalie R. Salas,**  
Secretary.

[FR Doc. E6-15126 Filed 9-12-06; 8:45 am]

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 558**

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

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

**ACTION:** Final rule, technical amendment.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Alpha Pharma Inc. The supplemental NADA provides for use of an approved Type A medicated article containing chlortetracycline to formulate a free-choice loose mineral Type C medicated feed for beef and nonlactating dairy cattle.

**DATES:** This rule is effective September 13, 2006.

**FOR FURTHER INFORMATION CONTACT:** Eric S. Dubbin, Center for Veterinary Medicine (HFV-126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-0232, e-mail: [eric.dubbin@fda.hhs.gov](mailto:eric.dubbin@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Alpha Pharma Inc., One Executive Dr., Fort Lee, NJ 07024, filed NADA 48-761 for use of AUREOMYCIN 90 Granular (chlortetracycline) Type A medicated article to formulate a free-choice loose mineral Type C medicated feed for beef and nonlactating dairy cattle as an aid in the control of active infection of anaplasmosis caused by *Anaplasma*

*marginale* susceptible to chlortetracycline. The supplemental NADA is approved as of July 28, 2006, and the regulations are amended in 21 CFR 558.128 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801-808.

**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:** 21 U.S.C. 360b, 371.

■ 2. In § 558.128, redesignate paragraph (e)(6) as paragraph (e)(7); and add new paragraph (e)(6) to read as follows:

**§ 558.128 Chlortetracycline.**

\* \* \* \* \*

(e) \* \* \*

(6) It is used as a free-choice, loose mineral Type C feed as follows:

(i) *Specifications.*

Ingredient	Per-cent	Inter-national Feed No.
Dicalcium Phosphate	46.20	6-26-335
Sodium Chloride (Salt)	15.00	6-04-152
Magnesium Oxide	10.67	6-02-756

Ingredient	Per-cent	Inter-national Feed No.
Cottonseed Meal	10.00	5-01-625
Trace Mineral/Vitamin Premix <sup>1</sup>	3.80	
Calcium Carbonate	3.50	6-01-069
Dried Cane Molasses	3.00	4-04-695
Potassium Chloride	2.00	6-03-755
Mineral Oil	2.00	8-03-123
Iron Oxide	0.50	6-02-431
Chlortetracycline Type A medicated article (90 gram/lb)	3.33	

<sup>1</sup>Content of vitamin and trace mineral pre-mixes may be varied. However, they should be comparable to those used for other free-choice feeds. Formulation modifications require FDA approval prior to marketing. Selenium must comply with 21 CFR 573.920. Ethylenediamine dihydroiodide (EDDI) should comply with FDA Compliance Policy Guides Sec. 651.100 (CPG 7125.18).

(ii) *Amount.* 6,000 grams per ton.

(iii) *Indications for use.* Beef and nonlactating dairy cattle: As an aid in the control of active infection of anaplasmosis caused by *Anaplasma marginale* susceptible to chlortetracycline.

(iv) *Limitations.* Feed continuously on a free-choice basis at a rate of 0.5 to 2.0 mg chlortetracycline per head per day.

(v) *Sponsor.* See No. 046573 in § 510.600(c) of this chapter.

\* \* \* \* \*

Dated: August 30, 2006.

**Steven D. Vaughn,**

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. E6-15103 Filed 9-12-06; 8:45 am]

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 54**

[TD 9277]

RIN 1545-BE30

**Employer Comparable Contributions to Health Savings Accounts Under Section 4980G; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains a correction to final regulations (TD 9277) that were published in the **Federal**

Register on Monday, July 31, 2006 (71 FR 43056) providing guidance regarding employer comparable contributions to Health Savings Accounts (HSAs) under section 4980G.

**DATES:** These corrections are effective July 31, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mireille T. Khoury, (202) 622-6080 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The correction notice that is the subject of this document is under section 4980G of the Internal Revenue Code.

**Need for Correction**

As published, the final regulations (TD 9277) contain errors that may prove to be misleading and are in need of clarification.

**List of Subjects in 26 CFR Part 54**

Excise taxes, Pensions, Reporting and recordkeeping requirements.

**Correction of Publication**

■ Accordingly, 26 CFR part 54 is corrected by making the following correcting amendments:

**PART 54—PENSION EXCISE TAXES**

■ **Paragraph 1.** The authority citation for part 54 continues to read, in part, as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 54.4980G-0 is corrected by:

- 1. Revising the entries for 54.4980G-4 Q-5 and Q-11.
- 2. Revising the entries for 54.4980G-5 Q-3.

**§ 54.4980G-0 Table of contents.**

\* \* \* \* \*

**§ 54.4980G-4 Calculating comparable contributions.**

\* \* \* \* \*

Q-5: Must an employer use the same contribution method as described in Q & A-2 and Q & A-4 of this section for all employees for any month during the calendar year?

\* \* \* \* \*

Q-11: If an employer makes additional contributions to the HSAs of all comparable participating employees who are eligible to make the additional contributions (HSA catch-up contributions) under section 223(b)(3), do the contributions satisfy the comparability rules?

\* \* \* \* \*

**§ 54.4980G-5 HSA comparability rules and cafeteria plans and waiver of excise tax.**

\* \* \* \* \*

Q-3: If under the employer's cafeteria plan, employees who are eligible individuals and who participate in health assessments, disease management programs or wellness programs receive an employer contribution to an HSA and the employees have the right to elect to make pre-tax salary reduction contributions to their HSAs, are the contributions subject to the comparability rules?

\* \* \* \* \*

■ **Par. 3.** Section 54.4980G-4 is corrected by:

- 1. Revising A-2 paragraph (c) *Example 2*.
- 2. Revising A-2 paragraph (e) *Example 1*.

**§ 54.4980G-4 Calculating comparable contributions.**

\* \* \* \* \*

A-2: \* \* \*  
(c) \* \* \*

*Example 2.* In a calendar year, Employer J offers its employees an HDHP and contributes on a monthly pay-as-you-go basis to the HSAs of employees who are eligible individuals with coverage under Employer J's HDHP. In the calendar year, Employer J contributes \$50 per month to the HSA of each employee with self-only HDHP coverage and \$100 per month to the HSA of each employee with family HDHP coverage. From January 1st through March 31st of the calendar year, Employee X is an eligible individual with self-only HDHP coverage. From April 1st through December 31st of the calendar year, X is an eligible individual with family HDHP coverage. For the months of January, February and March of the calendar year, Employer J contributes \$50 per month to X's HSA. For the remaining months of the calendar year, Employer J contributes \$100 per month to X's HSA. Employer J's contributions to X's HSA satisfy the comparability rules.

(d) \* \* \*  
(e) \* \* \*

*Example 1.* In a calendar year, Employer K offers its employees an HDHP and contributes on a look-back basis to the HSAs of employees who are eligible individuals with coverage under Employer K's HDHP. Employer K contributes \$600 (\$50 per month) for the calendar year to the HSA of each employee with self-only HDHP coverage and \$1,200 (\$100 per month) for the calendar year to the HSA of each employee with family HDHP coverage. From January 1st through June 30th of the calendar year, Employee Y is an eligible individual with family HDHP coverage. From July 1st through December 31st, Y is an eligible individual with self-only HDHP coverage. Employer K contributes \$900 on a look-back basis for the calendar year to Y's HSA (\$100 per month

for the months of January through June and \$50 per month for the months of July through December. Employer K's contributions to Y's HSA satisfy the comparability rules.

\* \* \* \* \*

**Guy R. Traynor,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. E6-15125 Filed 9-12-06; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 9287]

RIN 1545-BE53

**Attained Age of the Insured Under Section 7702**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulation.

**SUMMARY:** This document contains final regulations explaining how to determine the attained age of an insured for purposes of testing whether a contract qualifies as a life insurance contract for Federal income tax purposes.

**DATES:** *Effective Date:* These regulations are effective September 13, 2006.

*Applicability Dates:* For dates of applicability, see § 1.7702-2(f).

**FOR FURTHER INFORMATION CONTACT:** Ann H. Logan, 202-622-3970 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 7702(a) of the Internal Revenue Code (Code) provides that, for a contract to qualify as a life insurance contract for Federal income tax purposes, the contract must be a life insurance contract under the applicable law and must either (1) Satisfy the cash value accumulation test of section 7702(b), or (2) both meet the guideline premium requirements of section 7702(c) and fall within the cash value corridor of section 7702(d). To determine whether a contract satisfies the cash value accumulation test, or meets the guideline premium requirements and falls within the cash value corridor, it is necessary to determine the attained age of the insured.

A contract meets the cash value accumulation test of section 7702(b) if, by the terms of the contract, the cash surrender value of the contract may not at any time exceed the net single