

In accordance with the freedom of information provisions of 21 CFR part 20 and 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.

This approval is for use of approved Type A medicated articles to make combination drug Type C medicated feeds. One ingredient, nicarbazin, is a Category II drug as defined in 21 CFR 558.3(b)(1)(ii). As provided in 21 CFR 558.4(b), an approved form FDA 1900 is required for making a Type B or C medicated feed as in this application. Under 21 U.S.C. 360b(m), as amended by the Animal Drug Availability Act of 1996 (Pub. L. 104-250), medicated feed applications have been replaced by a requirement for manufacture in a licensed feed mill. Therefore, use of narasin/nicarbazin and BMD Type A medicated articles to make Type C

medicated feeds as in NADA 140-926 requires manufacture in a licensed feed mill.

The agency 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.

**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 558.76 is amended by adding paragraph (d)(3)(xix) to read as follows:

**§ 558.76 Bacitracin methylene disalicylate.**

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \*

(xix) Narasin and nicarbazin as in § 558.366.

3. Section 558.363 is amended by adding paragraph (d)(2)(ii) to read as follows:

**§ 558.363 Narasin.**

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(ii) Nicarbazin and bacitracin methylene disalicylate as in § 558.366.

4. Section 558.366 is amended in the table in paragraph (c) under entry "27 to 45" by alphabetically adding an entry for "Narasin 27 to 45 and bacitracin methylene disalicylate 4 to 50" to read as follows:

**§ 558.366 Nicarbazin.**

\* \* \* \* \*

(c) \* \* \*

Nicarbazin in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
27 to 45	Narasin 27 to 45 and bacitracin methylene disalicylate 4 to 50	Broiler chickens; prevention of coccidiosis caused by <i>Eimeria tenella</i> , <i>E. necatrix</i> , <i>E. acervulina</i> , <i>E. maxima</i> , <i>E. brunetti</i> , <i>E. mivati</i> ; for increased rate of weight gain and improved feed efficiency.	Feed continuously as sole ration. Withdraw 5 days before slaughter. Do not allow turkeys, horses, or other equines access to formulations containing narasin. Ingestion of narasin by these species has been fatal. Do not feed to laying hens. Narasin and nicarbazin as provided by 000986, bacitracin methylene disalicylate by 046573.	000986
*	*	*	*	*

Dated: January 22, 1999.  
**Stephen F. Sundlof,**  
 Director, Center for Veterinary Medicine.  
 [FR Doc. 99-2411 Filed 2-1-99; 8:45 am]  
 BILLING CODE 4160-01-F

**NATIONAL INDIAN GAMING COMMISSION**

**25 CFR Part 542**

RIN 3141-AA11

**Minimum Internal Control Standards**

**AGENCY:** National Indian Gaming commission.

**ACTION:** Final Rule; Correction.

**SUMMARY:** The National Indian Gaming Commission published the Final Rule on Minimum Internal Control Standards (MICS) on January 5, 1999. The

compliance dates stated in the preamble under "Dates" were incorrect. This publication is to correct the mistakes.

**EFFECTIVE DATE:** February 2, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mai Dinh, National Indian Gaming Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20005. Telephone: 202-632-7003.

**SUPPLEMENTARY INFORMATION:** The Final Rule on Minimum Internal Control Standards, published on January 5, 1999, in Part III of the **Federal Register**, should be corrected as follows. On page

590 in the first column, the paragraphs under "Dates" should be:

*Effective Date:* February 4, 1999.

*Compliance Date:* Tribal MICS must be developed by August 4, 1999. Gaming operations operating on or before March 31, 1999, must be in full compliance no later than February 4, 2000. Gaming operations which commence operation after March 31, 1999, must be in full compliance prior to commencement of operations.

#### Authority and Signature

This Final Rule Correction was prepared under the direction of Barry W. Brandon, General Counsel, National Indian Gaming Commission, 1441 L Street, NW, Suite 9100, Washington, DC 20005.

Signed at Washington, DC this 25th day of January, 1999.

**Barry W. Brandon,**  
General Counsel.

[FR Doc. 99-2219 Filed 2-1-99; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 301 and 602

[TD 8813]

RIN 1545-AU74

#### Residence of Trusts and Estates—7701

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

**ACTION:** Final Regulations.

**SUMMARY:** This document contains final regulations providing guidance regarding the definition of a trust as a United States person (domestic trust) or a foreign trust. This document also provides guidance regarding the election for certain trusts to remain domestic trusts for taxable years beginning after December 31, 1996. The regulations incorporate changes to the law made by the Small Business Job Protection Act of 1996 and by the Taxpayer Relief Act of 1997. The final regulations affect the determination of the residency of trusts as foreign or domestic for federal tax purposes.

**DATES:** *Effective date:* These regulations are effective February 2, 1999.

*Dates of applicability:* See § 301.7701-7(e).

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, James A. Quinn at (202) 622-3060 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1600.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information in these final regulations are in § 301.7701-7 (d)(2)(ii) and (f). This information is required by the IRS to assure compliance with the provisions of the Small Business Job Protection Act of 1996 and by the Taxpayer Relief Act of 1997 for trusts seeking to retain their residency as domestic or foreign trusts in the event of an inadvertent change and for trusts electing to remain domestic trusts. The likely respondents are trusts. The estimated average annual burden per respondent is 0.5 hours.

Comments concerning the accuracy of this burden estimate should be sent to the *Internal Revenue Service*, Attn.: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224, and to the *Office of Management and Budget*, Attn.: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

#### Background

On June 5, 1997, the IRS published in the **Federal Register** a notice of proposed rulemaking (62 FR 30796) to provide guidance on the definition of a foreign trust and a domestic trust under section 7701(a) (30) and (31), as amended by section 1907 of the Small Business Job Protection Act of 1996 (SBJP Act), Public Law 104-188, 110 Stat. 1755 (August 20, 1996).

Written comments responding to the notice of proposed rulemaking were received, and a public hearing was held on September 16, 1997. After consideration of the comments received, the proposed regulations are adopted as revised by this Treasury decision.

Section 1161(a) of the Taxpayer Relief Act of 1997 (TRA 1997), Public Law 105-34, 111 Stat. 788 (August 5, 1997), provides that, to the extent prescribed in

regulations by the Secretary of the Treasury or his delegate, a trust that was in existence on August 20, 1996 (other than a trust treated as owned by the grantor under subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986 (Code)), and that was treated as a United States person on August 19, 1996, may elect to continue to be treated as a United States person notwithstanding the enactment of section 7701(a)(30)(E). Notice 98-25 (1998-18 I.R.B. 11) provides guidance regarding the election to remain a domestic trust. The IRS and the Treasury Department are incorporating the guidance contained in Notice 98-25 concerning the election to remain a domestic trust in these final regulations. The final regulations also provide guidance regarding the circumstances that cause a termination of the election and guidance concerning revocation of the election to remain a domestic trust.

In addition, section 1601(i)(3)(A) of TRA 1997 amended section 7701(a)(30)(E)(ii) by striking the word "fiduciaries" and inserting "persons" in its place. The final regulations have been drafted consistent with this change.

#### Explanation of Provisions

##### A. Court Test and Safe Harbor Issues

##### 1. Foreign Classification Bias and Safe Harbor

Some commentators point out generally that the Code and the proposed regulations are biased in favor of trusts being treated as foreign trusts. The commentators recommend that the regulations should reduce the bias in favor of foreign treatment. The safe harbor in the proposed regulations provides that a trust is a domestic trust if, pursuant to the terms of a trust instrument, the trust has only United States fiduciaries, such fiduciaries are administering the trust exclusively in the United States, and the trust is not subject to an automatic migration provision. One commentator recommends that the safe harbor be made clearly applicable in the case of any trust if a majority of the trustees are United States persons and the other requirements are met.

The IRS and the Treasury Department agree with the commentator that the safe harbor should not be limited to trusts with only United States fiduciaries. Since the primary concern addressed by the safe harbor is the difficulty in determining whether the court of a particular state would assert primary supervision over the administration of a trust if that trust had never appeared before a court, the final regulations