

[FR Doc. 03-3268 Filed 2-10-03; 8:45 am]
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RAILROAD RETIREMENT BOARD

20 CFR Parts 260 and 320

RIN 3220-AB03

Requests for Reconsideration and Appeals Within the Board; Correction

AGENCY: Railroad Retirement Board.

ACTION: Final rule; correction.

SUMMARY: The Railroad Retirement Board (Board) published in the **Federal Register** of December 17, 2002, a document that simplified the procedures that govern requests for reconsideration and appeals within the Board. Sections 260.9(b) and 320.39(a) inadvertently contained inaccurate terminology. This document corrects that terminology.

DATES: Effective on February 11, 2003.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, (312) 751-4945, TDD (312) 751-4701.

SUPPLEMENTARY INFORMATION: The Railroad Retirement Board published a document in the **Federal Register** of December 17, 2002 (67 FR 77152). That document simplified the procedures that govern requests for reconsideration and appeals within the Board. We discovered that inaccurate terminology was contained in § 260.9(b) and § 320.39(a). This document corrects that terminology.

In rule FR Doc. 02-31640 published on December 17, 2002 (67 FR 77152), make the following corrections. On page 77156 in § 260.9(b), in the first column (line 4 thereof), and on page 77157 in § 320.39(a), in the third column (line 21 thereof), remove the word "reconsideration" and insert in their place the words "hearings officer's".

By Authority of the Board.

Dated: February 4, 2003.

For the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 03-3308 Filed 2-10-03; 8:45 am]

BILLING CODE 7905-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Salinomycin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by Intervet, Inc. The supplemental ANADA provides for use of a salinomycin Type A medicated article to make Type C medicated feeds used for the prevention of coccidiosis in roaster and replacement (breeder and layer) chickens and for the prevention of coccidiosis in quail.

DATES: This rule is effective February 11, 2003.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301-827-8549, e-mail: lluther@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Intervet, Inc., P.O. Box 318, 405 State St., Millsboro, DE 19966, filed a supplement to ANADA 200-075 that provides for use of SACOX (salinomycin) Type A medicated article to make Type C medicated feeds used for the prevention of coccidiosis in roaster and replacement (breeder and layer) chickens and for the prevention of coccidiosis in quail. The supplemental ANADA is approved as of November 8, 2002, and the regulations are amended in 21 CFR 558.550 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 Dockets Management Branch (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)(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.

§ 558.550 [Amended]

2. Section 558.550 *Salinomycin* is amended in paragraph (a)(2) by adding "(d)(2)(i)," numerically.

Dated: January 21, 2003.

Steven D. Vaughn,

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

[FR Doc. 03-3351 Filed 2-10-03; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 501

Rules Governing Availability of Information

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control ("OFAC") of the U.S.

Department of the Treasury is issuing a final rule concerning the disclosure of certain civil penalties information. OFAC intends to publish information about civil penalties imposed and informal settlements on a weekly basis. If the publication falls on a holiday, or if required by an emergency, publication may be postponed to the following week.

DATES: This rule is effective February 11, 2003.

FOR FURTHER INFORMATION CONTACT: Chief of Civil Penalties, tel.: 202/622-6140, or Chief Counsel, tel. 202/622-2410.

SUPPLEMENTARY INFORMATION:**Background**

OFAC published a proposed rule on June 19, 2002 (67 FR 41658–59), announcing a new practice of releasing certain civil penalty enforcement information on a routine basis. OFAC received public comments on the proposed rule from thirty-two persons, including financial institutions, law firms, trade associations, individuals, and a public interest group. Six commenters generally supported the proposed rule, and many of these also urged the release of other types of information. Nine commenters generally opposed the proposed rule, particularly the proposal to release the names of entities involved in civil penalty actions. Seventeen additional commenters fell in the middle; most of these commenters opposed releasing the names of entities, but otherwise they supported the proposed rule. OFAC appreciates the very useful comments it received in response to the proposed rule, and it has carefully considered all relevant comments and how best to resolve the issues they raise.

Entity Names. Among the commenters expressing reservations with the proposed rule, most opposed the naming of the entities involved in civil penalty actions. Some commenters argued that this information is likely to hurt the reputations of the entities involved, in part because the public may misunderstand the burdens of compliance with the economic sanctions programs OFAC administers. One commenter stated that public identification of foreign companies could trigger legal problems in their home countries, where compliance with U.S. economic sanctions may be prohibited. Some commenters also argued that identifying these entities would deter voluntary disclosures and informal settlements.

After considering these comments, OFAC has concluded that, in most instances, the identities of these entities are already available to the public under the Freedom of Information Act (“FOIA”), 5 U.S.C. 552. Additionally, other governmental agencies, including some within the Department, periodically publish enforcement actions such as civil penalties assessed. Accordingly, OFAC has determined to publicize the identities of entities involved in civil penalty actions by periodic release under this rule. We believe most of the concerns identified in the public comments can be adequately addressed in the descriptions OFAC will provide, including whether the entity voluntarily

disclosed the violation and whether the penalty enforcement action was settled without a finding that a violation occurred.

Descriptions of the Violations or Alleged Violations. Some commenters urged OFAC to draw a clear distinction between penalties (which represent a final agency determination that a violation has occurred) and settlements (which do not reflect such a determination) when releasing civil penalties information under this rule. Some also urged OFAC to recognize the entities that have made voluntary disclosures of the violations. OFAC agrees with these points and has revised the final rule accordingly.

One commenter urged OFAC also to distinguish between what it characterized as “minor administrative infractions” and “more serious violations.” OFAC expects that the gravity of each incident should be reflected in the brief description to be provided. On a related point, a different commenter asked that companies be permitted to negotiate how the incident is described in the releases of information under this rule. OFAC envisions providing a very brief, factual description of the violation or alleged violation (e.g., “unauthorized funds transfer to SDN bank”) and will not negotiate this limited description as part of the civil penalty settlement process. However, if an entity wishes to submit a proposed description, OFAC would certainly consider it, placing a premium on accuracy and brevity.

Advance Notice; Timing. Some commenters requested that OFAC give companies and other entities advance notice of up to 90 days before releasing information under this rule. One commenter urged that the information be released pursuant to a regular, predictable schedule; another commenter urged release within a day of reaching settlement or imposing a penalty. OFAC intends to release information regarding civil penalty actions on a weekly basis, beginning April 4, 2003. However, the final rule provides for disclosure on a “routine basis, not less frequently than monthly,” to afford OFAC some regulatory flexibility in preparing and releasing this information in the prescribed format. In the early implementation stages, OFAC intends to notify affected companies before information pertaining to them is made public under this rule.

Some commenters suggested that an entity should be able to avoid disclosure altogether by “correcting” the violation during a short period after a penalty is imposed or settlement reached. OFAC

believes these commenters may misunderstand the administrative civil penalties process. An export, import, funds transfer, or other transaction that violates the economic sanctions programs OFAC administers cannot be “corrected” after it occurs. Any prudent person would take steps to prevent future violations, perhaps by investing in an improved compliance program, but these steps do not relieve an entity or individual of responsibility for completed violations.

Scope of Application/Adequacy of FOIA. Several commenters urged that the final rule apply only to penalties imposed or settlements reached after today’s publication date. Some commenters argued that this rulemaking is altogether unnecessary because FOIA provides adequate procedures for releasing information to the public. OFAC disagrees with both these points and will implement this rule to include settlements and penalties that have occurred since March 2002. All of the information that OFAC would release under this rule is already subject to public release under FOIA. OFAC records on settlements with entities from May 1998 through March 2002 were publicly released under FOIA and have been placed in the Department of the Treasury’s electronic reading room http://www.treas.gov/foia/err_dof.htm. OFAC has found, however, that processing FOIA requests for this type of information on an ad hoc basis is not the most efficient use of its limited resources. In the implementation of this rule, OFAC intends to release information on all penalties imposed and settlements reached since the end of March 2002.

Individual Names. In the preamble to the proposed rule, OFAC invited public comments on the potential disclosure of individual names. One commenter urged OFAC to release the identities of individuals whom OFAC penalizes or with whom OFAC reaches settlements. Other commenters opposed releasing the names of company employees who might be implicated in their employer’s civil penalty or settlement; one of these commenters argued that any transparency benefits from releasing such employees’ identities would be outweighed by the damage to their personal and professional reputations. OFAC is currently studying the issue of releasing individual names, including the names of individuals who were personally the subject of a civil penalties matter. For the present, the final rule provides for the release of information on proceedings against individuals on an aggregate basis, in

language substantially similar to the proposed rule.

Security Risks. Some commenters argued that release of this civil penalties information would provide clues to terrorists or others about which financial institutions have the weakest OFAC compliance programs. OFAC disagrees. The frequency of civil penalty actions does not necessarily correspond to the effectiveness of a financial institution's compliance program; a small community bank should be expected to have fewer incidents than a large financial institution that processes thousands of transactions daily. As noted above, this information about OFAC's civil penalties proceedings is already available to the public under FOIA, and OFAC does not see any substantial security risk in the implementation of this rule.

Additional Information. One commenter sought clarification of proposed section 501.805(d)(1)(iii), which provided that OFAC may, "[o]n a case-by-case basis, * * * release additional information concerning a particular civil penalties proceeding." This subsection has been relocated to section 501.805(d)(4) in the final rule. Section 501.805(d)(4) is intended to clarify that this rule does not restrict OFAC's ability to disclose additional information about a penalty or settlement to the extent authorized by law. For example, the Department of the Treasury occasionally issues press releases to announce the conclusion of noteworthy OFAC civil penalty actions, and these press releases may include more detail than what is contemplated in the routine releases of information under this rule. OFAC does not intend to release any trade secrets or confidential business information it may acquire during the course of a civil penalty action.

A few commenters urged OFAC to publish, in the implementation of this rule, additional information unique to each civil penalty action. Some urged publication of an analysis of aggravating and mitigating factors in each case; others urged that we describe what the affected entity could have done to avoid the incident. With respect to settlements, one commenter urged that OFAC explain why it decided to settle a case rather than pursue a penalty. At this time, OFAC does not intend to release these types of information on a regular basis as part of the implementation of this rule. Some of this information would be privileged, and in each case preparing detailed additional information would encumber the prompt and efficient implementation of this rule.

Other Comments. OFAC received a wide variety of other comments, including suggestions that OFAC develop free compliance software for banks, add a "frequently asked questions" section to its website, and publish its internal civil penalties guidelines. These matters are not addressed in the final rule because they are outside the scope of this rulemaking. We note, however, that OFAC's website does include a "frequently asked questions" section <http://www.treas.gov/ofac> and that OFAC's enforcement guidelines are due to be published in the **Federal Register** in the near future.

Electronic Availability

This document is available as an electronic file on The Federal Bulletin Board the day of publication in the **Federal Register**. By modem, dial 202/512-1387 and type "/GO FAC," or call 202/512-1530 for disk or paper copies. This file is available for downloading without charge in ASCII and Adobe Acrobat7 readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web, Telnet, or FTP protocol is fedbbs.access.gpo.gov.

This document and additional information concerning OFAC are available from OFAC's website <http://www.treas.gov/ofac> or via facsimile through OFAC's 24-hour fax-on-demand service, tel: 202/622-0077. Comments on this proposed rule may be viewed electronically via OFAC's website.

Regulatory Flexibility Act, Paperwork Reduction Act, and Executive Order 12866

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. The rule imposes no regulatory burdens on the public and simply announces that OFAC will publicly release certain information about civil penalties imposed and informal settlements. Accordingly, no regulatory flexibility analysis is required.

The Paperwork Reduction Act does not apply because the rule does not impose information collection requirements that would require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* A regulatory assessment is not required because this rule is not a "significant regulatory action" as defined in Executive Order 12866.

List of Subjects in 31 CFR Part 501

Administrative practice and procedure, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 31 CFR Part 501 is amended as follows:

PART 501—REPORTING AND PROCEDURES REGULATIONS

1. The authority citation continues to read as follows:

Authority: 21 U.S.C. 1901-1908; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1701-1706; 50 U.S.C. App. 1-44.

2. Section 501.805 is amended by adding paragraph (d) to read as follows:

§ 501.805 Rules governing availability of information.

* * * * *

(d) **Certain Civil Penalties Information.** (1) After the conclusion of a civil penalties proceeding that results in either the imposition of a civil monetary penalty or an informal settlement, OFAC shall make available to the public certain information on a routine basis, not less frequently than monthly, as follows:

(i) In each such proceeding against an entity, OFAC shall make available to the public

- (A) The name and address of the entity involved,
- (B) The sanctions program involved,
- (C) A brief description of the violation or alleged violation,
- (D) A clear indication whether the proceeding resulted in an informal settlement or in the imposition of a penalty,

(E) An indication whether the entity voluntarily disclosed the violation or alleged violation to OFAC, and

(F) The amount of the penalty imposed or the amount of the agreed settlement.

(ii) In such proceedings against individuals, OFAC shall release on an aggregate basis

- (A) The number of penalties imposed and informal settlements reached,
- (B) The sanctions programs involved,
- (C) A brief description of the violations or alleged violations,

(D) A clear indication whether the proceedings resulted in informal settlements, in the imposition of penalties, or in administrative hearing requests pursuant to the Trading With the Enemy Act (TWEA), 50 U.S.C. 5(b), and

(E) The amounts of the penalties imposed and the amounts of the agreed settlements.

(2) The medium through which information will be released is OFAC's website at <http://www.treas.gov/ofac>.

(3) The information made available pursuant to paragraph (d)(1) of this section shall not include the following:

(i) The name of any violator or alleged violator who is an individual.

(ii) Records or information obtained or created in the implementation of part 598 of this chapter.

(4) On a case-by-case basis, OFAC may release additional information concerning a particular civil penalties proceeding.

Dated: January 10, 2003.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: January 14, 2003.

Kenneth E. Lawson,

*Assistant Secretary (Enforcement),
Department of the Treasury.*

[FR Doc. 03-3310 Filed 2-6-03; 11:32 am]

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**FEDERAL EMERGENCY
MANAGEMENT AGENCY**

44 CFR Part 65

[Docket No. FEMA-D-7535]

**Changes in Flood Elevation
Determinations**

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the

Administrator reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Acting Chief, Hazard Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-2878, or (email) Michael.Grimm@fema.gov.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or

pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, floodplains, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community number
Florida: Monroe	Unincorporated Areas.	January 14, 2003; January 21, 2003; <i>The Key West Citizen</i> .	Mr. James Roberts, Monroe County Administrator, 1100 Simonton Street, Key West, Florida 33040.	December 31, 2002	125129 C