H. Regulatory Flexibility Act Certification Analysis

Rehearing Requests

NRECA argues that, contrary to the Commission's assertion that the rule will not have a ''significant economic impact on a substantial number of small entities,'' there are an increasing number of rural electric cooperatives, some of them modest in size, that have become subject to the Commission's jurisdiction as they have paid off their debt from the Rural Utilities Service. NRECA argues that Order No. 642 will affect ''small'' public utilities if those entities choose to merge to better deal with the increasing market power of larger public utilities. NRECA requests that the Commission either perform the Regulatory Flexibility Act analysis, or provide for waivers of the reporting requirements for small public utilities.

Commission Response

The Commission has evaluated the various types of mergers and other section 203 transactions subject to these revised filing requirements. The number of cooperatives subject to Commission jurisdiction as public utilities, and therefore affected by these requirements, is small. In addition, Order No. 642 does not increase the number of small entities that are subject to the Commission's jurisdiction under section 203. In fact, the final rule reduces the regulatory burdens and reporting requirements on most entities, both large and small, by streamlining and eliminating outdated and unnecessary filing requirements.

The Commission therefore certifies that Order No. 642 will not have a significant economic impact on small entities.

I. Miscellaneous Issues

Rehearing Requests

APPA/TAPS argue that Order No. 642 fails to reflect components of a detailed competitive analysis that are not adequately captured by market concentration statistics. They point to the failure of market concentration analysis to reveal the constraints which they believe are now apparent in California, including: transmission constraints and their manipulation; incentives not to build transmission; insufficient generation; and gas supply, water, and emission constraints. NRECA requests that the Commission modify § 33.3(c) of the Commission's regulations to require horizontal merger applicants to analyze firm requirements power as a relevant product.

Commission Response

Petitioners' concern that the Commission will rely exclusively on the horizontal screen analysis in evaluating the effect of a merger on competition is misplaced. For example, we stated in Order No. 642 that:

> [T]he horizontal screen is not meant to be a definitive test of the likely competitive effects of a proposed merger. Instead, it is intended to provide a standard, generally conservative check to allow the Commission, applicants and intervenors to quickly identify mergers that are unlikely to present competitive problems.[26]

This is consistent with the Policy Statement.

We also note in Order No. 642 the limitations on the use of concentration statistics.[27] In addition, Order No. 642 points out that we have sought additional information from merger applicants when circumstances warranted and that the intervention process itself allows other market participants to raise concerns.[28] Together, these factors indicate that the Commission will not rely exclusively on market concentration statistics in evaluating the competitive effects of mergers.

Finally, we disagree with NRECA's position that firm requirements power should be considered as a separate relevant product. In Order No. 642, we explain that it is important to define relevant products from the perspective of the consumer, *i.e.,* including in a product group those products considered by the consumer to be good substitutes.[29] NRECA has not demonstrated how firm requirements power meets this standard. We therefore deny Petitioners' request for rehearing on these issues.

The Commission orders:

For the reasons discussed above, the Commission denies rehearing of Order No. 642.

By the Commission.

David P. Boergers,

Secretary.

[FR Doc. 01–7200 Filed 3–22–01; 8:45 am]

BILLING CODE 6717–01–P

[26] Order No. 642 at 31,879.

[27] *Id.* at 31,882, 31,897.

[28] *Id.* at 31,881.

[29] *Id.* at 31,883.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin and Tylosin

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 two supplemental new animal drug applications (NADA's) filed by Elanco Animal Health. These supplemental NADA's provide for using tylosin or monensin and tylosin single-ingredient Type A medicated articles to make tylosin liquid Type B medicated feeds or combination drug liquid Type B medicated feeds. The liquid Type B medicated feeds are used to make dry Type C medicated feeds for cattle.

DATES: This rule is effective March 23, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel A. Benz, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0223.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285, filed supplemental NADA 12–491 that provides for use of TYLAN® (40 or 100 grams per pound (g/lb) tylosin phosphate) Type A medicated articles to make liquid Type B medicated feeds. The tylosin liquid Type B medicated feeds are, in turn, used to make dry Type C medicated feeds for reduction of the incidence of liver abscesses caused by *Fusobacterium necrophorum* and *Actinomyces* (*Corynebacterium*) *pyogenes* in beef cattle. Elanco Animal Health also filed supplemental NADA 104–646 that provides for use of RUMENSIN® (20, 30, 45, 60, 80, or 90.7 g/lb monensin activity as monensin sodium) and TYLAN® Type A medicated articles to make liquid combination drug Type B medicated feeds. The combination drug liquid Type B medicated feeds are, in turn, used to make dry Type C medicated feeds used for improved feed efficiency and reduction of the incidence of liver abscesses caused by *F. necrophorum* and *A.* (*Corynebacterium*) *pyogenes* in cattle fed in confinement for slaughter. The supplemental NADA's are approved as of February 2, 2001, and the regulations are amended in 21 CFR

558.355 and 558.625 to reflect the approval.

The agency has determined under 21 CFR 25.33(a)(1) that these actions are of a type that do 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. Section 558.355 is amended in paragraph (f)(3)(ii)(*b*) by adding a new sentence after the second sentence to read as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(3) * * *

(ii) * * *

(*b*) * * * Combination drug liquid Type B medicated feeds may be used to manufacture dry Type C medicated feeds and shall conform to mixing instructions as in § 558.625 (c).

* * * * *

3. Section 558.625 is amended by adding paragraph (c) to read as follows:

§ 558.625 Tylosin.

* * * * *

(c) *Special considerations.* (1) Type C medicated feeds for cattle may be manufactured from tylosin liquid Type B medicated feeds which have a pH between 4.5 and 6.0 and which bear appropriate mixing directions as follows:

(i) For liquid Type B feeds stored in recirculating tank systems: Recirculate immediately prior to use for no fewer than 10 minutes, moving not less than 1 percent of the tank contents per minute from the bottom of the tank to the top. Recirculate daily as described even when not used.

(ii) For liquid Type B feeds stored in mechanical, air, or other agitation-type tank systems: Agitate immediately prior to use for no fewer than 10 minutes, creating a turbulence at the bottom of the tank that is visible at the top. Agitate daily as described even when not used.

(2) Tylosin liquid Type B medicated feeds used to make Type C medicated feeds for cattle may be manufactured from tylosin Type A medicated articles according to the following mixing directions:

(i) Presolubilize tylosin in 50 percent urea for approximately 1 hour prior to adding any feed components or other active ingredients.

(ii) Maintain a pH between 4.5 and 6.0.

(3) Tylosin liquid Type B medicated feeds must bear an expiration date of 8 weeks after the date of manufacture.

* * * * *

Dated: March 8, 2001.

Claire M. Lathers,

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

[FR Doc. 01–7182 Filed 3–22–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8916]

RIN 1545–AY29

Application of Section 904 to Income Subject to Separate Limitations and Section 864(e) Affiliated Group Expense Allocation and Apportionment Rules; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final and temporary regulations.

SUMMARY: This document contains corrections to final and temporary regulations that were published in the **Federal Register** on Wednesday, January 3, 2001 (66 FR 268) relating to the section 864(e)(5) and (6) rules on affiliated group interest and other expense allocation and other expense allocation and apportionment and to the section 904(d) foreign tax credit limitation.

DATES: This correction is effective January 3, 2001.

FOR FURTHER INFORMATION CONTACT: Bethany A. Ingwalson (202) 622–3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations that are the subject of these corrections are under section 864 and 904 of the Internal Revenue Code.

Need for Correction

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

Correction of Publication

Accordingly, the publication of the final and temporary regulations (TD 8916), that were the subject of FR Doc. 00–32477, is corrected as follows:

1. On page 268, column 3, in the preamble in the caption **DATES** under the *''Applicability Dates:''* paragraph heading, first full paragraph, line 6 and 7, the language ''9(h)(5)(i) and (ii), § 1.861–11(d)(8), and § 1.861–14(d)(1), (d)(2)(i), and (d)(2)(ii)'' is corrected to read ''9(h)(5)(iii), § 1.861–11(d)(2)(iv) and (d)(7), and § 1.861–14(d)(1) and (d)(2)(iii)''.

§ 1.904–4 [Corrected]

2. On page 276, column 3, § 1.904–4, paragraph (g)(3)(ii)(C), line 6, the language ''determination whether a distribution'' is corrected to read ''determination of whether a distribution''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization and Strategic Planning).

[FR Doc. 01–7165 Filed 3–22–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 9

Nondisplacement of Qualified Workers Under Certain Contracts; Rescission of Regulations Pursuant to Executive Order 13204

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule; rescission of regulations.

SUMMARY: On February 17, 2001, President Bush issued Executive Order 13204, which revoked Executive Order 12933 of October 20, 1994, on nondisplacement of qualified workers under certain federal contracts and directed the Secretary of Labor to promptly rescind the regulations and