

Appendix—Enforcement Policy Statement for Foreign Language Advertising

Appendix B [Removed]

6. Appendix B to Part 460 is removed.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-24549 Filed 10-29-86; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. 33-6671; 34-23746; 35-24220; IC-15372; FR-26]

Interpretive Release About Disclosure of the Effects of the Tax Reform Act of 1986

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The provisions of the Tax Reform Act of 1986 (the "Act") may significantly affect the future financial position, liquidity and results of operations of some registrants. Registrants may present disclosures which quantify the effects of the Act on the deferred tax amounts in their historical financial statements by the pro forma application of the provisions of the Financial Accounting Standards Board's Exposure Draft, "Proposed Statement of Financial Accounting Standards—Accounting for Income Taxes" (the "ED"). This release contains guidelines for such quantified disclosures, and discusses other areas in which the potential effects of the Act should be discussed by registrants, if material.

DATE: October 23, 1986.

FOR FURTHER INFORMATION CONTACT: John A. Heyman (202-272-2130), Office of the Chief Accountant, or Howard P. Hodges (202-272-2553), Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

Background

On October 22, 1986, the President signed the Act, which significantly changes the federal income taxation of corporations. Its provisions include an overall reduction in corporate income tax rates, the elimination of the investment tax credit and reduction of investment tax credit carryforwards, changes in depreciation rates and lives

and various provisions which affect specific industries. For many registrants, the reduction in corporate tax rates will cause future payments of deferred tax amounts to be at rates which are significantly lower than those used to determine the deferred income tax provision under Accounting Principles Board Opinion (APB) No. 11.

On September 2, 1986, the Financial Accounting Standards Board (FASB) requested public comment on the ED, which would supersede APB No. 11 as the authoritative literature on accounting for income taxes in financial statements prepared in accordance with generally accepted accounting principles (GAAP). The principles proposed in the ED would significantly change the manner in which income taxes are accounted for under GAAP. APB No. 11 presently utilizes a deferred credit approach under which deferred taxes are provided based on the tax rates during the current year without consideration of, or adjustment for, subsequent changes in future tax rates. In contrast, the ED proposes a liability approach under which deferred taxes would be provided based on enacted tax rates which would apply during the period the taxes become payable. Deferred tax liabilities would then be subsequently adjusted for changes in future tax rates. The ED would also require companies to provide deferred taxes on certain differences between financial and income tax reporting which are not currently required under APB No. 11 and would be more restrictive than APB No. 11 with respect to the recognition of deferred tax debits (assets).

Types of Disclosure

The provisions of the Act will impact the timing and amount of taxes payable upon the reversal of book/tax differences for which deferred tax amounts have previously been provided. They may also affect future financial position, liquidity and results of operations for certain registrants.

Effects on Existing Deferred Tax Amounts

The reductions in corporate tax rates may result in actual tax payments, when book/tax differences reverse, which are lower than the related deferred tax amounts which were previously established. This savings of liquid assets may, however, be partially offset by the reduction of investment tax credit carryforwards. Additionally, the timing of the payments of deferred tax amounts for some registrants may be accelerated by the amended alternative minimum tax. The interaction of these provisions

of the Act and the liability approach in the ED would, for many registrants, produce a significant reduction in recorded deferred taxes when a final standard is applied in the preparation of registrants' financial statements.

Quantification by registrants of the potential effects of FASB exposure drafts is not generally required since any final standards may differ from those proposed in the exposure draft. However, some registrants may desire to present disclosures which quantify the effects of the Act on their existing deferred tax liabilities through the application of the liability method of accounting for income taxes because they believe such disclosures are practicable and informative. Disclosures quantifying those effects may be made as discussed below under "Quantification of Effects on Existing Deferred Tax Amounts."

Regulation S-K, Item 303 "Management's Discussion and Analysis of Financial Condition and Results of Operations" ("MD&A") (17 CFR 229.303) calls for the discussion of any known trends or events or uncertainties that a registrant reasonably expects will have a material impact on liquidity or income from continuing operations.¹

As previously indicated, certain provisions of the Act will affect registrants' future liquidity through their effect on the amount and timing of future tax payments upon the reversal of book/tax differences for which deferred tax amounts were not previously established. Registrants which do not elect to present disclosures which quantify the effects of the Tax Reform Act on existing deferred tax amounts should, nonetheless, discuss these potential effects on future liquidity, if material, as required by the MD&A rules. Such discussions should include both the potential effects upon reversal of book/tax differences for which deferred taxes have been provided and the potential effects upon the reversal of book/tax differences for which deferred taxes have not been provided pursuant to APB No. 23.²

¹ Regulation S-K, Items 303 (a)(1) and (a)(3)(ii).

² APB No. 23 provides that deferred taxes need not be provided for certain timing differences that may not reverse until indefinite future periods. Those timing differences are the undistributed earnings of subsidiaries and corporate joint ventures which will be indefinitely reinvested, certain bad debt reserves of savings and loan associations and policy holder surpluses of stock life insurance companies.

Other Effects

The provisions of the Act will also have potential effects on the results of operations and sources and uses of capital resources in future periods. For example, the repeal of the investment tax credit and the changes in the depreciation rules may affect a registrant's capital expenditure plans, and the changes in the foreign tax credit may affect the structure of foreign operations. While the impact of these provisions may not be quantifiable, the nature of the potential effects should be discussed, if material. This discussion should be presented in addition to the disclosure of the effects of the Tax Reform Act on existing deferred tax amounts and regardless of whether or not a registrant elects to present quantified disclosures of those effects.

Quantification of Effects on Existing Deferred Tax Amounts

Any quantified disclosures of the effects of the Act on existing deferred tax amounts should be based on the application of the ED to the registrant's historical financial statements for the most recent fiscal year.³ This approach will adjust deferred tax amounts for the changes in the corporate tax rates, reduction of investment tax credit carryforwards and other provisions of the Act and give effect to the provisions of the ED which require the establishment of deferred taxes for items presently not so treated under APB No. 11 or which limit the recognition of deferred tax debits (assets).

The ED includes a proposed delayed effective date of 1991 for its application to the book/tax differences covered by APB No. 23.⁴ In preparing quantified disclosure registrants may either (i) apply the provision of the ED without regard to the delayed effective date, thus including the deferred tax effects of these differences or (ii) consider the delayed effective date and therefore omit the deferred tax effects of these items.⁵ Registrants not reflecting the deferred tax effects of these book/tax differences in their quantified disclosures should, separately in a note thereto, disclose those book/tax

differences and the amount of related deferred taxes⁶ not reflected by reason of the proposed delayed effective date. Registrants may also separately discuss the effect on the pro forma amounts of any other provisions of the ED which are of special significance in their circumstances.

The provision for taxes currently payable should be based on the tax rate of 46 percent for 1986 and should not be adjusted to reflect the retroactive application to 1986 of the reduction in tax rates scheduled to take effect in 1987 and 1988. Those reductions in future tax rates are considered only in the calculation of the pro forma deferred tax provision.

Registrants should not use an approach which merely adjusts historical deferred tax provisions based on the difference between historical and future tax rates. For example, an approach that recognizes the reduction in deferred taxes resulting from the lowering of corporate tax rates but fails to give effect to other provisions of the Act and the ED could be misleading.

Registrants electing to present quantified disclosures may display them in narrative form, by the presentation of appropriate pro forma selected financial information, or by the presentation of a complete (condensed or full) pro forma balance sheet and statement of income.

Whichever method is selected, the disclosures should include a discussion of the purpose of the disclosure, the basis of presentation and any significant assumptions utilized in their preparation. The disclosures should also indicate that they were prepared on the basis of the provisions of the ED which could be changed in the issuance of a final statement and that, as a result, the pro forma information could differ from the eventual results of the actual application of a final FASB standard in the preparation of the registrant's historical financial statements.

Codification Update

The "Codification of Financial Reporting Policies" announced in

⁶ The Commission understands that in some instance the precise quantification of those deferred tax effects may be difficult. In particular, the computation of the taxes payable upon the repatriation of foreign earnings can be complex, and the related deferred tax effect may vary dependent on numerous factors including the method by which foreign earnings will be repatriated. Reasonable estimates may be used in the calculation of these effects. Additionally, if the deferred tax effect of applying the ED to the APB No. 23 items could vary significantly depending on certain assumptions (i.e., the method of repatriation), registrants may present the upper and lower limits of the effects together with a discussion of the factors affecting the estimates and the assumptions inherent in each limit, if material.

Financial Reporting Release No. 1 (April 15, 1982) [47 FR 21028] is updated to:

1. Add a new § 501.08 entitled as follows:

Section 501.08 Disclosure of the Effects of the Tax Reform Act of 1986

2. Include in § 501.08 the sections entitled "Background," "Types of Disclosure" and "Quantification of Effects on Existing Deferred Tax Amounts" identified as specified below:

- a. Background.
- b. Types of Disclosure
 - i. Effects on Existing Deferred Tax Amounts
 - ii. Other Effects
 - c. Quantification of Effects on Existing Deferred Tax Amounts

This codification is a separate publication issued by the SEC. It will not be published in the Federal Register Code of Federal Regulations system.

List of Subjects in 17 CFR Part 211

Accounting, Reporting and recordkeeping requirements, Securities.

PART 211—[AMENDED]

Commission Action

Subpart A of 17 CFR Part 211 is amended by adding thereto reference to this release (FRR No. 26).

By the Commission,

Jonathan G. Katz,
Secretary.

October 23, 1986.

[FR Doc. 86-24563 Filed 10-29-86 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket Nos. 85N-0323 and 84N-0319]

Confirmation of Effective Date for FD&C yellow No. 5; Identity and Specifications

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of August 7, 1986, for two final rules that amended the color additive regulations on the use of FD&C Yellow No. 5. One of these final rules affected a small change in the identity of FD&C Yellow No. 5 in the regulation listing this color additive for use in

³ The limitation of pro forma information to the most recent fiscal year is consistent with the Commission's rules regarding the disclosure of pro forma financial information in other circumstances.

⁴ See Footnote 2.

⁵ In general, the Commission believes that any disclosures by registrants which discuss and/or quantify the potential effects of proposed accounting standards should be based on the proposed standards in their entirety. This exception is considered appropriate solely due to the potential significance of the proposed delayed effective date.

externally applied drugs and in cosmetics generally (51 FR 24519; July 7, 1986). The other final rule amended the identity and specifications in the listings of FD&C Yellow No. 5 for use in food and ingested drugs (51 FR 24517; July 7, 1986). The latter final rule also amended all of FDA's regulations on the uses of this color additive to reference the identity and specifications in § 74.705 (a) and (b).

EFFECTIVE DATE: Effective date confirmed: August 7, 1986.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food and Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: This Federal Register final rule confirms the effective date of two final rules that amended FDA's regulations of FD&C Yellow No. 5.

I. Docket No. 84N-0319

On July 7, 1986 (51 FR 24519) (cosmetics amendment document), FDA responded to three objections to the final rule that permanently listed FD&C Yellow No. 5 for use in externally applied drugs and in cosmetics generally. FDA found that two of these objections were without merit, but that the third objection pointed out problems in the description of the manufacturing process for FD&C Yellow No. 5 that the agency had included in the portion of the regulation on the identity of this color additive, 21 CFR 74.2705(a). Therefore, in the cosmetics amendment document, FDA confirmed the effective date of this final rule but amended the identity paragraph to reflect the information in the objection. The agency gave interested persons until August 6, 1986, to object to the amendment of § 74.2705(a) and to request a hearing on those objections.

FDA has received no objections or requests for a hearing on this amendment. Therefore, FDA is confirming the effective date of August 7, 1986, for the amendment to 21 CFR 74.2705(a).

II. Docket No. 85N-0323

In the Federal Register of July 7, 1986 (51 FR 24517), FDA also published a final rule that amended the identity and specifications for FD&C Yellow No. 5 listed for use in food (21 CFR 74.705 (a) and (b)) and in ingested drugs (21 CFR 74.1705(a)) to be consistent with the identity and specifications in § 74.2705, which lists FD&C Yellow No. 5 for use in cosmetics generally. The agency adopted this final rule because it had determined that the new identity and

specifications in 21 CFR 74.2705(a) and (b) were necessary to control the formation and presence in FD&C Yellow No. 5 of undesired impurities, six of which have been shown to be carcinogenic (51 FR 24518). In this final rule, FDA conformed § 74.705(a) to the change that it had made in § 74.2705(a) in the cosmetics amendment document (51 FR 24518).

FDA gave interested persons until August 6, 1986, to file objections or requests for a hearing. The agency received no objections or requests for a hearing on this final rule. Therefore, FDA is confirming the effective date of August 7, 1986, for the amendment to 21 CFR 74.705 (a) and (b) and 21 CFR 74.1705(a).

III. Effect of These Amendments

Because the identity and specifications for all uses of FD&C Yellow No. 5 are now consistent, §§ 74.1705, 74.2705, and 82.705 merely reference the paragraphs in § 74.705 (§ 74.705 (a) and (b)) that list the identity and specifications for this color additive and do not separately set forth these provisions. In addition, all of these regulations incorporate the revisions in the description of the manufacturing process for FD&C Yellow No. 5 that FDA made in the cosmetics amendment document (51 FR 24519).

List of Subjects

21 CFR Part 74

Color additives, Cosmetics, Drugs, Medical devices.

21 CFR Part 81

Color additives, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706, 52 Stat. 1055-1056 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371, 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the amendment of 21 CFR 74.2705(a) that was included in the cosmetics amendment document (51 FR 24519) that was published on July 7, 1986, or to the amendments contained in the final rule (51 FR 24571) that was published on the same date. Accordingly, all of the amendments promulgated thereby became effective August 7, 1986.

Dated: October 22, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86-24511 Filed 10-29-86; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 6H5488/R857; FRL-3103-11]

Pesticide Tolerance for Fenarimol

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a regulation to permit residues of the fungicide fenarimol in or on the animal feed apple pomace (wet and dry). This regulation, to establish a maximum permissible level of residues of fenarimol in apple pomace, was requested in a petition submitted by Elanco Products Co. Elsewhere in this issue of the Federal Register, tolerances for fenarimol in or on various raw agricultural commodities are also established.

EFFECTIVE DATE: October 30, 1986.

ADDRESS: Written objections, identified by the document control number [FAP 6H5488/R857] may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. M-3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-577-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of September 24, 1986 (51 FR 34247), which announced that Elanco Products Co., 740 South Alabama St., Indianapolis, IN 46285, submitted feed additive petition 6H5488 to EPA requesting that the Administrator, pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a regulation to permit residues of the fungicide fenarimol [alpha-(2-chlorophenyl)-alpha-(4-chlorophenyl)-5-pyrimidinemethanol in or on apple pomace (wet and dry)].

No comments were received in response to the notice of filing.