

ingredient Type A medicated articles. The supplement provides for revised indications for use of Type C medicated feeds used for increased rate of weight gain, improved feed efficiency, and increased carcass leanness; and for control of swine dysentery associated with *Brachyspira hyodysenteriae* and porcine proliferative enteropathies (ileitis) associated with *Lawsonia intracellularis* in finishing swine, weighing not less than 150 pounds (lbs), fed a complete ration containing at least 16 percent crude protein for the last 45 to 90 lbs of gain prior to slaughter. The supplemental NADA is approved as of June 20, 2007, and the regulations in 21 CFR 558.500 are amended to reflect the approval.

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.

FDA has determined under 21 CFR 25.33(a)(2) 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 the 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 § 558.500, revise the table in paragraphs (e)(1)(ii) and (e)(1)(iii) to read as follows:

**§ 558.500 Ractopamine.**

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

Ractopamine grams/ton	Combination grams/ton	Indications for use	Limitations	Sponsor
*	*	*	*	*
(ii) 4.5 to 9	Tylosin 40	Finishing swine: As in paragraph (e)(1)(i) of this section; and for control of swine dysentery associated with <i>Brachyspira hyodysenteriae</i> and porcine proliferative enteropathies (ileitis) associated with <i>Lawsonia intracellularis</i> .	Feed continuously as sole ration until market weight following the use of tylosin at 100 grams per ton (g/ton) for at least 3 weeks.	000986
(iii) 4.5 to 9	Tylosin 100	1. Finishing swine: As in paragraph (e)(1)(i) of this section; and for control of porcine proliferative enteropathies (ileitis) associated with <i>Lawsonia intracellularis</i> . 2. Finishing swine: As in paragraph (e)(1)(i) of this section; and for control of swine dysentery associated with <i>Brachyspira hyodysenteriae</i> .	Feed continuously as sole ration for 21 days. Feed continuously as sole ration for at least 3 weeks followed by tylosin at 40 g/ton until market weight.	000986
*	*	*	*	*

\* \* \* \* \*

Dated: July 12, 2007.

**Bernadette Dunham,**  
 Deputy Director, Center for Veterinary Medicine.  
 [FR Doc. E7-14699 Filed 7-30-07; 8:45 am]  
**BILLING CODE 4160-01-S**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 584**

**Food Substances Affirmed as Generally Recognized as Safe in Feed and Drinking Water of Animals; Ethyl Alcohol Containing Ethyl Acetate**

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

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

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations for food substances affirmed as generally recognized as safe (GRAS) in feed and drinking water of animals to correct a cross-reference. This action is being taken to improve the accuracy of the regulations.

**DATES:** This rule is effective July 31, 2007.

**FOR FURTHER INFORMATION CONTACT:** Michaela G. Alewynse, Center for Veterinary Medicine (HFV-228), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240-453-6866, e-mail: [mika.alewynse@fda.hhs.gov](mailto:mika.alewynse@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** FDA has found that the regulation affirming as

GRAS the use of ethyl alcohol containing ethyl acetate as a source of added energy in ruminant feed does not reflect the correct cross-reference to the regulations of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). This error was introduced when sections containing formulas for denatured alcohol and rum were removed and added by ATF in 1983 (48 FR 24672, June 2, 1983). At this time, the regulation is being amended in 21 CFR 584.200 to add the correct cross-reference. This action is being taken to improve the accuracy of the regulations.

Publication of this document constitutes final action on this change under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedure are unnecessary because FDA is merely correcting a nonsubstantive error.

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 584

Animal feeds, Food additives.
Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 584 is amended as follows:

PART 584—FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE IN FEED AND DRINKING WATER OF ANIMALS

1. The authority citation for 21 CFR part 584 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 371.

§ 584.200 [Amended]

2. In § 584.200, remove "27 CFR 212.45" and add in its place "27 CFR 21.62".

Dated: July 23, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7-14700 Filed 7-30-07; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9321]

RIN 1545-BE79

Application of Section 409A to Nonqualified Deferred Compensation Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations that were published in the Federal Register on Tuesday, April 17, 2007 (73 FR 19234), relating to section 409A.

DATES: This correction is effective July 31, 2007.

FOR FURTHER INFORMATION CONTACT: Stephen Tackney, (202) 622-9639 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to these corrections are under section 409A of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9321) contain errors that may prove misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

§ 1.409A-1 [Corrected]

Par. 2. Section 1.409A-1 is amended as follows:

- 1. Paragraph (a)(3)(i) is revised.
2. The first and second sentences of paragraph (a)(5) are revised.
3. The first sentences of paragraphs (b)(4)(i) and (b)(4)(i)(D) are revised.
4. Examples 3 and 5 in paragraph (b)(4)(iii) are amended by revising the last sentences of the paragraphs.
5. Paragraph (b)(5)(iv)(B)(2)(ii) is revised.
6. In paragraph (b)(8)(iii) the first sentence is revised.
7. The first sentence of paragraph (b)(9)(v)(A) is revised.
8. Paragraph (c)(2)(i)(H) is revised.
9. Paragraph (c)(3)(viii) is revised.
10. The last sentence of paragraph (f)(1) is revised.
11. The ninth sentence of paragraph (h)(1)(ii) is revised.
12. The first sentence of paragraph (i)(2) is revised.

§ 1.409A-1 Definitions and covered plans.

- (a) \* \* \*
(3) \* \* \*
(i) \* \* \* With respect to an individual for a taxable year, the term nonqualified deferred compensation plan does not include any scheme, trust, arrangement, or plan maintained with respect to such individual, to the extent contributions made by or on behalf of such individual to such scheme, trust, arrangement, or plan, or credited allocations, accrued benefits, earnings, or other amounts constituting income, of such individual under such scheme, trust, arrangement, or plan, are excludable by such individual for Federal income tax purposes pursuant to any bilateral income tax convention, or other bilateral or multilateral agreement, to which the United States is a party.

\* \* \* \* \*

(5) \* \* \* The term nonqualified deferred compensation plan does not include a plan, or a portion of a plan, to the extent that the plan provides bona fide vacation leave, sick leave, compensatory time, disability pay, or death benefits. For these purposes, the terms "disability pay" and "death benefits" have the same meanings as provided in § 31.3121(v)(2)-1(b)(4)(iv)(C) of this chapter, provided that for purposes of this paragraph, such disability pay and death benefits may be provided through insurance and the lifetime benefits payable under the plan are not treated as including the value of any taxable term life insurance coverage or taxable disability insurance coverage provided under the plan. \* \* \*

(b) \* \* \*
(4) \* \* \* (i) In general. A deferral of compensation does not occur under a plan with respect to any payment (as defined in § 1.409A-2(b)(2)) that is not a deferred payment, provided that the service provider actually or constructively receives such payment on or before the last day of the applicable 2 1/2 month period. \* \* \*

(D) A payment is a deferred payment if it is made pursuant to a provision of a plan that provides for the payment to be made or completed on or after any date, or upon or after the occurrence of any event, that will or may occur later than the end of the applicable 2 1/2 month period, such as a separation from service, death, disability, change in control event, specified time or schedule of payment, or unforeseeable emergency, regardless of whether an amount is actually paid as a result of the occurrence of such a payment date or event during the applicable 2 1/2 month period. \* \* \*

\* \* \* \* \*

(iii) \* \* \*
Example 3. \* \* \* The bonus plan will not be considered to have provided for a deferral of compensation if the bonus is paid or made available to Employee C on or before March 15, 2011.

\* \* \* \* \*

Example 5. \* \* \* The bonus plan provides for a deferral of compensation, and will not qualify as a short-term deferral regardless of whether the bonus is paid or made available on or before March 15, 2011 (and generally any payment before June 1, 2011 would constitute an impermissible acceleration of a payment).

\* \* \* \* \*

- (5) \* \* \*
(iv) \* \* \*
(B) \* \* \*