

(15) 16 U.S.C. 2437(a)(1), Antarctic Marine Living Resources Convention Act of 1984;

(i) Violation, from \$5,500 to \$6,500.

(ii) Knowing Violation, from \$11,000 to \$11,000.

(16) 16 U.S.C. 2465(a), Antarctic Protection Act of 1990;

(i) Violation, from \$5,500 to \$6,500.

(ii) Knowing Violation, from \$11,000 to \$11,000.

(17) 16 U.S.C. 3373(a), Lacey Act Amendments of 1981;

(i) Sale and Purchase Violation, from \$11,000 to \$11,000.

(ii) Marking Violation, from \$275 to \$275.

(iii) False Labeling Violation, from \$11,000 to \$11,000.

(iv) Other than Marking Violation, from \$11,000 to \$11,000.

(18) 16 U.S.C. 3606(b)(1), Atlantic Salmon Convention Act of 1982 (1990), from \$130,000 to \$140,000.

(19) 16 U.S.C. 3637(b), Pacific Salmon Treaty Act of 1985 (1990), from \$130,000 to \$140,000.

(20) 16 U.S.C. 4016(b)(1)(B), Fish and Seafood Promotion Act of 1986; minimum from \$500 to \$500; maximum from \$5,500 to \$6,500.

(21) 16 U.S.C. 5010(a)(1), North Pacific Anadromous Stocks Act of 1992, from \$120,000 to \$130,000.

(22) 16 U.S.C. 5103(b)(2), Atlantic Coastal Fisheries Cooperative Management Act (1993), from \$130,000 to \$140,000.

(23) 16 U.S.C. 5154(c)(1), Atlantic Striped Bass Conservation Act (1990), from \$130,000 to \$140,000.

(24) 16 U.S.C. 5507(a)(1), High Seas Fishing Compliance Act of 1995, from \$120,000 to \$130,000.

(25) 16 U.S.C. 5606(b), Northwest Atlantic Fisheries Convention Act of 1995, from \$130,000 to \$140,000.

(26) 16 U.S.C. 6905(c), Western and Central Pacific Fisheries Convention Implementation Act (2007); new penalty \$140,000.

(27) 16 U.S.C. 7009(c), Pacific Whiting Act of 2006 (2007); new penalty \$140,000.

(28) 22 U.S.C. 1978(e), Fishermen's Protective Act of 1967 (1971);

(i) Violation, from \$11,000 to \$11,000.

(ii) Subsequent Violation, from \$27,500 to \$32,500.

(29) 30 U.S.C. 1462(a), Deep Seabed Hard Mineral Resources Act (1980), from \$27,500 to \$32,500.

(30) 42 U.S.C. 9152(c)(1), Ocean Thermal Energy Conversion Act of 1980, from \$27,500 to \$32,500.

■ 3. Section 6.5 is revised to read as follows:

#### § 6.5 Effective date of adjustments.

The adjustments made by § 6.4 of this part, of the penalties there specified, are effective on December 11, 2008, and said penalties, as thus adjusted by the adjustments made by § 6.4 of this part, shall apply only to violations occurring after December 11, 2008, and before the effective date of any future inflation adjustment thereto made subsequent to December 11, 2008 as provided in § 6.6 of this part.

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 558

[Docket No. FDA-2008-N-0039]

#### New Animal Drugs for Use in Animal Feeds; Ractopamine

**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 new animal drug application (ANADA) filed by Ivy Laboratories, Division of Ivy Animal Health, Inc. The supplemental ANADA provides for an increased level of monensin in four-way combination Type C medicated feeds containing ractopamine, melengestrol, monensin, and tylosin for heifers fed in confinement for slaughter; and a revision to bacterial pathogen nomenclature.

**DATES:** This rule is effective December 11, 2008.

**FOR FURTHER INFORMATION CONTACT:** John K. Harshman, Center for Veterinary Medicine (HFV-104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240-276-8197, e-mail: [john.harshman@fda.hhs.gov](mailto:john.harshman@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Ivy Laboratories, Division of Ivy Animal Health, Inc., 8857 Bond St., Overland Park, KS 66214, filed a supplement to ANADA 200-424 that provides for use of OPTAFLEXX (ractopamine hydrochloride), HEIFERMAX 500 (melengestrol acetate), and RUMENSIN (monensin), and TYLAN (tylosin phosphate) Type A medicated articles to make dry and liquid four-way combination Type C medicated feeds used for increased rate of weight gain,

improved feed efficiency, and increased carcass leanness; for prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii*; for suppression of estrus (heat); and for reduction of incidence of liver abscesses caused by *Fusobacterium necrophorum* and *Arcanobacterium (Actinomyces) pyogenes* in heifers fed in confinement for slaughter during the last 28 to 42 days on feed. The supplemental NADA provides for an increased level of monensin in four-way combination Type C medicated feeds containing ractopamine, melengestrol, monensin, and tylosin for heifers fed in confinement for slaughter; and a revision to bacterial pathogen nomenclature. The supplemental NADA is approved as of November 13, 2008, 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.

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.

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.

#### § 558.500 [Amended]

■ 2. In § 558.500, in the table in paragraph (e)(2)(x), in the "Limitations" column, remove "No. 000009" and in its

place add “Nos. 000009 and 021641” and in the “Sponsor” column add “021641”; and remove and reserve paragraph (e)(2)(xi).

Dated: December 3, 2008.

**Bernadette Dunham,**

*Director, Center for Veterinary Medicine.*

[FR Doc. E8–29177 Filed 12–11–08; 8:45 am]

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Parts 576, 582, 583

[Docket No. FR–5247–F–01]

RIN 2506–AC24

#### Matching Requirement in McKinney-Vento Act Programs

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Final rule.

**SUMMARY:** The McKinney-Vento Homeless Assistance Act is the primary federal statute that addresses the issues of homelessness in the United States. Three grant programs administered by HUD under this statute (the Supportive Housing program, the Shelter Plus Care program, and the Emergency Shelter Grants program) each impose a matching requirement for a grant awarded by HUD under the program. This rule codifies, in the regulations governing these programs, the scope of the match requirement, and the responsibility of the recipient of the grant to ensure that the funds that the recipient uses to satisfy HUD’s match requirements are not prohibited to be used for this purpose under any statute that may govern the matching funds. The scope of the match and the responsibility to ensure that a match is a permissible match is not a new interpretation, or new responsibility, respectively. HUD has determined, however, that codification in regulation benefits grantees, especially new recipients, since codified regulations present an easy locatable source for permanent program policies and requirements.

**DATES:** *Effective Date:* January 12, 2009.

**FOR FURTHER INFORMATION CONTACT:** Ann Marie Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number 202–708–4300 (this is not a toll-free number). Persons with hearing or

speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381–11389) (McKinney-Vento Act), first enacted in 1987, was the first major, coordinated federal legislative response to homelessness. The McKinney-Vento Act authorizes funds for several federal homeless assistance programs, including four administered by HUD: Emergency Shelter Grants (ESG), Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings for Homeless Individuals (SRO), Shelter Plus Care (S+C), and the Supportive Housing Program (SHP). Under these programs, HUD awards grants for the purposes of providing housing and services to homeless persons.

For three of the four programs (ESG, S+C, and SHP), the McKinney-Vento Act imposes a requirement to match certain amounts provided through the McKinney-Vento grants with an equal amount of funds. For the ESG and S+C programs, the match requirement addressed by this final rule applies to all grant funds, while under SHP, the match requirement addressed by this final rule applies only to grant funds provided for acquisition, rehabilitation, and construction. Each of these matching requirements mandates that the funds may come from any source other than the statutory source (that is, the subtitle) authorizing each program. The applicable statutory match provisions for each of these programs state that each recipient that is provided a grant under the applicable McKinney-Vento Act subtitle (that authorizes funds for ESG, S+C, or SHP) shall be required to supplement the assistance provided under this subtitle with an amount of funds from sources “other than this subtitle.” The applicable statutory provisions for ESG, SHP, and S+C are codified at 42 U.S.C. 11375(a)(1), 42 U.S.C. 11386(e), and 42 U.S.C. 11403b(a)(1), respectively. This final rule does not apply to resources that a recipient or grantee is required to provide in accordance with other provisions, such as annual appropriations act provisions regarding supportive services, Notice of Funding Availability provisions regarding homeless management information systems, and statutory and regulatory provisions regarding portions of operating costs and other costs not funded by HUD.

Although the statutory language does not explicitly state that funds may come from federal sources, HUD’s longstanding interpretation has been that by excluding as an eligible match only those funds authorized for the specific program (that is, an S+C grant cannot be used as a match for another S+C grant), “sources other than this subtitle” has meant any other source, including federal sources, and HUD has accepted other federal funds as a match. HUD’s longstanding interpretation was recently confirmed in the Conference Report (House Committee on Appropriations on H.R. 2764, Public Law 110–161, Books 1 and 2) accompanying the Consolidated Appropriations Act, 2008 (Pub. L. 110–161, approved December 26, 2007). The House Committee on Appropriations stated as follows:

Further, the Committees on Appropriations note the broad statutory authority of the McKinney-Vento Homeless Assistance Act concerning the use of matching funds from any source other than the specific subtitle from which funds are awarded. The purpose of this broad statutory authority is to ensure the coordinated effort to address the needs of the homeless, which is central to the goal to end homelessness. Homeless housing programs within a community are most effective when a recipient can augment grant amounts with funds from any source, including Federal, State, local and private sources. Any funds, including Federal funds, are and have been eligible to be used as matching funds unless such funds are statutorily prohibited to be used as a match. (See Book 2 at page 2447)

The applicable McKinney-Vento provisions require the recipient to assure compliance with the match requirement. The ESG and S+C programs further require the recipients of funds under these programs to certify compliance with the match requirement, which includes describing the amount of the funds and the source of the funds. (See 42 U.S.C. 11375(a)(1) and 42 U.S.C. 11403b(a)(1).)

##### II. This Final Rule

Because questions about the scope of the matching requirement arise from time to time, HUD has determined to amend the regulations for the three programs to codify the broad scope of sources from which funds may be used to meet the matching requirement. Additionally, HUD is codifying that, in accordance with the applicable McKinney-Vento statutory provisions, it is the recipient’s responsibility to ensure that the matching funds are eligible to be used to satisfy HUD’s match requirements.