108 (PIS Depreciation Reserve)—The same functionalization used for accounts 310–373, Plant in Service (PIS).
108 (General Plant Depreciation Reserve)—Functionalize according to the General Plant ratio.
111 (Accumulated Amortization)—The same functionalization used for accounts 301–303, Intangible Plant.
256 (Deferred Gain from Disposition of Utility Plant)—The same functionalization used for account 105, Electric Plant Held for Future Use.
403–407 (PIS Depreciation Expense)—The same functionalization used for accounts 310–373, Plant in Service.
408.1 (Other Taxes)—With the exception of property taxes and labor related taxes, all taxes will be functionalized to Distribution/Other. Property taxes will be functionalized using the gross plant ratio including general plant. Labor related taxes will be functionalized using labor ratios.
409.1, 410.1, 411.1, 411.4 (Income Taxes)—Functionalize to Distribution/Other.
932 (Maintenance of General Plant)—Functionalize according to the ratio developed from the functionalized totals of accounts 390, 391, 397 and 398.
411.6, 411.7 (Gain from Disposition of Utility Plant)—The same functionalization used for account 105, Plant Held for Future Use.
3031E

(Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 839–839h)

PART 389—[AMENDED]

§ 389.101 [Amended]

3. The Table of OMB Control Numbers in § 389.101(b) is amended by inserting "35.30" in numerical order in the section column, and "19020096" in the corresponding position in the OMB Control Number Column.

(Paperwork Reduction Act (44 U.S.C. 3501–3510))

[FR Doc. 84-26424 Filed 10-4-84; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Temporary Placement of Bromazepam, Camazepam, Clobazam, Clotiazepam, Cloxazolam, Delorazepam, Estazolam, Ethyl Loflazepate, Fludiazepam, Flunitrazepam, Haloxazolam, Ketazolam, Loprazolam, Lormetazepam, Medazepam, Nimetazepam, Nitrazepam, Nordiazepam, Oxazolam, Pinazepam, and Tetrazepam Into Schedule IV

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Finale rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration to temporarily place twenty-one (21) benzodiazepine substances into Schedule IV of the Controlled Substances Act (CSA) (21 U.S.A. 801 *et seq.*). The 21 benzodiazepine substances are bromazepam, camazepam, clobazam, clotiazepam, cloxazolam, delorazepam, estazolam, ethyl loflazepate, fludiazepam, flunitrazepam, haloxazolam, ketazolam, loprazolam, lormetazepam, medazepam, nimetazepam, nitrazepam, nordiazepam, oxazolam, pinazepam, and tetrazepam. This temporary scheduling action is required in order for the United States to discharge its obligations under the Convention on Psychotropic Substances, 1971. The effects of this rule will be to require that the manufacture, distribution, dispensing, security, registration, record keeping, reporting, inventory, exportation and importation of each of the 21 benzodiazepines are subject to controls for Schedule IV substances. The temporary scheduling order for each substance shall remain in effect until the process of permanent scheduling, pursuant to sections 201 (a) and (b) (21 U.S.C. 811 (a) and (b)) of the CSA, is completed.

EFFECTIVE DATE: November 5, 1984.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

By notice of March 29, 1984, the Secretary-General of the United Nations advised the Secretary of State of the United States that the Commission on Narcotic Drugs (CND) has decided that the above 21 benzodiazepine substances be added to Schedule IV of the Convention on Psychotropic Substances, 1971.

In a letter dated May 1, 1984, the Assistant Secretary for Health, on behalf of the Secretary of the Department of Health and Human Services (DHHS), advised the Administrator of the Drug Enforcement Administration that the 21 benzodiazepines be controlled in CSA Schedule IV, using authority provided by sections 201(d)(3)(B) and 201(d)(4) (A) and (C) of the CSA. This allows for the issuance of a temporary order controlling a substance in Schedule IV or V, depending upon whichever is most appropriate to carry out the minimum United States obligations, within the time period required by paragraph 7 of article 2 of the Convention, that is, within 180 days after the date of the CND communication. The findings pursuant to sections 201 (a), (b) and 202(b) which concern an assessment of the abuse potential for each of the 21 benzodiazepines are neither established nor required for this temporary scheduling order.

On Wednesday, August 1, 1984, a notice was published in the **Federal Register** (49 FR 30748–9) proposing to temporarily place the 21 benzodiazepines into Schedule IV of the CSA. By this action, the United States would be in compliance with the drug control treaty, the Convention on Psychotropic Substances, 1971. All interested persons were given until August 31, 1984 to submit any comments or objections regarding the proposal. No comments or objections were received in response to the proposal nor were there any requests for a hearing.

Therefore, under the authority vested in the Attorney General by section 201(d)(4) (A) and (C) of the CSA (21 U.S.C. 811(d)(4) (A) and (C)) and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR Part 0.100), the Administrator hereby orders that paragraph (c) of § 1308.14 be amended by revising the list of controlled substances to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(c) * * *

(1) Alprazolam	2882
(2) Barbital	2145
(3) Bromazepam	2748
(4) Camazepam	2749
(5) Chloral betaine	2460
(6) Chloral hydrate	2465
(7) Chlordiazepoxide	2744
(8) Clobazam	2751
(9) Clonazepam	2737
(10) Clorazepate	2768
(11) Clotiazepam	2752
(12) Cloxazolam	2753
(13) Delorazepam	2754
(14) Diazepam	2765
(15) Estazolam	2756
(16) Ethchlorvynol	2540
(17) Ethinamate	2545
(18) Ethyl loflazepate	2758
(19) Fludiazepam	2759
(20) Flunitrazepam	2763

(21) Flurazepam....2767
(22) Halazepam....2762
(23) Haloxazolam....2771
(24) Ketazolam....2772
(25) Loprazolam....2773
(26) Lorazepam....2885
(27) Lormetazepam....2774
(28) Mebutamate....2800
(29) Medazepam....2836
(30) Meprobamate....2820
(31) Methohexital....2264
(32) Methylphenobarbital (mephobarbital)....2250
(33) Nimetazepam....2837
(34) Nitrazepam....2834
(35) Nordiazepam....2838
(36) Oxazepam....2835
(37) Oxazolam....2839
(38) Paraldehyde....2585
(39) Petrichloral....2591
(40) Phenobarbital....2285
(41) Pinazepam....2883
(42) Prazepam....2764
(43) Temazepam....2925
(44) Tetrazepam....2886
(45) Triazolam....2887

* * * * *

Effective Dates for applicable regulations:

All regulations applicable to each of the 21 benzodiazepines as temporarily controlled substances in Schedule IV of the CSA are effective on November 5, 1984, except as otherwise provided below:

1. *Registration.* Any person who manufactures, distributes, imports or exports any of the 21 benzodiazepines or who engages in research or conducts instructional activities, must apply for registration by November 5, 1984, to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security.* Each of the 21 benzodiazepines must be manufactured, distributed and stored in accordance with §§ 1301.71–1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of each of the 21 benzodiazepines must comply with the requirements of §§ 1302.03–1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations by February 4, 1985.

4. *Inventory.* Every registrant required to keep records who possesses any quantity of any of the 21 benzodiazepines must take inventories pursuant to §§ 1304.11–1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of these substances on hand.

5. *Records and Reports.* All registrants required to keep records and submit reports pursuant to Part 1304 of Title 21 of the Code of Federal Regulations shall do so regarding each of the 21 benzodiazepines.

6. *Prescriptions.* None of the 21 benzodiazepines can be prescribed since none have attained accepted medical use in treatment status in the United States, as would be indicated by approval of a new drug application by the Foods and Drug Administration.

7. *Importation and Exportations.* All importation and exportation of each of the 21 benzodiazepines shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

8. *Criminal Liability.* The Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to each of the 21 benzodiazepines not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act, conducted after (November 5, 1984) shall be unlawful, except that any person who is not now registered to handles each benzodiazepine but who is entitled to registration under such Acts may continue to conduct normal business or professional practice with any of the 21 benzodiazepines between the date on which this rule is published and the date which the person obtains or is denied registration provided that the application for such registration is submitted on or before November 5, 1984.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the placement of the 21 benzodiazepines into Schedule IV of the CSA will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). This action involves the initial control of substances with no legitimate medical use in the United States and must be carried out in order to fulfill United States international treaty obligations, in any event.

In accordance with the provisions of 21 U.S.C. 811(d), this scheduling action is a formal rulemaking that is required by United States obligations under international convention, that is, the Convention on Psychotropic Substances, 1971. Such formal proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557, and as such, have been exempted from the consultation requirements of Executive Order 12991 (46 FR 13193).

Dated: October 1, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84–26360 Filed 10–4–84; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 244

Wind River Reservation Game Code

September 24, 1984.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Interim rule and request for comments.

SUMMARY: The Bureau of Indian Affairs is publishing an interim rule for a new program which will establish a controlled wildlife hunting program on the Wind River Reservation in order to conserve, protect and increase the existing wildlife in the reservation area. Studies conducted on the Wind River Reservation indicate that certain species of wildlife are in danger of being hunted to the point where normal propagation and recovery will not occur unless a Game Code is implemented. Immediate implementation of a Game Code will provide conservation efforts to assure future wildlife habitation on the reservation.

DATES: This interim rule will become effective October 5, 1984. Comments must be received no later than November 5, 1984.

ADDRESSES: Send written comments to Sidney L. Mills, Director, Office of Trust Responsibilities, Code 200, Bureau of Indian Affairs, Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Gary Rankel, Fish and Widlife Resqurces Specialist, Office of Trust Responsibilities, Bureau of Indian Affairs, telephone number (202) 343–4004.

SUPPLEMENTARY INFORMATION: This interim rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. The objective of this rule is to establish a Game Code on the Wind River Reservation which will conserve, protect and eventually increase the wildlife on the Reservation.

The Wind River Reservation encompasses 1,886,556 acres in Fremont and Hot Springs counties in Wyoming. The Reservation was orginally granted to the Shoshone Tribe by the Fort Bridger Treaty of 1863. In 1878, the Arapahoe Tribe was temporarily placed on the Reservation. The temporary status gradually became permanent and the Reservation is now shared by both tribes, *see Shoshone Tribe* v. *United*

States, 299 U.S. 476 (1937). The hostility which existed between the two tribes in early times has diminished but they continue to govern themselves separately. Each tribe has its own tribal council, and there is a joint business council of members from each tribe to conduct the business for the Reservation as a whole.

The topography of the Wind River Reservation varies from 4,200 feet at Boysen Reservoir to over 13,000 feet in the Wind River Mountains in the western part of the Reservation. The diversity of the topography provides excellent habitat for waterfowl and big and small game animals.

The fact that each tribe has it own council and governs itself separately has contributed to the necessity of this Game Code. In 1980, the Shoshone Tribe approved a Game Code for the Reservation, but the Arapahoe Tribe did not approve on the basis that the Code was too restrictive. In 1983, there was an extensive kill of big game animals on the Reservation. Again, the Arapahoe Tribe refused to accept a Game Code for the Reservation. In view of the requests by the Shoshone Tribe and studies conducted by the U.S. Fish and Wildlife Service, Lander, Wyoming, the Bureau of Indian Affairs has determined that a Game Code is needed on the Wind River Reservation. The U.S. Fish and Wildlife Service studies indicate that, unless a Game Code is adopted on the Wind River Reservation, wildlife could be reduced to a point where normal propagation and recovery will not occur.

This interim rule is intended for use only until it can be replaced with permanent regulations made with proper notice and public procedures. Comments are, therefore, invited on the interim rule for a period of 30 days after their publication. Upon consideration of the comments, permanent regulations will be developed and promulgated.

In order to permit hunting during the upcoming autumn hunting season for 1984, these regulations are issued on an emergency basis and may be subject to modification by the Wind River Agency Superintendent. Modifications will be advertised through local newspapers, postings on bulletin boards located at the Wind River Reservation Agency Headquarters, Post Office and tribal headquarters, and through other routine communications procedures. Therefore, the Department of the Interior has determined that good cause exists to make these regulations effective immediately under the exception provided for in 5 U.S.C. 553(d)(3).

The Department finds that there is an immediate need to protect reservation wildlife resources. The hunting season on the Reservation has already begun, and the studies conducted by the U.S. Fish and Wildlife Service indicated that in the absence of a Game Code wildlife could be reduced to a point where normal propagation and recovery will not occur. The Department thus finds that notice and comment procedures prior to making the rule effective are impracticable, unnecessary, and contrary to the public interest under 5 U.S.C. 553(b)(B).

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291. Because the program will be confined to a localized area (Wind River Reservation Area) the economic effects will be relatively insignificant and essentially no detectable economic fluctuation will occur either on or outside the reservation. Over time, discernable economic gain imposed through licensing will be directed into wildlife management and research by existing employees. Conversely, a short-term economic loss may be manifested only through a reduction in supplemental food availability on a case-by-case basis. Consequently, the potential for significant economic impact is diminished to the point of being undetectable.

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The interim rule will affect only a small percentage of the total United States population: approximately 5,505 enrolled members of the Wind River Reservation. The interim rule will not have any effect on other United States based enterprises because the rule only provides the regulations for the hunting program on the Wind River Reservation, and there are no competing products or services involved.

The information collection requirements contained in § 244.17 have been approved by the Office of Management and Budget as required by 44 U.S.C. 3504(h) *et seq.*, and have been assigned approval number 1076–0085.

The primary author of this document is Dave Pennington, Billings Area Office, Bureau of Indian Affairs, Billings, Montana, telephone number (406) 657–6325.

Because of the need to promulgate these regulations on an emergency basis if the wildlife resources of the Wind River Reservation are to be protected, there has been insufficient time to prepare an environmental impact statement or assessment. An environmental impact statement or assessment, as appropriate, will be prepared before these regulations are made permanent (i.e., after the notice and comment period).

List of Subjects in 25 CFR Part 244

Indian-lands, Wildlife-animals, and Hunting.

Subchapter J of Title 25 of the Code of Federal Regulations is amended by adding a new Part 244 to read as follows:

PART 244—WIND RIVER RESERVATION GAME CODE

Sec.

Authority: 43 U.S.C. 1457; 25 U.S.C. 2, 9; Reorganization Plan No. 3 of 1950 (64 Stat. 1262); 18 U.S.C. 1165; Lacey Act Amendments of November 16, 1981, 16 U.S.C. 3372; Treaty of Fort Bridger, July 3, 1868 (15 Stat. 673); 5 U.S.C. 301.

§ 244.1 Purpose and information collection.

(a) The purpose of these regulations is to ensure proper wildlife management and protection on the Wind River Indian Reservation while concurrently providing the opportunity for tribal members to utilize the wildlife resources. This Game Code will remain in full force and effect until such time that it is replaced by a Code jointly adopted by the Shoshone and Arapahoe Tribes.

(b) The information collection requirements contained in § 244.17 have been approved by the Office of Management and Budget under 44 U.S.C. 3504(h) and assigned clearance number 1076-0085. This information will be collected to support the Wind River Agency Superintendent in managing and regulating the harvest of wildlife on the Reservation. The information will be used to identify eligible participants in the hunting program. Response is mandatory for exercise of hunting privileges.

§ 244.2 Definitions.

As used in this part:

"Aircraft" means any flying machine whether fixed-wing or helicopter.

"Antlered Deer" means any antlered mule deer, or whitetail deer, including deer with spikes.

"Any Elk" means an elk of any age and of either sex.

"Area Director" means the Director of the Billings Area Office of the Bureau of Indian Affairs.

"Authorized Officer" means any law enforcement officer of the Department of the Interior, and any other person authorized by this Part to enforce these regulations.

"Bag Limit" means the maximum limit, in number amount, of a particular species of wildlife, which may lawfully be taken by one person in one day.

"Big Game" means any one of the following species of animals: elk, mule deer, whitetail deer, bighorn sheep, moose, antelope, black and grizzly bear, and mountain lion.

"Buck Antelope" means a male antelope with horns longer than his ear.

"Bureau" means Bureau of Indian Affairs (BIA).

"Carcass" means the dead body of an animal or parts thereof.

"Closed Season" means the time during which wildlife may not be lawfully taken.

"Cross-Country Vehicles" means those vehicles designed or used to travel on the snow or across the terrain, including, but not limited to, snow cats, snowmobiles, all-terrain vehicles, four-wheel drive vehicles and dirt bikes.

"Drift Fence" means the main North to South barbed wire fence constructed by the Civilian Conservation Corps (CCC) in 1936 to control livestock movement on the Wind River Reservation.

"Falconry" means the taking of wildlife with birds of prey.

"Fur-Bearing Animals" means muskrats, racoons, marten, mink, beaver, badger and weasel.

"Harass" means to chase, shoot at, or, in any other manner, intentionally disturb wildlife.

"Hunting" means to take any bird or animal by any means.

"License" means a written document granting authority to engage in specific activities covered in this Code.

"Member" means any enrolled member of the Shoshone or Arapahoe Indian Tribes.

"Nongame Animals" means all wild animals except big game, small game, fur-bearing animals, predatory animals, and aquatic wildlife.

"Nongame Birds" means all birds except upland game birds and migratory game birds.

"Non-Member" means any individual who is not enrolled in either the Shoshone or Arapahoe Tribes.

"Pollution of Water" means the discharge or dumping into any stream or body of water, or depositing within such distance that it may be carried into such water, any poisonous, deleterious, or polluting substance or waste that is or may be injurious to aquatic or non-aquatic wildlife, domestic animals or human beings.

"Predatory Animals" means foxes, skunks, and coyotes.

"Pre-Sundance" means the designated period of time before the Sundance ceremony.

"Reservation" means the Wind River Indian Reservation.

"Road" means any maintained road that has been used by the public.

"Scientific Collection Permit" means a special permit issued for the taking of wildlife specimens for scientific purposes.

"Small Game" means any of the following species of mammals: cottontail rabbit, jack rabbit, snowshoe hare, marmot (rock chuck) and prairie dog.

"Snowmobile" means any motorized vehicle designed for travel on snow and/or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.

"Sundance" means the annual religious ceremony approved by the Arapahoe and Shoshone Tribal Councils.

"Superintendent" means the Superintendent of the Wind River Agency, Bureau of Indian Affairs.

"Tag" or "Big Game Tag" means an identification device issued for attachment to the carcass of big game animals.

"Take" or "Taking" means pursuing, shooting, shooting at, hunting, netting (including placing or setting any net or other capturing device), killing, capturing, snaring, or trapping wildlife, or attempting any of the foregoing.

"Trapping" means the taking of wildlife in any manner except with gun or implement in hand.

"Upland Game Bird" means any of the following species of birds: sage grouse, blue grouse, ruffed grouse, hungarian (gray) partridge, chukar, pheasant, mourning dove and rock dove.

"Waterfowl" means all species of ducks and geese (not including swans) of the Order Anseriformes.

"Wildlife" means any wild forms of birds and mammals including their nests and eggs.

"Wildlife Area" means an area established by the Department of the Interior—BIA for special wildlife protection, research, or management practices.

§ 244.3 Administration and supervision.

(a) The Billings Area Office Director is authorized by the Assistant Secretary for Indian Affairs to be the official in charge of the Game Code. Local administration of the program will be the responsibility of the Wind River Agency Superintendent.

(b) When Part 244 is published in the **Federal Register**, the Wind River Agency Superintendent shall establish the hunting season, define the hunting areas, set the permit fees and establish season limits for all wildlife hunting for the 1984 season. The Superintendent shall after consultation with the Tribes, establish the hunting season, define the hunting areas, set the permit fees and establish season limits for all wildlife hunting on or before June 1 of each year thereafter. Also, on or before June 1, the Area Director shall notify the Tribal Councils, in writing, and publish in the Riverton Ranger newspaper, the explicit hunting program for that year, and the Superintendent shall post such hunting program on bulletin boards located at the Reservation Agency headquarters, Post Office and tribal headquarters.

(c) The Area Director is authorized to make in-season and emergency changes when necessary to ensure proper implementation of the Game Code. The Superintendent is responsible for having each emergency or in-season adjustment published in the local newspaper as a legal notice, and post each such adjustment on bulletin boards located at the Reservation Agency headquarters, Post Office and tribal headquarters, at least twenty-four hours before it becomes effective.

§ 244.4 Closed areas, pre-Sundance season, and predatory and small game season.

(a) *Closed areas.* The following areas are closed to all big game hunting:

(1) The Wind and Big Wind Rivers, Little Wind River, South and North Forks of the Little Wind River below the "Drift Fence", and the Popo Agie River;

(2) Land below the "Drift Fence"; and

(3) The Wind River Canyon proper.

(b) *Pre-Sundance deer and elk season.* The Superintendent shall establish an open season for male deer and male elk before the Sundance ceremony. Hunting of does, fawns, cows or calves shall be prohibited. Sundance participants (hunting) must be verified by an elder of the Sundance prior to obtaining a permit from the Superintendent. Permittees must report harvest information to the Superintendent. (See Section 244.17(e)(6) for reporting requirements.)

(c) *Predatory and small game season and bag limit(s).* Hunting shall be open all year for predatory and small game animals. There is no bag limit for predatory and small game animals.

§ 244.5 Waterfowl hunting.

Hunting of waterfowl on the Reservation must comply with the rules and regulations promulgated under the Federal Migratory Bird Treaty Act.

§ 244.6 Endangered species.

The following list of species are Federally classified as endangered or threatened with extinction and are protected from all hunting, taking or harassment on the Reservation:

(a) Bald Eagle,

(b) Black-Footed Ferret,

(c) Gray Wolf,

(d) Grizzly Bear, and

(e) Whooping Crane.

§ 244.7 Protected species of birds and mammals.

The following species of birds and mammals are completely protected from any hunting, trapping, shooting or taking on the Reservation:

(a) Golden Eagle;

(b) All species of hawks and falcons (Order Falconiformes);

(c) All species of owls (Order Strigiformes);

(d) Whistling and trumpeter swans (Order Anseriformes—Sub-family Cygninae);

(e) All species of migratory shorebirds, wading birds, and seabirds including loons, grebes, cormorants, herons, egrets, pelicans, cranes, curlews, plovers, avocets, phalaropes, sandpipers, gulls, and terns (orders Gaviiformes, Podicipediformes, Pelicaniformes, Ciconiiformes, Gruiformes [Family Gruidae], and Charadriiformes);

(f) All species of songbirds including woodpeckers, swallows, swifts, hummingbirds, nighthawks, kingfishers, jays, ravens, wrens, thrushes, chickadees, bluebirds, vireos, warblers, blackbirds and sparrows (orders Caprimulgiformes, Apodiformes, Piciformes, and Passeriformes); and

(g) Lynx, river otter, wolverine, fisher, marten, and bobcat.

§ 244.8 Trapping regulations.

Trapping will be allowed only in areas designated by the Wind River Agency Superintendent. The Superintendent will establish the trapping season each year and list the animals that can be trapped. Each trapper must obtain a trapping permit from the Superintendent. Also, each trapper must identify individual traps with a metal tag bearing his name. The Superintendent shall designate which trapped animal needs a pelt tag and the Superintendent shall set the cost of the pelt tag.

§ 244.9 Authorized enforcement officers.

Department of the Interior peace officers and other officers designated by the Bureau shall have the authority and the duty to enforce the provisions of the Game Code, and shall be referred to in this Code as "Authorized Officers."

§ 244.10 Violations of game code.

(a) Any person who violates any provision of this Game Code shall be subject to prosecution in federal court under applicable laws, e.g., 18 U.S.C. 1165 and the Lacey Act Amendments of November 16, 1981, 16 U.S.C. 3371. Any member who has committed a violation of this Code shall be subject to a fine of not more than $10,000, or to imprisonment of not more than one year, or to a combination of both fine and imprisonment per offense.

(b) Any wildlife taken, or firearms, vehicles, or other equipment used in violation of this Code may be confiscated as provided for under 16 U.S.C. 3374.

§ 244.11 Hunting by non-members prohibited.

There shall be no hunting by persons other than enrolled members of the Shoreshone and Arapahoe Tribes on any Indian land of the Reservation. Non-enrolled spouses of tribal members are not allowed to hunt.

§ 244.12 Firearms restrictions.

For hunting big game, the use of firearms with a barrel bore diameter of less than .23 (23/100) of an inch, or chambered to fire a cartridge less than two inches in overall length, will not be allowed. Firearms for hunting upland game birds (excluding blue and ruffed grouse) and waterfowl are restricted to shotguns of twelve (12) gauge or smaller. Ten (10) gauge shotguns are allowed only for goose hunting. The use of fully automatic weapons or devices designed to silence or muffle the sound of any firearm for hunting any wildlife is prohibited.

§ 244.13 Prohibited hunting procedures.

The following hunting procedures are illegal and prohibited on the Reservation.

(a) *Hunting with aircraft or motor vehicle.* No person shall pursue, harass, hunt, shoot, or kill any wildlife with, from, or by use of aircraft or motorized vehicle (truck, automobile, motorcycle, all terrain vehicle or vehicle designed for travel over snow).

(b) *Use of artificial light.* No person shall hunt, pursue or kill any game animal or game bird, through the use of any artificial light or lighting device (including spotlights, and automobile, snowmobile, all terrain vehicle and motorcycle headlights).

(c) *Sale of game and blood antlers.* No person shall sell, offer for sale, or barter, or have in possession with intent to sell, any wildlife, blood antlers or any edible portion of any game animal or bird. No person shall obtain by sale or barter, any wildlife, blood antlers or any edible portion of any game animal or bird.

(d) *Wanton waste of game.* (1) No person who takes any upland game bird, waterfowl, or big game animal, shall abandon or intentionally or needlessly allow to go to waste, any portion thereof. The failure of any person to properly dress and care for any big game animal killed by that person, and, if the carcass is reasonably accessible, the failure to take or transport the carcass to the camp of that person, and there properly care for the carcass within 48 hours after killing, is prima facie evidence of a violation (see § 244.10).

(2) No person shall abandon edible portions of a big game animal or game bird at a meat processing plant. The leaving of edible portions of a big game animal at a processing plant for more than 90 days shall be considered prima facie evidence of a violation. The owners or operator in charge of any meat processing plant shall immediately report the violation to the Superintendent. Notwithstanding any other provision of this Code, the owner of the plant is entitled to all or a portion of the abandoned meat, or to the proceeds of sale by ruling of Federal Court of any meat abandoned, up to the amount of reasonable processing and storage charges, following a conviction or within a reasonable time after the violation is reported.

(e) *Shooting from or across roads.* No person shall fire any firearm from, upon, along or across any public road or highway.

(f) *Hunting big game with dogs.* No person shall use dogs to track, chase, kill, or in any other way hunt big game animals. Dogs so used or observed harassing big game animals may be shot by enforcement officers to protect big game animals.

(g) *Use of poisons.* The use of any poisons to take any wildlife is prohibited.

(h) *Unlawful possession of wildlife.* It shall be unlawful to possess any wildlife or parts thereof unless it can be shown by the possessor that he or she has the requisite license and/or tags or other express written authorization by the BIA to hunt or take such animal, or that the animal was given to the possessor by a licensed hunter or trapper.

(i) *Hunting with the firearm while intoxicated or under influence of a controlled substance.* (1) It shall be unlawful for any person intoxicated or under the influence of a controlled substance to carry a firearm (loaded), or to take any wildlife.

(2) It shall be unlawful for any person to handle or discharge a firearm in a careless or reckless manner, or with wanton disregard for the safety of human life and property.

(j) *Aiding in concealment of wildlife unlawfully taken or possessed.* No person shall knowingly aid or assist in the concealment of any wildlife that has been unlawfully taken or is unlawfully possessed.

(k) *Hunting on private property or near buildings without permission.* (1) No person shall hunt, trap or discharge firearms upon the private property of another without knowledge and consent of the property owner.

(2) No person shall hunt or discharge firearms within 200 yards of an occupied building, whether on privately-owned or Tribal land, without the consent of the person(s) occupying such building.

(l) *Destruction of private or public property.* No person shall deface, shoot at, or destroy public or private property, including signs, fences, livestock or improvements.

(m) *Hiring another to hunt or hunting for remuneration.* No person shall hire another person to hunt game for him or her, nor shall any person hunt game animals for another in return for payment of goods, services, or money.

§ 244.14 Hunters required to wear colored clothing.

No person shall hunt any big game animal without wearing, in a visible manner, exterior garments of a fluorescent orange color, which shall include a hat, and either a shirt, vest, jacket, coat, sweater or other upper body garment.

§ 244.15 Hunting hours.

No person shall pursue, shoot, kill or attempt to take any wildlife between ½ hour after sunset of one day and ½ hour before sunrise of the next day.

§ 244.16 Age restrictions.

The following age restrictions shall apply for hunting on Indian lands on the Reservation.

(a) The minimum age to take any big game animal is 14 years.

(b) No person under 12 years of age may take any game bird, small game, waterfowl or predator unless accompanied by an adult.

(c) Non-enrolled children of enrolled members may take wildlife, but, at age 16, non-enrolled children lose all tribal hunting and trapping rights.

§ 244.17 Permit requirements, costs and procedures.

The following permit program will be implemented for qualified persons to hunt on Indian lands on the Reservation.

(a) *Requirements.* (1) No person shall be allowed to take or attempt to take any wildlife without a proper permit and tags (see § 224.18) in their possession. Also, no person taking or attempting to take wildlife on the Reservation shall fail or refuse to exhibit their permit(s) to an authorized officer upon request.

(2) State of Wyoming hunting licenses shall not be required for enrolled tribal members hunting on Indian lands of the Reservation.

(b) *Permit costs.* Permit fees for hunting on Indian lands on the Reservation will be established annually and published by the Superintendent and will be used for the purposes of administering this game code.

(c) *Procedures.* (1) Permits (licenses) shall be issued in the name of the Department of the Interior—BIA. Each permit shall be signed by the permittee in ink on the face thereof. Any permit not signed is invalid. With each permit authorizing the taking of wildlife, the Bureau shall provide such tags as required. Tags shall be attached in a manner prescribed by the Superintendent.

(2) It shall be unlawful for any person to obtain and sign, as a permittee in any one permit year, more than one tag for the taking of each authorized big game species.

(3) The Bureau may issue a duplicate permit, provided that the person requesting such duplicate permit furnishes the information deemed necessary. A fee of $2.00 shall be collected for each duplicate permit issued.

(d) *Permit conditions required.* All persons to whom permits are issued by the Bureau shall be required to sign permit conditions before any such permit shall be valid. The permit conditions shall be in the form provided by § 244.17(e). The permit conditions shall be signed by the applicant in the presence of the person issuing the permit.

(e) *Permit conditions.* Permit conditions shall be printed on the back of all permits and shall take the following form:

(1) I hereby agree as consideration for the granting of this permit, that the following terms and conditions govern my use of the permit.

(2) I agree to obey all Federal laws and regulations.

(3) I consent to the absolute and exclusive jurisdiction of Federal Court for any disputes arising from my use of resources administered by the Federal Government.

(4) I understand that taking of wildlife on the Wind River Reservation is conditioned on my obedience of Federal laws and regulations and that violation of such laws and regulations makes me subject to arrest, Federal court action, loss of present and future permits and seizure of property as security for payment of potential financial obligations to the Department of the Interior.

(5) I understand that willfully using wildlife resources contrary to the terms of Federal law or regulation, constitutes theft of Federal assets and is a violation of Federal law.

(6) I agree to return all unused tags within 20 days after close of the season. For each tag used to tag a harvested animal, the following information must be provided to the Superintendent no later than 20 days after the close of the big game season:

(i) Species of animal killed.

(ii) Sex of animal killed.

(iii) If a deer or elk, list number of points, or if a spike.

(iv) Date animal was killed.

(v) Approximate location of kill.

(7) For each tag a hunter does not return or for which the above harvest information is not provided, either in person or by mail, to the Superintendent within the allotted time frame, loss of hunting privileges for one or more big game seasons, will result. This information is needed to obtain a profile of the big game harvest to aid in setting future seasons and properly manage big game on the Reservation.

(8) The front of the permit form shall contain the following words, "I have read and hereby agree to abide by the Wind River Reservation Game Code and Permit conditions as stated on the

reverse. This permit is not valid unless signed in ink in the presence of designated official."

(f) *Revocation and denial of right to obtain permit: Notice.* In addition to or as an alternative to pursuing the other remedies provided by this Code, the Superintendent, after notice, may suspend or revoke, for a period not to exceed five years, the permit and privilege to take wildlife of any person who:

(1) Unlawfully takes or possesses wildlife.

(2) Carelessly uses a firearm or other weapon.

(3) Destroys, injures, or molests livestock, or damages or destroys crops, personal property, notices, signboards, or other improvements while taking wildlife.

(4) Before any such suspension or revocation, the Superintendent shall notify the person whose privileges may be suspended to appear and show cause why they should not be suspended.

(5) The Superintendent shall maintain the names and addresses of persons whose permits have been revoked or suspended, and the periods for which they have been denied the right to secure permits.

(g) *Obtaining a permit by fraud or misrepresentation.* (1) No person shall, by fraud or misrepresentation, obtain a permit to take wildlife, and any permit thus obtained is null and void from the date of issuance thereof.

(2) It shall be unlawful for any person to issue a permit of any kind to a person whose privileges to obtain that permit has been suspended or revoked. Any permit issued to a person whose privilege to have that permit has been revoked or suspended, shall be void.

(h) *Transportation permits.* A person may transport big game legally taken by another person provided that the big game has attached to it a permit for the taking of that game endorsed by the person who took it. Wildlife shall be transported in such a manner that it may be inspected by authorized persons upon demand until the wildlife is processed. No person shall possess more than one bag or possession limit of any species of wildlife, except for the purpose of transportation. The Superintendent can be contacted for information on transporting game off of the Reservation.

§ 244.18 Civil penalties.

In addition to or as an alternative to pursuing the other remedies provided by this Code, violators shall be subject to the Civil Penalty provisions of 16 U.S.C. 3142(g). The rules and procedures for the assessment of civil penalties and forfeitures included in 50 CFR Parts 11 and 12 shall be followed by the Superintendent in referring cases to the Office of the Solicitor, Department of the Interior.

§ 244.19 Tagging procedure for harvested big game and some fur-bearing animals.

(a) Tags are required for hunting big game and some fur-bearing animals on the Reservation. The Superintendent shall publish a list on or before June 1 of the animals that can be hunted with required tags.

(b) Upon application for a big game permit, tags will be issued for each species for which a permit is issued. Each tag shall bear the permittee's big game permit number and name of the species for which it is issued. Tags are not transferable. Evidence of sex must remain attached to the carcass in the field and during transportation. Big game tags shall be carried by the permittee at all times while hunting. No big game animal shall be transported, stored, or possessed unless the tag has been securely attached.

§ 244.20 Restrictions on motor vehicle use, posting of notices and exceptions.

(a) *Motor vehicle use.* When the Superintendent determines that the operation of motor vehicles within a certain area is or may be damaging to wildlife reproduction, wildlife management, wildlife habitat, or special studies, the Superintendent may post notices closing the area(s) to motor vehicles for a designated period of time, *Provided That*: All roads in the area shall remain open unless specifically closed.

(b) *Notices of restrictions, posting and publication.* For all areas specified pursuant to § 244.(20a), the Superintendent shall cause notice of the restrictions, prohibitions or permitted uses of such area to be posted, prior to the effective date of such changes in use, the main roads and highways entering such area and at such locations as the Area Director deems appropriate. In addition to the posted notices required by § 244.20(a), the Superintendent shall cause a notice of such restrictions, prohibitions, or permitted uses, together with a description of the area, to be published in the local newspaper prior to the effective date of such changes in use.

(c) *Roadless area.* In compliance with 25 CFR Part 265, no person shall drive any motor-operated vehicle in the designated Wind River Roadless Area. Also, it is illegal to operate any motor-operated vehicle cross-country on Federal lands where cross-country driving is prohibited.

(d) *Exceptions.* The restrictions, prohibitions or permitted uses established in § 244.19(a) shall not apply to:

(1) Public employees acting within the scope of their employment.

(2) Holders of valid licenses or permits. Holders of such licenses and permits shall be limited to the specified purposes and area of travel for which such licenses or permits were issued or granted.

(3) A licensed hunter who enters an area solely to pick up a big game animal which he/she has legally killed.

(4) Emergency situations, such as fire or other disasters, or when otherwise necessary to protect life or property.

§ 244.21 Interference with persons engaged in authorized activities.

Disturbing, molesting or interfering with any employee of the United States or of any local or state government employee engaged in official business, or with any private person engaged in the pursuit of an authorized activity on the Reservation is prohibited.

§ 244.22 False personation.

(a) Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or office thereof, and acts as such, or in such pretended character demands or obtains any money, paper, document or thing of value, shall be fined not more than $1,000 or imprisoned not more than three years, or both.

(b) Whoever falsely represents himself/herself to be an officer, agent, or employee of the United States, and in such assumed character arrests or detains any person or in any manner searches the person, buildings or other property of any person, shall be fined not more than $1,000 or imprisoned not more than three years, or both.

§ 244.23 Expenditures of funds, source and functions.

The Area Director and Superintendent may expend such funds as may become available from funds appropriated to carry out the provisions of this Game Code, including, but not limited to, expenditures for:

(a) Investigations and surveys of actual or possible wildlife habitat damage by motor vehicles and the study of areas to be recommended for cross-country vehicle use.

(b) Posting notices of restrictions, prohibitions and permitted uses of motor vehicles.

(c) Providing maps.

(d) An information and education program on wildlife habitat preservation and restoration.

(e) The enforcement of the provisions of this Game Code or any rule or regulation adopted pursuant to this Code.

§ 244.24 Taking birds.

No person shall take or injure any bird or harass any bird upon its nest, or remove the nest or eggs of any bird, except as may occur in normal horticultural and agricultural practices and as may be authorized by the Area Director. Nothing in this Code shall be construed to prohibit the taking of such birds for scientific purposes.

§ 244.25 Other prohibited activities.

Except as otherwise provided by this Code, in addition to all other activities prohibited, while hunting, by this Code, it shall be unlawful for any person to:

(a) Destroy or deface signs, tables, improvements, crops, or personal or real property;

(b) Destroy, remove, injure or cut any green tree on the Reservation without written BIA authorization;

(c) Cut, damage, or destroy any fence on the Reservation;

(d) Hunt big game on the Reservation without a valid permit in possession;

(e) Take big game in excess of the number permitted by Bureau regulations or hunt big game during a period of the year not permitted by Bureau regulations;

(f) Hunt big game in any manner or place not permitted by Bureau regulations;

(g) Enter upon land closed to entry while hunting, fishing, camping, or hiking or while travelling on the Reservation;

(h) Detach or remove, or attempt to detach or remove from the carcass of a big game animal, a portion thereof for the purpose of misrepresenting or concealing the species or sex of the animal;

(i) Use any explosive compound or corrosive, narcotic, poison or other deleterious substance for the purpose of taking, stunning, or killing, birds, small game or big game;

(j) Take, possess, transport, buy, sell or offer for sale any migratory bird taken on the Reservation, except as permitted by this Code or other Federal regulations;

(k) Carry, transport, or possess devices for taking game within or upon a game refuge, except as permitted by this Code or other Federal regulations;

(l) Enter any special use area of the Reservation without a proper Special Use Permit;

(m) Disobey a lawful order of any authorized officer; or

(n) Cross-country ski, snowmobile, sled, tube or toboggan in key wildlife winter critical habitat areas closed to such activities upon public notice from the Superintendent.

Kenneth L. Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 84-26644 Filed 10-4-84; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7981]

Income Tax; Taxable Years Beginning After December 31, 1953; Limitation on Aggregate Amount of Private Activity Bonds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary income tax regulations relating to the tax exempt status of private activity bonds. This action is necessary because of changes to the applicable tax law made by the Tax Reform Act of 1984. These regulations affect all purchasers and governmental issuers of tax exempt private activity bonds. In addition, the text contained in the temporary regulations set forth in this document serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register.**

DATE: The temporary regulations are effective in general for governmental obligations issued after December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Mitchell H. Rapaport of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3590).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the limitation on the aggregate amount of private activity bonds that may be issued by a governmental unit under section 103(n) of the Internal Revenue Code of 1954 as amended by section 621 of the Tax Reform Act of 1984 ("the Act") (Pub. L. 98-369; 98 Stat. 915). Further, new §§ 1.103(n)-1T through 1.103(n)-6T are added by this document to Part 1 of Title 26 of the Code of Federal Regulations. The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

Explanation of Provisions

Section 103(n) of the Internal Revenue Code of 1954 provides that a private activity bond issued as part of an issue shall not be treated as an obligation described in section 103(a) if the aggregate amount of private activity bonds issued by the issuing authority during the calendar year exceeds such authority's private activity bond limit for the calendar year. Section 103(n), in effect, provides a ceiling on the aggregate amount of private activity bonds that may be issued within a State during a single calendar year.

In general, the term "private activity bond" means industrial development bonds or student loan bonds the interest on which is tax exempt under section 103(a). There are three principal exceptions to this general definition, however.

First, obligations described in section 103(b)(4)(A) to provide residential rental projects and housing program obligations issued under the United States Housing Act of 1937 are not private activity bonds.

Second, obligations that are part of an issue substantially all of the proceeds of which are to be used to provide a facility described in section 103(b)(4) (C) or (D) (other than a parking facility) are not private activity bonds if the property described in those subparagraphs is owned for Federal income tax purposes generally by, or on behalf of, a governmental unit. This exception applies only to certain large, one-time projects that are traditionally thought of as public facilities and only if a governmental unit owns the facility. For this reason, for purposes of § 1.103(n)-2T, the term "facility" has been construed broadly. Thus, § 1.103(n)-2T provides, generally, that this exception to the definition of the term private activity bond will not apply unless the entire facility is owned by a governmental unit. Although the statute provides no exceptions to this rule, the regulations set forth certain limited exceptions.

In determining whether a facility is owned by a governmental unit, all facts and circumstances will be considered. Nevertheless, for purposes of this exception, property will not be treated as owned by a lessee of that property solely because of the length of the lease if the lessee elects not to claim depreciation or an investment credit with respect to the property. This special rule only applies in situations where the lessee is the owner solely because of the length of the lease; if for Federal income tax purposes generally a non-governmental lessee is the owner of the property other than solely by reason of the length of the lease, the fact that the lessee elects not to claim depreciation or an investment credit with respect to the leased property will not prevent the obligations involved from being private activity bonds. In addition, even if a govenmental unit is the owner of property for Federal income tax purposes generally, the governmental unit will not be treated as the owner of the property for purposes of this exception where the property is leased to a non-governmental entity under a lease that provides for significant front end loading of rental accruals or payments.

The third principal exception to the definition of the term "private activity bond" is that obligations issued to refund any other issue of governmental obligations described in section 103(a) are not private activity bonds. This exception for refunding obligations only applies to the extent that the aggregate amount of the refunding obligation does not exceed the outstanding principal amount of the refunded obligation; any excess is treated as the proceeds of a private activity bond (unless one of the other exceptions to the definition of private activity bond applies to the excess). In the case of obligations to refund student loan bonds, the refunding obligation exception will not apply if the refunding obligations have the effect of extending the maturity of the prior issue beyond the statutorily specified limit.

Section 631(a) of the Act provides that Code section 103(n), in general, applies to obligations issued after December 31, 1983. Section 103(n) does not apply to an issue of obligations, however, if there was an inducement resolution for the project prior to June 19, 1984, and the issue is issued before January 1, 1985.

Section 631(a)(3) of the Act requires that issuing authorities allocate a portion of their private activity bond limits to certain projects described in an inducement resolution that existed prior to October 19, 1983. The temporary regulations provide that in order for a project to qualify for the rights granted by section 631(a)(3), a substantial user of the project must notify the issuing authority by December 31, 1984, as to the year in which the obligations to provide the project will be required to be issued. This rule is intended to provide issuing authorities with notice so that they will be able to determine the amount of the private activity bond limit available for other projects. If the obligations are not issued during the calendar year in which the substantial user stated that such obligations would be required, the project will lose its priority under section 631(a)(3). This rule does not, however, prevent an issuing authority from allocating a portion of its private activity bond limit for a later year to that project.

If the amount of obligations required by all projects that meet the requirements of section 631(a)(3) of the Act exceeds the issuing authority's private activity bond limit, priority shall be provided first to those projects for which substantial expenditures were incurred before October 19, 1983. Issuers may define the term "substantial expenditures" in any reasonable manner based on the relevant facts and circumstances and the issuing authority's private activity bond limit.

The temporary regulations provide a formula for determining the State ceiling. In general, the State ceiling is equal to the greater of $200 million or an amount equal to $150 multiplied by the State's population. Section 103(n) and the temporary regulations provide a formula for allocating the State ceiling among the State agency or agencies that are authorized to issue private activity bonds and the other issuing authorities within the State. This formula is based on population. The effect of the formula is to set at zero the private activity bond limit for issuing authorities other than general purpose governmental units, *e.g.*, States, cities, and counties. These provisions are consistent with the intent of Congress that the decision as to what types of projects should be financed is best made by the appropriate State or local government. This formula prevents the occurrence of anomalous results, such as a general purpose governmental unit having little or no private activity bond limit due to the fact that a special purpose governmental unit or a constituted authority empowered to issue private activity bonds on behalf of the general purpose governmental unit has jurisdiction over a slightly smaller area than the general purpose governmental unit.

Although issuing authorities other than general purpose governmental units will be allocated private activity bond limits of zero, a general purpose governmental unit generally is free to assign all or any portion of its private activity bond limit to any authority empowered to issue private activity bonds on its behalf and to any special purpose governmental unit within the State deriving sovereign powers from it. Under the allocation formula provided in section 103(n) (2) and (3), however, most other assignments are prohibited. A special rule is provided, however, for regional authorities empowered to issue private activity bonds on behalf of more than one governmental unit.

Under section 103(n)(6) a State may provide a formula for allocating the State ceiling different from the formula specified by section 103(n) (2) and (3). Any such formula, however, will not cause any outstanding obligation that complied with section 103(n) when issued retroactively to fail to comply with section 103(n). A State may not increase or decrease the State ceiling amount by providing a different allocation.

Section 103(n) permits an issuing authority to elect to carry forward its unused private activity bond limit for any calendar year. The carryforward must be for a specific carryforward project. The carryforward permits the issuing authority to issue private activity bonds in later years for the carryforward project; such obligations will count against the carryforward (to the extent thereof) and not against the issuing authority's private activity bond limit for the year in which the obligations are issued until the carryforward amount is exhausted.

Section 103(n)(12) provides that the interest on a private activity bond allocated a portion of the State ceiling shall not be exempt from tax under section 103(a) unless the public official responsible for such allocation certifies under penalties of perjury that such private activity bond was not allocated a portion of the private activity bond limit in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign. Section 1.103(n)–5T specifies the requirements for making this certification.

Format

These temporary regulations are presented in the form of questions and answers. The questions and answers are not intended to address comprehensively the issues raised by section 103(n). Taxpayers may rely for guidance on these questions and answers, which the Internal Revenue Service will follow in resolving issues arising under section 103(n). No inference, however, should be drawn regarding questions not expressly raised and answered.

Non-Applicability of Executive Order 12291

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis is not required.

Regulatory Flexibility Act

A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for temporary regulations. Accordingly, the temporary regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Paperwork Reduction Act

The collection of information requirements contained in these regulations has been submitted to the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB under control number 1545–0874.

Drafting Information

The principal author of these temporary regulations is Mitchell H. Rapaport of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance, and style.

List of Subjects in 26 CFR 1.61–1 Through 1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

Amendments to the Regulations

For the reasons set out in the preamble, Part 1 of Title 26 of the Code of Federal Regulations is amended to read as follows:

PART 1—[AMENDED]

New §§ 1.103(n)–1T through 1.103(n)–6T are added following § 1.103–16 to read as follows:

§ 1.103(n)–1T Limitation on aggregrate amount of private activity bonds.

Q–1: What does section 103(n) provide?

A–1: Interest on an issue of private activity bonds will not be tax exempt unless the aggregrate amount of bonds issued pursuant to that issue, when added to (i) the aggregate amount of private activity bonds previously issued by the issuing authority during the calendar year and (ii) the portion of that year's private activity bond limit that the issuing authority has elected to carry forward to a future year, does not exceed the issuing authority's private activity bond limit for that calendar year. See A–4 of § 1.103(n)–4T with respect to private activity bonds issued under a carryforward election.

Q–2: What is the effective date of section 103(n)?

A–2: In general, section 103(n) applies to private activity bonds issued after December 31, 1983. Section 103(n) does not apply to any issue of obligations, however, if there was an inducement resolution (or other comparable preliminary approval) for the project before June 19, 1984, and the issue for such project is issued before January 1, 1985. An issue of obligations will be considered to be issued for the project pursuant to the inducement resolution in existence before June 19, 1984, to the extent that the nature, character, and purpose of the facility has not changed in any material way, and to the extent that the capacity of the facility has not increased materially; in addition, the issue of obligations must be for the same or a related initial owner, manager, or operator. See § 1.103–10(e) for the definition of related persons. See A–16 of § 1.103(n)–3T with respect to certain projects preliminarily approved before October 19, 1983. The transitional rules provided by section 631(c) of the Tax Reform Act of 1984 do not apply to section 103(n). See § 1.103–13(b)(6) for the rules relating to the date of issue of obligations.

Q–3: If an issue of private activity bonds causes the issuer's private activity bond limit to be exceeded, what is the effect on that issue?

A–3: If an issue of private activity bonds causes the issuing authority's private activity bond limit to be exceeded, no portion of that issue will be treated as obligations described in section 103(a), and interest paid on the issue will be subject to Federal income taxation.

Q–4: If an issue of private activity bonds causes the issuer's private activity bond limit to be exceeded, what is the effect on previous issues of private activity bonds that met the requirements of section 103(n) when issued?

A–4: Private activity bonds issued as part of an issue that met the private activity bond limit when issued continue to meet the requirements of section 103(n) even though a subsequent issue causes the aggregate amount of private activity bonds issued by an issuing authority to exceed the authority's private activity bond limit for the calendar year.

Example. The following example illustrates the provisions of A–3 and A–4 of this § 1.103(n)–1T:

Example. The State ceiling for State Z for 1986 is $200 million. City M, within the State, and State Z itself are authorized to issue private activity bonds. Under the allocation formula provided by the Governor of State Z, City M has a private activity bond limit of $50 million; the balance of the State ceiling is allocated to State Z. On June 1, 1986, City M issues a $75 activity bonds. On September 1, 1986, State Z issues a $150 million issue of private activity bonds. Based on these facts, the obligations of City M do not meet the requirements of section 103(n) since the aggregate amount of private activity bonds issued by City M in 1986 exceeded its private activity bond limit for such year; thus, such obligations are not described in section 103(a). That the State Z issue caused the aggregate amount of private activity bonds issued in the State during 1986 to exceed the State ceiling does not cause such obligations to fail to meet the requirements of section 103(n).

Q–5: What is the aggregate amount of private activity bonds issued as part of an issue?

A–5: The aggregate amount of private activity bonds issued as part of an issue is the face amount of the issue.

§ 1.103(n)–2T Private activity bond defined.

Q–1: What is the definition of the term "private activity bond"?

A–1: In general, for purposes of §§ 1.103(n)–1T through 1.103(n)–6T, the term "private activity bond" means any industrial development bond or student loan bond the interest on which is exempt from tax under section 103(a) (without application of section 103(n)). See § 1.103–7(b) for the definition of the term "industrial development bond." See A–17 of this § 1.103(n)–2T for the definition of the term "student loan bond." There are five exceptions to the general definition of the term "private activity bond"; the exceptions include the exception for the Texas Veterans' Bond Program, the residential rental property exception, the exception for certain facilities described in section 103(b)(4) (C) or (D), and the refunding obligation exception. These exceptions are described in A–2 through A–16 of this § 1.103(n)–2T. In addition, the term "private activity bond" does not include any issue of obligations if there was an inducement resolution (or other comparable preliminary approval) for the project before June 19, 1984, and the issue for that project is issued before January 1, 1985. See A–2 of § 1.103(n)–1T.

Q–2: To which obligations does the exception for the Texas Veterans' Bond Program apply?

A-2: The term "private activity bond" does not include general obligation bonds issued under the Texas Veterans' Bond Program if the proceeds of the issue, other than an amount that is not a major portion of the proceeds, are used to make loans of up to $20,000 for the purchase of land for purposes authorized by such program as in effect on June 19, 1984. The use of the proceeds may be established by the affidavit of the veteran receiving the loan. For purposes of this exception to the definition of the term "private activity bond," the use of more than 25 percent of the proceeds of an issue of obligations will constitute the use of a major portion of such proceeds.

Q-3: To which obligations does the residential rental property exception apply?

A-3: The term "private activity bond" does not include any obligation issued to provide projects for residential rental property (including property functionally related and subordinate to any such facility), as described in section 103(b)(4)(A) and § 1.103-8(b). In addition, the term "private activity bond" does not include any housing program obligation under section 11(b) of the United States Housing Act of 1937.

Q-4: To which obligations does the exception for certain facilities described in section 103(b)(4) (C) or (D) apply?

A-4: Section 103(n)(7)(C) provides that the term "private activity bond" does not include any obligation issued as part of an issue to provide convention or trade show facilities, as described in section 103(b)(4)(C) and § 1.103-8(d) (including property functionally related and subordinate to any such facilities), if the property so described is owned by, or on behalf of, a governmental unit. In addition, the term "private activity bond" does not include any obligation issued as part of an issue to provide airports, docks, wharfs, mass commuting facilities, or storage or training facilities directly related to any of the foregoing facilities, as described in section 103(b)(4)(D) and § 1.103-8(e) (including property functionally related and subordinate to any such facilities), if the property so described is owned by, or on behalf of, a governmental unit. See § 1.103-8(a)(3), in general, for the definition of the term "functionally related and subordinate." For purposes of this exception to the definition of the term "private activity bond," the term "mass commuting facilities" includes "qualified mass commuting vehicles," as defined in section 103(b)(9), that are associated with a mass commuting facility described in § 1.103-8(e)(2)(iv). Obligations issued as part of an issue to provide parking facilities, as described in section 103(b)(4)(D), are not excepted from the definition of the term "private activity bond;" however, parking facilities may be functionally related and subordinate to another facility described in section 103(b)(4) (C) or (D).

Q-5: When is property described in section 103(b)(4) (C) or (D) owned by, or on behalf of, a governmental unit?

A-5: In general, property described in section 103(b)(4) (C) or (D) will be considered to be owned by a governmental unit if a governmental unit is the owner of the property for Federal income tax purposes generally. See A-5 of § 1.103(n)-3T for the definition of the term "governmental unit". In general, property described in section 103(b)(4) (C) or (D) will be considered to be owned on behalf of a governmental unit if a constituted authority empowered to issue obligations on behalf of a governmental unit is the owner of the property for Federal income tax purposes generally. Whether the property is owned by, or on behalf of, a governmental unit will be determined on the basis of the facts and circumstances of each particular case. The fact that the governmental unit's or constituted authority's obligation to pay principal and interest on an obligation is limited to revenues from fees collected from users of the property provided with the proceeds of such obligation will not, in itself, cause such property to be treated as not owned by, or on behalf of, the governmental unit. In order to qualify for the exception described in section 103(n)(7)(C), the property must be owned by, or on behalf of, the governmental unit throughout the term of the issue. See A-10 of this § 1.103(n)-2T with respect to the consequences of a transfer of ownership.

O-6: Will property described in section 103(b)(4) (C) or (D) that is leased to a non-governmental entity be treated as owned by, or on behalf of, a governmental unit if the lessee is the owner of the property for Federal income tax purposes generally solely by reason of the length of the lease?

A-6: If property, or any portion thereof, is leased to a non-governmental entity and if, for Federal income tax purposes generally, the lessee is the owner of the property solely by reason of the length of the lease, then, for purposes of §§ 1.103(n)-1T through 1.103(n)-6T (but not for other Federal income tax purposes, such as whether payments under the lease constitute deductible rental payments), the governmental unit will be treated as the owner of the property if the lessee elects not to claim depreciation or an investment credit with respect to such property. See A-7 of this § 1.103(n)-2T for the rules describing the method of making this election. For purposes of §§ 1.103(n)-1T through 1.103(n)-6T, the term "non-governmental entity" means a person other than a governmental unit or a constituted authority empowered to issue obligations on behalf of a governmental unit. The fact that a non-governmental entity lessee elects not to claim depreciation or an investment credit with respect to property does not, however, ensure that the property will be treated as owned by, or on behalf of a governmental unit for purposes of §§ 1.103(n)-1T through 1.103(n)-6T. Thus, for example, if the lessee is the owner of the property for Federal income tax purposes generally other than solely because of the length of the lease, the obligations issued as part of the issue are private activity bonds notwithstanding that the lessee elected not to claim depreciation or an investment credit with respect to the property.

Similarly, even if a governmental unit is the owner of property for Federal income tax purposes generally, the property will not be treated as owned by, or on behalf of, a governmental unit for purposes of §§ 1.103(n)-1T through 1.103(n)-6T if the lease under which such property is leased to a non-governmental entity provides for significant front end loading of rental accruals or payments. See A-12 of this § 1.103(n)-2T with respect to significant front end loading of rental accruals or payments.

Q-7: What must a lessee do in order to elect not to take depreciation or an investment credit with respect to property described in section 103(b)(4) (C) or (D)?

A-7: The lessee must make the election at the time the lease is executed. The election must include a description of the property with respect to which the election is being made; the name, address, and TIN of the issuing authority; the name, address, and TIN of the lessee; and the date and face amount of the issue the proceeds of which are to be used to provide the property. The election must be signed by the lessee, if a natural person, or by a duly authorized official of the lessee. The issuing authority must be provided with a copy of the election. The issuing authority and the lessee must retain copies of the election in their respective records for the entire term of the lease. In addition, the lease, and any publicly recorded document recorded in lieu of such lease, must state that neither the lessee nor any successor in interest under the lease may claim depreciation or an investment credit with respect to such property. This election may be made with respect to property whether or not such property otherwise would be eligible for depreciation or an investment tax credit. See section 7701(a)(41) for the definition of the term "TIN."

Q–8: Is the election not to claim depreciation or an investment credit revocable?

A–8: No, the election is irrevocable. In addition, the election is binding on all successors in interest under the lease regardless of whether the obligations remain outstanding. If a successor in interest claims depreciation or an investment credit with respect to property for which such an election has been made, such property will be considered transferred to a non-governmental entity. See A–10 of this § 1.103(n)–2T with respect to the consequences of such a transfer.

Q–9: Where obligations are issued to provide all or any portion of a facility described in section 103(b)(4) (C) or (D), must all of the property described in section 103(b)(4) (C) or (D) that is part of such facility be owned by, or on behalf of, a governmental unit in order for such obligations to qualify for the exception to the definition of the term "private activity bond" provided in section 103(n)(7)(C)?

A–9: Generally, yes. If obligations are issued to provide all or any portion of a facility described in section 103(b)(4) (C) or (D), the obligations comprising such issue will not qualify for the exception to the definition of the term "private activity bond" provided in section 103(n)(7)(C) unless all of the property described in section 103(b)(4) (C) or (D) that is part of (or functionally related and subordinate to) the facility being financed is owned by, or on behalf of, a governmental unit throughout the term of the issue. For this purpose, the facility being financed will be construed to include the entire airport, dock, etc., under consideration and not merely the part of the facility being provided with the proceeds of the issue. For example, the term facility, when used in reference to an airport, will be considered to include all property that is part of, or included in, that airport under § 1.103–8(e)(2)(ii)(*a*), including all property functionally related and subordinate thereto under § 1.103—8 (a)(3) and (e)(2)(ii)(*b*). Thus, if the proceeds of an issue are used to provide a hangar at an airport described in section 103(b)(4)(D), that airport is considered as being financed with such issue, and if any portion of that airport, including property functionally related and subordinate thereto, is treated as owned by a non-governmental entity, that issue does not qualify for the exception of the definition of the term "private activity bond" provided in section 103(n)(7)(C).

There are three exceptions to this rule, however. First, if any property otherwise would be considered part of the facility financed and such property was not provided with proceeds of any obligation described in section 103(a), such property will not be considered part of the facility being financed.

Second, if any property otherwise would be considered part of the facility being financed and such property was part of such facility on or before October 5, 1984, such property will not be considered part of the facility being financed. For this purpose, property will be considered part of the facility on or before October 5, 1984, if any person was under a binding contract to acquire or construct such property to be a part of such facility on October 5, 1984.

Third, property will not be considered part of the facility being financed if such property (i) is land, a building, a structural component of a building, or other structure (other than tangible personal property (other than an air conditioning or heating unit)) and such property is not physically supported by, does not physically support, and is not physically connected to any property provided with the proceeds of obligations that qualify for the exception to the definition of the term "private activity bond" provided in section 103(n)(7)(C), or (ii) is tangible personal property (other than an air conditioning or heating unit). For this purpose, contiguous parcels of land will not be considered to support, to be supported by, or to be physically connected to each other, and insignificant physical connections (such as a connection by a sidewalk) will be disregarded. For purposes of this A–9, the term "tangible personal property" shall have the meaning given to it under section 48(a)(1)(A) and § 1.48–1(c).

Examples. The following examples illustrate the provisions of A–9 of this § 1.103(n)–2T:

Example (1). On January 1, 1986, Governmental Unit M issues industrial development bonds to provide an airport, as described in section 103(b)(4)(D), which will consist of land, runways, a terminal and a functionally related and subordinate hotel. The hotel will be leased to N, a non-governmental entity. The lease does not call for significant front end loading of rental accruals or payments. For Federal income tax purposes generally, M will own the entire airport except that N will be the owner of the hotel solely by reason of the length of the lease. N properly elects not to claim depreciation of an investment credit with respect to the hotel. The industrial development bonds are not private activity bonds.

Example (2). The facts are the same as in Example (1) except that N does not make the election and claims depreciation with respect to the hotel. The entire issue of industrial development bonds is treated as an issue of private activity bonds.

Example (3). The facts are the same as in Example (2) except that the hotel is provided other than with the proceeds of an obligation described in section 103(a). The issue for the remainder of the airport qualifies for the exception to the definition of the term "private activity bond" provided in section 103(n)(7)(C).

Example (4). The facts are the same as in Example (2) except that the hotel, including the hotel parking lot, the hotel grounds, and the parcel of land on which they rest, are provided with a separate issue of industrial development bonds. There are no significant connections between the hotel and the airport. The issue for the hotel is an issue of private activity bonds. The issue for the remainder of the airport qualifies for the exception to the definition of the term "private activity bonds" provided in section 103(n)(7)(C).

Example (5). The facts are the same as Example (4) except that the hotel is constructed upon land provided with the proceeds of the issue used to provide the remainder of the airport. Both issues are treated as issues of private activity bonds.

Example (6). On June 30, 1983, construction began on the City NN airport, which consists of land, runways, a terminal, and hangars. Corporation XX (a non-governmental entity) owns for Federal income tax purposes generally several of the hangars, which it financed with obligations described in section 103(a) issued on June 30, 1983. On March 1, 1985, at a time when XX still owns the hangars, City NN issues an issue of obligations described in section 103(b)(4)(D) to enlarge the terminal at the City NN airport. City NN will own the addition to the terminal for Federal income tax purposes generally. The obligations comprising the March 1, 1985, issue will not be private activity bonds.

Q–10: What are the consequences if a governmental unit ceases to be treated as owning property described in section 103(b)(4) (C) or (D) where the property was provided by obligations that were not private activity bonds on the date of issue due to the exception provided in section 103(n)(7)(C)?

A–10: The obligations outstanding on the date such ownership ceases are private activity bonds and are treated as if they are the last private activity bonds issued by the issuer in the calendar year in which the transfer of ownership occurs. Thus, if the aggregate amount of bonds issued pursuant to such issue, when added to the aggregate amount of the other private activity bonds actually issued or treated as issued under this A–10 by the issuer during such year and the amount of any carryforward elections made during the year, exceeds the issuer's private activity bond limit for such year, the obligations are not described in section 103(a) as of the date on which transfer of ownership occurs; if such obligations do not comply with the requirements of section 103(n), the obligations will be treated as not described in section 103(a) as of the date such ownership ceases. However, if on the date of issue the issuer intended to transfer ownership of such property to a non-governmental entity during the term of the issue, then the obligations are treated as the last private activity bonds actually issued or treated as issued under this A-10 by the issuer during the year in which such obligations were actually issued; if such obligations do not comply with the requirements of section 103(n), the obligations will be treated as not described in section 103(a) as of the date of issue. The exception to the definition of the term "private activity bond" for facilities described in section 103(b)(4) (C) and (D) only applies if the property is owned by, or on behalf of, a governmental unit while all or any part of the issue or any refunding issue remains outstanding.

If all or a portion of the property is sold to a non-governmental entity for its fair market value and all of the proceeds from the sale (except for a de minimis amount less than $5,000) are used within six months to redeem outstanding obligations, the obligations will not be treated as private entity bonds.

Q-11: What are the consequences if private activity bonds are issued to provide additions to a facility that was provided with obligations that were not private activity bonds when issued by virtue of the exception provided in section 103(n)(7)(C) and such additions are not treated as owned by a governmental unit?

A-11: In order to qualify for the exception to the definition of the term "private activity bond" for obligations described in section 103(b)(4) (C) or (D), all of the property described in section 103(b)(4) (C) or (D) that is part of the facility provided with the proceeds generally must be owned by, or on behalf of, a governmental unit. See A-9 of this § 1.103 (n)-2T. However, if the proceeds of an issue of private activity bonds are used to make additions to a facility (other than additions that are not considered to be part of the facility under A-9 of this § 1.103(n)-2T) that was provided with another issue of industrial development bonds that were not private activity bonds when issued by virtue of the exception provided in section 103(n)(7)(C), then the prior issue will not cease to qualify for that exception. Nevertheless, for purposes of determining the aggregate amount of private activity bonds issued during the year that the issue to provide the addition to the previously financed facility is issued, the portion of the prior issue outstanding on the date of issue of the issue to provide the addition will be treated as part of the issue to provide the addition.

Example. The following example illustrates the provisions of A-11 of this § 1.103 (n)-2T:

Example. On March 1, 1986, City P issues a $100 million issue of industrial development bonds to provide an airport, as described in section 103(b)(4)(D). City P uses substantially all of the proceeds to acquire land and to construct runways and a terminal on that land. No other property is constructed on the land. City P is the owner of the land and the terminal for Federal income tax purposes generally. Thus, the obligations comprising the March 1, 1986, issue are not private activity bonds when issued. On September 1, 1988, City P leases a portion of the land adjacent to the terminal to Corporation V (a non-governmental entity) under a true lease for Fderal income tax purposes. City P's private activity bond limit for 1988 is $100 million, and as of September 30, 1988, City P has not issued any private activity bond during 1988. On September 30, 1988, City P issues a $20 million issue of industrial development bonds, the proceeds of which are to be used to construct a hotel that is functionally related and subordinate to the airport. The hotel is to be constructed on the land that P leased to Corporation V. The hotel will be owned by Corporation V for Federal income tax purposes generally. On September 30, 1988, the outstanding face amount of the March 1, 1986, issue is $100 million. Although the obligations comprising the March 1, 1986, issue will not become private activity bonds as a result of the subsequent issue, on September 30, 1988, City P is treated as issuing a $120 million issue of private activity bonds. Since that amount exceeds City P's private activity bond limit, the $20 million issue of private activity bonds issued on September 30, 1988, does not meet the requirements of section 103(n). In addition, any subsequent issuance of private activity bonds by City P during 1988 will fail to meet the requirements of section 103(n). The March 1, 1986, issue continues to be described in section 103(a).

Q-12: Section 103(n)(7)(C)(iv) provides that the exception for certain facilities described in section 103(b)(4) (C) or (D) shall not apply in any case where the facility is leased under a lease that has significant front end loading of rental accruals or payments. What does "significant front end loading of rental accruals or payments" mean?

A-12: Where a lease requires rental payments that are significantly higher in the early years of the lease than in later years, the lease calls for significant front end loading of rental accruals or payments. A lease that provides for flat rental payments during the entire lease term does not violate the prohibition against significant front end loading of rent. In addition, a lease may provide for adjustments in rent for inflation or deflation, provided that such adjustments are to be made on the basis of a generally recognized price index. In addition, a lease may provide that rental payments are to be determined, in whole or part, based on a percentage of income, production, etc., provided that the percentage rate is kept constant (or increases) over the term of the lease and that the threshold, if any, above which the percentage applies is kept constant (or decreases) over the term of the lease. Thus, for example, a lease that requires rental payments throughout the term of the lease of $100,000 per year plus 5 percent of the gross income from the facility in excess of $500,000 does not violate the prohibition against significant front end loading of rent.

Examples. The following examples illustrate the provisions of A-4 through A-12 of this § 1.103(n)-2T:

Example (1). On February 1, 1985, County Z issues obligations with a term of 30 years. Substantially all of the proceeds of the obligations are to be used to provide a trade show facility as described in section 103(b)(4)(C). Z leases the entire facility to Corporation S. For Federal income tax purposes generally, S is treated as the owner of the facility solely by reason of the length of the lease. The lease provides that the lessee will elect not to claim depreciation or an investment credit with respect to the facility and that S will provide Z with a copy of the election. S makes the election, retains it in its records, and provides County Z with a copy. The lease provides that neither the lessee nor any successor in interest will claim a deduction for depreciation or an investment credit with respect to such facility. The obligations are not private activity bonds on the date of issue, provided that the lease does not call for significant front end loading of rental accruals or payments.

Example (2). The facts are the same as in Example (1) except that on February 1, 1986, S assigns the lease to Corporation T. For its taxable year ending March 31, 1986, Corporation T claims depreciation with respect to the trade show facility. The obligations outstanding on the date Corporation T claims depreciation on its Federal income tax return are treated as the last private activity bonds actually issued or treated as issued by County Z during 1986, and such obligations must comply with the requirements of section 103(n). In addition, Corporation T is not entitled to claim depreciation or an investment credit with respect to the trade show facility during the balance of the term of the lease and will be subject to the applicable penalties for so claiming depreciation.

Example (3). The facts are the same as in Example (1) except that the obligations are redeemed on January 31, 1998; on January 31, 1999, S assigns the lease to Corporation X; and on its Federal income tax return for calendar year 1999, Corporation X claims depreciation with respect to the facility. The obligations are not private activity bonds provided that the lease does not call for significant front end loading of rental accruals or payments. However, X is not entitled to claim depreciation or an investment credit with respect to the trade show facility during the balance of the term of the lease and will be subject to the applicable penalties for so claiming those items.

Q–13: To which obligations does the refunding obligation exception apply?

A–13: The term "private activity bond" does not include any refunding obligation to the extent specified in this A–13. The term "refunding obligation" means an obligation that is part of an issue of obligations the proceeds of which are used to pay any principal or interest on any other issue of obligations described in section 103(a) (referred to as the prior issue). The term "refunding obligation" does not include any obligations issued more than 180 days before the prior issue is discharged ("advance refundings"). The exception for refunding obligations only applies to the extent that the aggregate amount of the refunding issue does not exceed the outstanding face amount of the prior issue, or portion thereof, being refunded. Thus, for example, in the case of an obligation part of the proceeds of which are to be used to refund a prior issue of private activity bonds and part of the proceeds of which are to be used to provide a pollution control facility under section 103(b)(4)(F), those proceeds to be used to refund all or any part of the principal amount of the prior issue are not the proceeds of a private activity bond; the balance of the proceeds are the proceeds of a private activity bond. The refunding obligation exception does not apply to obligations to the extent that amounts are used to pay the costs of issuing refunding obligations. If an issue of obligations consists of both obligations that qualify for the refunding obligation exception and private activity bonds that do not meet the requirements of section 103(n), the entire issue is treated as consisting of obligations not described in section 103(a).

Q–14: Does the refunding obligation exception apply to obligations issued to refund a prior issue of student loan bonds?

A–14: In the case of any student loan bond, the refunding obligation exception applies only if, in addition to the requirements stated in A–13 of this § 1.103(n)–2T, the maturity date of the funding obligation is not later than the later of (i) the maturity date of the obligation to be refunded, or (ii) the date 17 years after the date on which the refunded obligation was issued (or, in the case of a series of refundings, the date on which the original obligation was issued).

Q–15: What is the "maturity date" of an obligation?

A–15: For purposes of section 103(n), the "maturity date" of an obligation is the date on which interest ceases to accure and the obligation may either be paid or redeemed without penalty. The date is determined without regard to optional redemption dates (including those at the option of holders). If the issuer is required by the obligations or the indenture to redeem portions of obligations or to make payments of principal with respect to obligations in specified amounts and at specified times, such mandatory redemptions or payments shall be treated as separate obligations.

Q–16: Where private activity bonds are refunded with other obligations described in section 103(a), does the refunding obligation exception apply to the extent that the aggregate amount of the refunding obligations exceeds the outstanding principal amount of the prior issue due to the use of a portion of the proceeds of the refunding issue to fund a reasonably required reserve or replacement fund?

A–16: Whether the prior issue was issued prior to January 1, 1984, or thereafter, the refunding obligation exception to the definition of the term "private activity bond" only applies to the extent that the aggregate amount of the refunding obligation does not exceed the outstanding principal amount of the prior issue. Thus, the additional obligations issued to provide for a reasonably required reserve or replacement fund are private activity bonds.

Q–17: What is a "student loan bond"?

A–17: The term "student loan bond" means an obligation that is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly to finance loans to individuals for educational expenses. For purposes of this A–17, the use of more than 25 percent of the proceeds of an issue of obligations to finance loans to individuals for educational expenses will constitute the use of a major portion of such proceeds in such manner.

§ 1.103(n)–3T Private activity bond limit.

Q–1: What is the "State ceiling"?

A–1: In general, the State ceiling applicable to each State and the District of Columbia for any calendar year prior to 1987 shall be the greater of $200 million or an amount equal to $150 multiplied by the State's (or the District of Columbia's) population. In the case of any territory or possession of the United States, the State ceiling for any calendar year prior to 1987 shall be an amount equal to $150 multiplied by the population of such territory or possession. In the case of calendar years after 1986, the two preceding sentences shall be applied by substituting "$100" for "$150." In the case of any State that had an excess bond amount for 1983, the State ceiling for calendar year 1984 shall be the sum of the State ceiling determined under the general rule plus 50 percent of the excess bond amount for 1983. The excess bond amount for 1983 is the excess (if any) of (i) the aggregate amount of private activity bonds issued by issuing authorities in such State during the first 9 months of calendar year 1983 multiplied by 4/3, over (ii) the State ceiling determined under the general rule for 1984. For purposes of determining the State ceiling amount applicable to any any State for calendar year 1984, an issuer may rely upon the State ceiling amount published by the Treasury Department for such calender year. However, an issuer may compute a different excess bond amount for 1983 where the issuer or the State in which the issuer is located has made a more accurate determination of the amount of private activity bonds issued by issuing authorities in the issuer's State during 1983. See A–7 of this § 1.103(n)–3T for rules regarding a State containing constitutional home rule cities.

Q–2: What is the private activity bond limit for a State agency?

A–2: Under section 103(n)(2) the private activity bond limit for any agency of the State authorized to issue private activity bonds for any calendar year shall be 50 percent of the State ceiling for such year unless the State provides for a different allocation. For this purpose, the State is considered an agency. See, however, A–17 of this § 1.103(n)–3T with respect to the penalty for failure to comply with the requirements of section 631(a)(3) of the Tax Reform Act of 1984.

Q–3: How is private activity bond limit determined where a State has more than one agency?

A–3: If any State has more than one agency (including the State) authorized to issue private activity bonds, all such agencies shall be treated as a single agency for purposes of determining the aggregate private activity bond limit available for all such agencies. Each of the State agencies is treated as having jurisdiction over the entire State. Therefore, under A–8 of this § 1.103(n)–3T the aggregate private activity bond limit for all the State agencies is allocated to the State since it possesses the broadest sovereign powers of any of the State agencies. Each other State agency's private activity bond limit is zero until it is assigned part of the private activity bond limit of another governmental unit pursuant to these regulations.

Q–4: What is a State agency?

A–4: A State agency is an agency authorized by a State to issue private activity bonds on behalf of the State. In addition, a special purpose governmental unit that derives its sovereign powers from the State and may exercise its sovereign powers throughout the State is a State agency. See A–5 of this § 1.103(n)–3T for the definition of the term "special purpose governmental unit." The term "State agency" does not include issuing authorities empowered by a State at the request of another governmental unit within the State to issue private activity bonds to provide facilities within the jurisdiction of such other governmental unit. For example, if County O requests the legislature of State P to create an issuing authority empowered to issue obligations to provide pollution control facilities in County O, the authority is not a State agency.

Examples. The following examples illustrate the provisions of A–3 and A–4 of this § 1.103(n)–3T:

Example (1). For 1987 State Q has a State ceiling of $200 million. Neither the Governor nor the legislature of State Q has provided a formula for allocating the State ceiling different from that provided by section 103(n)(2) and (3). State Q has authorized the following State agencies to issue private activity bonds on its behalf: Authority M, Authority N, and Authority O. The aggregate private activity bond limit available for State agencies of State Q is $100 million. As of January 1, 1987, none of this aggregate private activity bond limit has been assigned to any of Authorities M, N, or O. On January 1, 1987, Authority M issues $25 million of private activity bonds. During 1987, the duly authorized official designated by State Q to allocate the aggregate private activity bond limit among the three authorities does not allocate any of the State's private activity bond limit to Authority M. The January 1, 1987, issue does not meet the requirements of section 103(n) since Authority M has no private activity bond limit for 1987.

Example. (2) Under the laws of State U, only the State legislature can create constituted authorities empowered to issue private activity bonds on behalf of governmental units within State U. Authority R was created by the State U legislature at the request of County X. Authority R is a constituted authority empowered to issue private activity bonds on behalf of County X to provide facilities located in County X. Authority S was created by the legislature to issue private activity bonds to provide pollution control facilities throughout the State. Authority S is a State agency as defined in A–4 of this § 1.103(n)–3T. Authority R it is not a State agency.

Q–5: What is a governmental unit?

A–5: The term "governmental unit" has the meaning given such term by § 1.103–1. For purposes of §§ 1.103(n)–1T through 1.103(n)–6T, a governmental unit is either a general purpose governmental unit or a special purpose governmental unit. The term "general purpose governmental unit" means a State, territory, possession of the United States, the District of Columbia, or any general purpose political subdivision thereof. The term "general purpose political subdivision" denotes any division of government that possesses the right to exercise police powers, the power to tax, and the power of eminent domain and that is governed, at least in part, by popularly elected officials (*e.g.*, county, city, town, township, parish, village). The term "special purpose governmental unit" means any governmental unit as defined in § 1.103–1 other than a general purpose governmental unit. For example, a sewer authority with the power of eminent domain but without police powers is a special purpose governmental unit. A constituted authority empowered to issue private activity bonds on behalf of a governmental unit is not a governmental unit.

Q–6: What is the private activity bond limit for a general purpose governmental unit other than a State, the District of Columbia, a territory, or a possession?

A–6: The private activity bond limit for any such general purpose governmental unit for any calendar year is an amount equal to the general purpose governmental unit's proportionate share of 50 percent of the State ceiling amount for such calendar year. See A–10 of this § 1.103(n)–3T with respect to the rules for providing a different allocation. The proportionate share of a general purpose governmental unit is an amount that bears the same ratio to 50 percent of the State ceiling for such year as the population of the jurisdiction of such general purpose governmental unit bears to the population of the entire State, District of Columbia, territory, or possession in which its jurisdiction falls. See, however, A–17 of this § 1.103(n)–3T with respect to the penalty for failure to comply with the requirements of section 631(a)(3) of the Tax Reform Act of 1984. See A–9 of this § 1.103(n)–3T with respect to the private activity bond limit of issuing authorities other than general purpose governmental units.

Q–7: What is the private activity bond limit for a general purpose governmental unit in a State with one or more constitutional homes rule cities?

A–7: The private activity bond limit for a constitutional home rule city for any calendar year is an amount equal to the constitutional home rule city's proportionate share of 100 percent of the State ceiling amount for the calendar year. The proportionate share of a constitutional home rule city is an amount that bears the same ratio to the State ceiling for such year as the population of the jurisdiction of such constitutional home rule city bears to the population of the entire State. The private activity bond limit for issuers other than constitutional home rule cities is computed in the manner described in A–2 through A–6 of this § 1.103(n)–3T, except that in computing the private activity bond limit for issuers other than such constitutional home rule cities, the State ceiling amount for any calendar year shall be reduced by the aggregate private activity bond limit for all constitutional home rule cities in the State. The term "constitutional home rule city" means, with respect to any calendar year, any political subdivision of a State that, under a State constitution that was adopted in 1970 and effective on July 1, 1971, had home rule powers on the first day of the calendar year. See, however, A–17 of this § 1.103(n)–3T with respect to the penalty for failure to comply with the requirements of section 631(a)(3) of the Tax Reform Act of 1984.

Q–8: How is the private activity bond limit of an issuing authority determined under section 103(n)(3) when there are overlapping jurisdictions?

A–8: If an area is within the jurisdiction of two or more governmental units, that area will be treated as only within the jurisdiction of the governmental unit having jurisdiction over the smallest geographical area. However, the governmental unit with jurisdiction over the smallest geographical area may enter into a written agreement to allocate all or a designated portion of such overlapping area to the governmental unit having jurisdiction over the next smallest geographical area. Where two or more issuing authorities, whether governmental units or constituted authorities, have authority to issue private activity bonds and both issuing authorities have jurisdiction over the identical geographical area, that area will be treated as only within the jurisdiction of the one having the broadest sovereign powers. However, the issuing authority having the broadest sovereign powers may enter into a written agreement to allocate all or a designated portion of such area to the one with the narrower sovereign powers. All written agreements entered into pursuant to this A–8 must be retained by the assignee in its records for the term of all private activity bonds it issues in each calendar year to which such agreement applies. See A–9 of this § 1.103(n)–3T with respect to the private activity bond limit of issuing authorities other than general purpose governmental units.

Q–9: What is the private activity bond limit of an issuing authority (other than a State agency) that is not a general purpose governmental unit?

A–9: A constituted authority empowered to issue private activity bonds on behalf of a governmental unit is treated as having jurisdiction over the same geographical area as the governmental unit on behalf of which it is empowered to issue private activity bonds. Since a governmental unit has broader sovereign powers than a constituted authority empowered to issue private activity bonds on its behalf, a constituted authority has a private activity bond limit under section 103(n) (2) and (3) of zero. Similarly, a special purpose governmental unit is treated for purposes of section 103(n) as having jurisdiction over the same geographical area as that of the general purpose governmental unit or units from which the special purpose governmental unit derives its sovereign powers. Since a general purpose governmental unit has broader sovereign powers than a special purpose governmental unit, a special purpose governmental unit has a private activity bond limit under section 103(n) (2) and (3) of zero. An issuer of qualified scholarship funding bonds, as defined in section 103(e), is treated for purposes of section 103(n) as issuing on behalf of the State or politicial subdivision or subdivisions that requested its organization or its exercise of power to issue bonds. See A–13 and A–14 of this § 103(n)–3T with respect to assignments of private activity bond limit. For purposes of §§ 1.103(n)–1T through 1.103(n)–6T, a special purpose governmental unit shall be considered to derive its authority from the smallest general purpose governmental unit that—

(i) Enacts a specific law (e.g., a provision of a State constitution, charter, or statute) by or under which the special purpose governmental unit is created, or

(ii) Otherwise empowers, approves, or requests the creation of the special purpose governmental unit, or

(iii) Appoints members to the governing body of the special purpose governmental unit,

and within which general purpose governmental unit falls the entire area in which such special purpose governmental unit may exercise its sovereign powers. If no one general purpose governmental unit meets such criteria (e.g., a regional special purpose governmental unit that exercises its sovereign powers within three counties pursuant to a separate ordinance adopted by each such county), such special purpose governmental unit shall be considered to derive its sovereign powers from each of the general purpose governmental units comprising the combination of smallest general purpose governmental units within which falls the entire area in which such special purpose governmental unit may exercise its sovereign powers and each of which meets (i), (ii), or (iii) above.

Q–10: Does the issue comply with the requirements of section 103 (n) under the following circumstances? Based on the most recent estimate of the resident population of State Y published by the Bureau of the Census before the beginning of 1988, the State ceiling for State Y is $200 million. Based on the same estimate, the population of City Q is one-fourth of the population of State Y. No part of the geographical area within the jurisidiction of City Q is within the jurisdiction of any other governmental unit with jurisdiction over a smaller geographical area. There are no consitutional home rule cities in State Y. Neither the Governor nor the legislature of State Y has provided a different formula for allocating the State ceiling than that provided by section 103(n) (2) and (3); thus, City Q's private activity bond limit for 1988 is $25 million (.25 × .50 × $200 million). As of March 1, 1988, City Q has issued $15 million of private activity bonds during calender year 1988, none of which were issued pursuant to a carryforward election made in a prior year. On March 1, 1988, City Q will issue $5 million of private activity bonds to provide a pollution control facility as described in section 103(b)(4) (F). C, a duly authorized official of City Q responsible for issuing the bonds, provides a statement that will be included in the bond indenture or a related document providing that—

(i) Under section 103(n) (2) and (3) of the Internal Revenue Code, City Q has a private activity bond limit of $25 million for calendar year 1988 (.25 × .50 × $200 million), none of which has been assigned to it by another governmental unit,

(ii) State Y has not provided a different method of allocating the State ceiling,

(iii) City Q has not assigned any portion of its private activity bond limit to a constituted authority empowered to issue private activity bonds on its behalf, or to any other governmental unit,

(iv) City Q has not elected to carry forward any of its private activity bond limit for 1988 to another calendar year, nor has City Q in any prior year made a carryforward election for the pollution control facility,

(v) The aggregate amount of private activity bonds issued by City Q during 1988 is $15 million, and

(vi) The issuance of $5 million of private activity bonds on March 1, 1988, will not violate the requirements of section 103 (n) and the regulations thereunder.

In addition, C provides the certification described in section 103 (n) (12) (A).

A–10: Based on these facts, the issue meets the requirements of section 103(n) and §§ 1.103(n)–1T through 1.103(n)–6T. See § 1.103–13(b)(8) for the definition of the terms "bond indenture" and "related documents."

Q–11: May a State provide a different formula for allocating the state ceiling?

A–11: A State, by law enacted at any time, may provide a different formula for allocating the State ceiling among the governmental units in the State (other than constitutional home rule cities) having authority to issue private activity bonds, subject to the limitation provided in A–12 of this § 1.103(n)–3T. The governor of a State may proclaim a different formula for allocating the State ceiling amoung the governmental units in such State having authority to issue private activity bonds. The authority of the governor to proclaim a different formula shall not apply after the earlier of (i) the first day of the first calendar year beginning after the legislature of the State has met in regular session for more than 60 days after July 18, 1984, and (ii) the effective date of any State legislation dealing with the allocation of the State ceiling. If, on or before either date, the governor of any State execrcises the authority to provide a different allocation, such allocation shall be effective until the date specified in (ii) of the immediately preceding sentence. Unless otherwise provided in a State constitutional amendment or by a law changing the home rule provisions adopted in the manner provided by the State constitution, the allocation of that portion of the State ceiling that is allocated to any constitutional home rule city may not be changed by the governor or State legislature unless such city agrees to such different allocation.

Q–12: Where a State provides an allocation formula different from that provided in section 103 (n) (2) and (3), which allocation formula applies to obligations issued prior to the adoption of the different allocation formula?

A-12: Where a State provides a different allocation formula, the determination as to whether a particular bond issue meets the requirements of section 103(n) will be based upon the allocation formula in effect at the time such bonds were issued. The amount that may be reallocated pursuant to the later allocation formula is limited to the State ceiling for such year reduced by the amount of private activity bonds issued under the prior allocation formula in effect for such year.

Q-13: May an issuing authority assign a portion of its private activity bond limit to another issuing authority if the governor or legislature has not provided for an allocation formula different from that provided in section 103(n) (2) and (3)?

A-13: Except as provided in this A-13 or in A-8, A-14, or A-15 of this § 1.103(n)-3T, no issuing authority may assign, directly or indirectly, all or any portion of its private activity bond limit to any other issuing authority, and no such attempted assignment will be effective. However, a general purpose governmental unit may assign a portion of its private activity bond limit to (i) a constituted authority empowered to issue private activity bonds on behalf of the assigning governmental unit, and (ii) a special purpose governmental unit deriving sovereign powers from the governmental unit making the assignment. In addition, a State may assign a portion of its private activity bond limit to a constituted authority empowered to issue private activity bonds on behalf of any governmental unit within such State and to any governmental unit within such State. Finally, an issuing authority that is assigned all or a portion of the private activity bond limit of a governmental unit pursuant to the immediately preceding two sentences may assign such amount or any part thereof to the governmental unit from which it received the assignment. None of these permissible types of assignments shall be effective, however, unless made in writing by a duly authorized official of the governmental unit making the assignment and a record of the assignment is maintained by the assignee for the term of all private activity bonds it issues in each calendar year to which such assignment applies. None of these permissible types of assignments shall be effective if made retroactively; provided, however, that retroactive assignments may be made during 1984. In addition, except as provided in A-15 of this § 1.103(n)-3T, a purported assignment by a governmental unit of a portion of its private activity bond limit to an issuing authority will be ineffective to the extent that private activity bonds issued by such authority provide facilities not located within the jurisdiction of the governmental unit making the assignment, unless the sole beneficiary of the facility is the governmental unit attempting to make the assignment. Similarly, except as provided in A-15 of this § 1.103(n)-3T, a governmental unit may not allocate a portion of its private activity bond limit to an issue of obligations to provide a facility not located within the jurisdiction of that governmental unit unless the sole beneficiary of the facility is the governmental unit attempting to allocate its private activity bond limit to the issue. If an issuing authority issues an issue of obligations a portion of the proceeds of which are to be used to provide a facility not within its jurisdiction other than one described in the immediately preceding sentence, that issue will not meet the requirements of section 103(n) unless an issuing authority within the jurisdiction of which the facility is to be located specifically allocates a portion of its private activity bond limit to such issue equal to the amount of proceeds to be used to provide such facility.

Q-14: May an issuing authority assign a portion of its private activity bond limit to another issuing authority if the governor or legislature has provided for an allocation formula different from that provided in section 103(n) (2) and (3)?

A-14: Yes, under certain conditions. In providing a different formula for allocating the State ceiling, a State may permit an issuing authority to assign all or a portion of its private activity bond limit to other issuing authorities within the State, provided that such assignment is made in writing and a record of that assignment is maintained by the assignee in its records for the term of all private activity bonds it issues in each calendar year to which such assignment applies and a record of that assignment is maintained during such period by the public official responsible for making allocations of the State ceiling to issuing authorities within the State. The preceding sentence will only apply where the different formula expressly permits such assignments. Notwithstanding this A-14, no assignments may be made to regional authorities without compliance with the provisions of A-15 of this § 1.103(n)-3T.

Q-15: May a general purpose governmental unit assign a portion of its private activity bond limit to a regional authority empowered to issue private activity bonds on behalf of two or more general purpose governmental units?

A-15: Yes, under certain conditions. In order for an issue of private activity bonds issued by such a regional authority to meet the requirements of section 103(n), each of the governmental units on behalf of which the regional authority issues private activity bonds must assign to the regional authority a portion of its private activity bond limit based on the ratio of its population to the aggregate population of all such governmental units. The governmental unit within the jurisdiction of which the facility to be provided by the private activity bonds will be located, however, may elect to treat the regional authority as if it were a constituted authority empowered to issue such obligations solely on behalf of that governmental unit and, therefore, may assign a portion of its limit to the authority solely to provide the facility within its jurisdiction. Similarly, if a facility will solely benefit one governmental unit, that governmental unit may make the election described in the preceding sentence. In addition, any of the governmental units on behalf of which the regional authority issues private activity bonds, other than the governmental unit within the jurisdiction of which the facility will be located, may elect to be treated as if it had not empowered the authority to issue that issue of private activity bonds on its behalf. In providing a different formula for allocating the State ceiling, a State may permit a governmental unit to assign all or a portion of its private activity bond limit to a constituted authority empowered to issue private activity bonds on behalf of two or more governmental units, all of which are located within the State. The preceding sentence will only apply where the different formula expressly so provides. The principles of this A-15 shall not apply to any regional authority created with a principal purpose of avoiding the restrictions provided in A-13 or A-14 of this § 1.103(n)-3T. The principles of this A-15 shall also apply to a special purpose governmental unit providing facilities located within the jurisdiction of two or more general purpose governmental units from which it derives sovereign powers.

Examples. The following examples illustrate the provisions of A-8 through A-15 of this section:

Example (1). Authority ZZ is empowered by City Y to issue obligations on its behalf to provide financing for pollution control facilities located within the jurisdiction of City Y and the geographical area within 10 miles of the limits of City Y. Authority ZZ has no sovereign powers. Although the authority of Authority ZZ to issue obligations enables it to provide facilities located outside of the jurisdiction of City Y, Authority ZZ is treated as having jurisdiction over the same geographical area as City Y. Since City Y has broader sovereign powers than Authority ZZ, under section 103(n)(3) Authority ZZ has a private activity bond limit of zero. On March 31, 1985, Authority ZZ issues $5 million of private activity bonds. City Y has not assigned any portion of its private activity bond limit to Authority ZZ. Thus, the March 31, 1985, issue of private activity bonds is treated as an issue of obligations not described in section 103(a), and the interest on such obligations is subject to Federal income taxation.

Example (2). In 1972, State S, State T, and State V empowered Authority Z to issue industrial development bonds on behalf of the three States and to provide port facilities in a harbor serving residents of all three States. S, T, and V have populations of 1,000,000, 2,000,000, and 7,000,000, respectively. Authority Z will issue $100 million of private activity bonds on September 1, 1985, to finance construction of a dock to be located in State S. The obligations will not meet the requirements of section 103(n) unless S, T, and V assign a portion of their private activity bond limits to Authority Z pursuant to one of three methods. First, S, T, and V may assign $10 million, $20 million, and $70 million, respectively, of their private activity bond limits to Authority Z for this issue. Second, S, T, and V may assign $100 million, $0, and $0, respectively, of their private activity bond limits to Authority Z for this issue. Third, either T or V (but not S) may allocate $0 of its private activity bond limit to Authority Z for purposes of this issue, and the remaining two States may allocate the $100 million based upon their respective populations. For instance, if T were to allocate $0 for purposes of this issue, S and V must allocate $12.5 million and $87.5 million, respectively, of their private activity bond limits to Authority Z.

Q–16: Must an issuing authority allocate any of its private activity bond limit to certain preliminarily approved projects?

A–16: Yes. Section 631(a)(3) of the Tax Reform Act of 1984 provides that, with respect to certain projects preliminarily approved by an issuing authority before October 19, 1983, the issuing authority shall allocate its share of the private activity bond limit for the calendar year during which the obligations are to be issued first to those projects. For purposes of this A–16 and A–17 and A–18 of this § 1.103(n)–3T, a general purpose governmental unit will be treated as having preliminarily approved a project if the project was preliminarily approved by it, by a constituted authority empowered to issue private activity bonds on its behalf, or by a special purpose governmental unit treated as having jurisdiction over the same geographical area as the general purpose governmental unit. Thus, if a project was approved by a constituted authority, the governmental unit on behalf of which such issue is to be issued must assign a portion of its private activity bond limit to the authority pursuant to section 631(a)(3) of the Act. If a project was preliminarily approved by a constituted authority empowered to issue private activity bonds on behalf or more than one general purpose governmental unit or a special purpose governmental unit that derives its sovereign powers from more than one general purpose governmental unit, the project will be considered approved by each of such general purpose governmental units in proportion to their relative populations. The projects that receive priority under section 631(a)(3) of the Act and this A–16 are those with respect to which—

(i) There was an inducement resolution (or other comparable preliminary approval) for a project before October 19, 1983, by an issuing authority,

(ii) A substantial user of the project notified such issuing authority—

(A) By August 17, 1984, that it intended to claim its rights under section 631(a)(3) of the Tax Reform Act of 1984, and

(B) By December 31, 1984, as to the calendar year in which it expects the obligations to provide the project to be issued, and

(iii) Construction of such project began before October 19, 1983, or a substantial user was under a binding obligation on that date to incur significant expenditures with respect to the project.

For purposes of the preceding sentence, the term "significant expenditures" means expenditures that equal or exceed the lesser of $15 million or 20 percent of the estimated cost of the facilities. An issuing authority may require, as part of the submission required by (ii)(B) of this A–16, that a substantial user specify the aggregate amount of private activity bonds necessary for the project. Section 631(a)(3) does not apply to a project to the extent that the aggregate amount of obligations required for such project exceeds the amount, if any, provided for in the inducement resolution or resolutions in existence with respect to such project before October 19, 1983, or in the statement that may be required by the issuing authority as part of the submission required by (ii)(B) of this A–16. Similarly, section 631(a)(3) does not apply to a project to the extent of any material change in its nature, character, purpose, or capacity. Section 631(a)(3) does not apply to a project if the owner, operator, or manager of such project is not the same (or a related person) as the owner, operator, or manager named in the latest inducement resolution with respect to such project in existence before October 19, 1983. Section 631(a)(3) of the Act does not apply to any project if the obligations to provide the project are not issued in the year specified in the submission required by (ii)(B) of this A–16. In addition, section 631(a)(3) of the Act does not apply to any project to the extent that the amount of obligations to be issued for such project exceeds the share of the State ceiling to which the issuing authority that authorized the project is entitled as determined under section 103(n) (2) and (3) without regard to any alternative formula for allocating the State ceiling. The requirements of section 631(a)(3) will not apply where a State statute specifically so provides.

Q–17: What is the penalty for failure to comply with the requirements of section 631(a)(3) of the Act?

A–17: If any issuing authority fails to comply with the requirements of section 631(a)(3) of the Act, its private activity bond limit for the calendar year following the year in which the failure occurs shall be reduced by the amount of private activity bonds with respect to which the failure occurs. This penalty applies whether the issuing authority's private activity bond limit is determined under the formula provided under section 103(n) (2) and (3) or a different formula provided under section 103(n)(6). The penalty is imposed on the issuing authority that failed to comply with the requirements of section 631(a)(3) or, if in the year in which the penalty is imposed the issuing authority does not have a sufficient private activity bond limit to absorb the entire penalty, on the general purpose governmental unit treated as having jurisdiction over the same geographical area as the issuing authority. For purposes of this A–17, the general purpose governmental unit's private activity bond limit includes the private activity bond limit of each issuing authority treated as having preliminarily approved the project under A–16 of this § 1.103(n)–3T. Thus, for example, if a governmental unit failed to comply with the requirements of section 631(a)(3) of the Act with respect to a $5 million issue to be issued in 1985, and that governmental unit is assigned $15 million of the State ceiling for 1986 pursuant to a formula provided under section 103(n)(6), that governmental unit has a private activity bond limit of $10 million for 1986. Similarly, where a project that was preliminarily approved by an issuing authority that is not a governmental unit qualifies for $10 million of priority under section 631(a)(3) of the Act is not allocated a total of $10 million by the governmental unit on behalf of which the issuing authority is empowered to issue private activity bonds, the issuing authority's private activity bond limit, if any, for the year following this failure is reduced by $10 million; if the issuing authority's private activity bond limit for the year following the failure is less than $10 million, the private activity bond limit of the governmental unit on behalf of which the private activity bonds would have been issued had the failure not occurred (including if necessary, on a proportionate basis, the private activity bond limit purported to have been assigned to each of the other constituted authorities empowered to issue private activity bonds on behalf of the governmental unit and each special purpose governmental unit deriving all or part of its sovereign powers from the governmental unit) is reduced by the difference between $10 million and the reduction made in the issuing authority's private activity bond limit with respect to such failure.

Q–18: Will a penalty be assessed for failure to allocate private activity bond limit to all projects that meet the requirements section 631(a)(3) if the amount of obligations required by all such projects preliminarily approved by (or treated as having been preliminarily approved by) an issuing authority exceeds the private activity bond limit of such issuing authority?

A–18: No penalty will be assessed if priority is given to those eligible projects for which substantial expenditures were incurred before October 19, 1983. An issuer may define the term "substantial expenditures" in any reasonable manner based on the relevant facts and circumstances and its private activity bond limit.

Examples. The following examples illustrate the provisions of A–16 through A–18:

Example (1). On October 1, 1983, County S approved an inducement resolution for the issuance of up to $30 million of industrial development bonds to provide a pollution control facility described in section 103(b)(4)(F) for Corporation R. On October 5, 1983, R contracted with Corporation Q to begin construction of the pollution control facility immediately, and construction began on October 10, 1983. Not later than August 17, 1984, Corporation R notified County S that it intended to seek priority under section 631(a)(3) of the Tax Reform Act of 1984. In addition, prior to December 31, 1984, Corporation R notified County S that it expected the County to issue $25 million of industrial development bonds for its project during calendar year 1985. Under section 103(n)(3), County S has a private activity bond limit of $50 million for calendar year 1985, and neither the Governor nor the legislature of the State has provided a different allocation formula under section 103(n)(6). There are no other projects approved by County S that have rights under section 631(a)(3). On March 1, 1985, County S issues $25 million of industrial development bonds for the pollution control facility for Corporation R. If County S allocates less than $25 million of its private activity bond limit to that project, its private activity bond limit for 1986 will be reduced by the difference between $25 million and the amount County S actually allocates to the project.

Example (2). The facts are the same as in Example (1) except that during 1984 Corporation R fails to notify County S of the year in which it expects the obligations to be issued. Upon such failure the pollution control facility no longer qualifies for priority under section 631(a)(3), and County S will not be penalized if it does not allocate any of its private activity bond limit for 1985, or any future year, to that project.

Example (3). The facts are the same as in Example (1) except that under section 103(n)(3) County S has a private activity bond limit of $10 million for 1985. County S will not be penalized if it allocates $10 million of its private activity bond limit to the project.

Example (4). The facts are the same as in Example (3) except that on December 31, 1984, the Governor of the State provides a different allocation from that provided under section 103(n) (2) and (3). (The State has not enacted a statute specifically providing that section 631(a)(3) does not apply.) The different allocation provides that the entire State ceiling is allocated to the State and that the State will allocate the State ceiling to issuing authorities for specific projects on a first-come, first-served basis. Corporation R qualifies for the special rights granted by section 631(a)(3) of the Tax Reform Act to the extent of County S's private activity bond limit as determined under section 103(n)(3), *i.e.*, $10 million. If the State fails to assign to County S $10 million of the State ceiling or if County S, after receiving such assignment, fails to allocate $10 million of private activity bond limit to the project, County S's private activity bond limit (if any) for 1986 will be reduced by the difference between $10 million and the amount of private activity bond limit allocated to the project.

Example (5). The facts are the same as in Example (1) except that Corporation R notifies County S that it only requires $15 million for the pollution control facility, County S only issues $15 million of private activity bonds for the pollution control facility, and County S only allocates $15 million of its private activity bond limit to such obligations. County S will not be penalized for not allocating more than $15 million of its private activity bond limit to Corporation R even though the original inducement resolution provided for up to $25 million.

§ 1.103(n)–4T Elective carryforward of unused private activity bond limit.

Q–1: May an issuing authority carry forward any of its unused private activity bond limit for a calendar year?

A–1: In any calendar year after 1983 in which an issuing authority's private activity bond limit exceeds the aggregate amount of private activity bonds issued during such calendar year by such issuing authority, such issuing authority may elect to treat all, or any portion, of such excess as a carryforward for any one or more projects described in A–5 of this § 1.103(n)–4T (carryforward projects).

Q–2: How is the election to carry forward an issuing authority's unused private activity bond limit made?

A–2: An issuing authority may make the election by means of a statement, signed by a duly authorized public official responsible for making allocations of such issuing authority's private activity bond limit, that the issuing authority elects to carry forward its unused private activity bond limit. The statement shall be mailed to the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255, prior to the end of the calendar year with respect to which the issuing authority has the unused private activity bond limit. The statement is to be titled "Carryforward election under section 103(n)." The statement shall contain the following information:

(i) The name, address, and TIN of the issuing authority,

(ii) The issuing authority's private activity bond limit for the calendar year,

(iii) The aggregate amount of private activity bonds issued by the issuing authority during the calendar year for which the election is being made,

(iv) The unused private activity bond limit of the issuing authority, and

(v) For each carryforward project—

(A) A description of the project, including its address and the general type of facility (*e.g.*, an airport described in section 103(b)(4)(D)),

(B) The name, address, and TIN of the initial owner, operator, or manager, and

(C) The amount to be carried forward for the project.

In the case of a carryforward election for the purpose of issuing student loan bonds, the election need not include the address of the facility or the name, address, and TIN of the initial owner, operator, or manager of the project but shall state that the carryforward election is for the purpose of issuing student loan bonds.

Q–3: Is a carryforward election revocable?

A–3: Any carryforward election, and any specification contained therein, shall be irrevocable after the last day of the calendar year in which the election is made. Thus, for example, obligations issued to finance a carryforward project with a different initial owner, operator, or manager from the owner, operator, or manager specified in the carryforward election shall not be issued purusant to such carryforward election. An insubstantial deviation from a specification contained in a carryforward election shall not prevent obligations from being issued pursuant to such carryforward election. In addition, where a carryforward election is made with respect to more than one carryforward project, a substantial deviation with respect to one carryforward project shall not prevent obligations from being issued pursuant to such carryforward election with respect to the other carryforward projects.

Q–4: How is a carryforward used?

A–4: Any private activity bonds issued during the three calendar years (six calendar years in the case of a project described in section 103(b)(4)(F)) following the calendard year in which the carryforward election was first made with respect to a carryforward project shall not be taken into account in determining whether the issue meets the requirements of section 103(n). If, however, the amount of private activity bonds issued for the carryforward project exceeds the amount of the carryforward elected with respect to the project, then the portion of the issue that exceeds the carryforward shall be taken into account in determining whether the issue meets with the requirements of section 103(n); if that portion of the issue does not meet the requirements of section 103(n) then the entire issue is treated as consisting of obligations not described in section 103(a). Carryforwards elected with respect to any project shall be used in the order of the calendar years in which they arose. Thus, for example, if an issuing authority makes carryforward elections in 1986 and 1988 for a carryforward project and issues private activity bonds for that project in 1989 and 1990, the obligations issued in 1989 will be applied to the 1986 carryforward election to the extent thereof.

Q–5: For what projects may a carryforward election be made?

A–5: A carryforward election may be made for any project described in section 103(b) (4) or (5), and for the purpose of issuing student loan bonds. Thus, for example, an issuing authority may elect to carry forward its unused private activity bond limit in order to provide a sports facility described in section 103(b)(4)(B). In addition, a governmental unit may elect to carry forward its unused private activity bond limit in order to issue qualified scholarship funding bonds. An issuing authority may not, however, elect to carry forward its unused private activity bond limit in order to issue an exempt small issue of industrial development bonds under section 103(b)(6).

§ 1.103 (n)–5T Certification of no consideration for allocation.

Q–1: Who must certify that there was no consideration for an allocation?

A–1: Section 103(n)(12)(A) provides that, with respect to any private activity bond allocated any portion of the State ceiling, the private activity bond will not be described under section 103(a) unless the public official, if any, responsible for such allocation ("responsible public official") certifies under penalties of perjury that to the best of his knowledge the allocation of the State ceiling to that private activity bond was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign. With respect to any issue of private activity bonds, the responsible public official is the official or officer of the issuing authority that in fact is responsible for choosing which individual projects will be allocated a portion of the State ceiling. If a body of several individuals is responsible for such choices, any one member of such body qualifies as the responsible public official.

Q–2: What is the penalty for willfully making an allocation in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign?

A–2: Section 103(n)(12)(B) provides that any person willfully making an allocation of any portion of the State ceiling in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign will be subject to criminal penalty as though the allocation were a willful attempt to evade tax imposed by the Internal Revenue Code.

§ 1.103 (n)–6T Determinations of population.

Q–1: What is the proper method for determining population?

A–1: All determinations of population must be made with respect to any calendar year on the basis of the most recent census estimate (whether final or provisional) of the resident population of the State or other governmental unit published by the Bureau of the Census in the "Current Population Reports" series before the beginning of the calendar year.

However, determinations of the population of a general purpose governmental unit (other than a State, territory, or possession) within a State, territory, or possession may not be based on estimates that do not contain estimates for all of the general purpose governmental units within such State, territory, or possession. Thus, a county may not determine its population on the basis of a census estimate that does not provide an estimate of the population of the other general purpose governmental units within the State (*e.g.*, cities, towns). If no census estimate is available for all such general purpose governmental units, the most recent decennial census of population may be relied on.

Example: The following example illustrates the provisions of A–1 of this § 1.103(n)–6T:

Example. County Q is located within State R. There are no constitutional home rule cities in State R. State R has not adopted a formula for allocating the State ceiling different from the formula provided in section 103(n) (2) and (3). The geographical area within the jurisdiction of County Q is not within the jurisdiction of any other governmental unit having jurisdiction over a smaller geographical area. As of December 31, 1984, the Bureau of the Census has published the following estimates of resident population: "Current Population Reports; Series P–25: Population Estimates and Projections, Estimates of the Population of States: July 1, 1981–1983" and "Current Population Reports; Series P–26: Local Population Estimates: Population of State R, Counties, Incorporated Places, and Minor Civil Divisions: July 1, 1981–1982." The most recent population estimate for State R available prior to 1985 provides population estimates as of July 1, 1983. The most recent population extimates for County Q available prior to 1985 is the estimate for July 1, 1982. Assuming that the State ceiling for State R for 1985 is in excess of $200 million (*i.e.*, $150 multiplied by the estimated population of State R as of July 1, 1983, exceeds $200 million), County Q may determine its private activity bond limit by using the following formula:

$P = \$150 \times .5 \times W \times Y/Z$, where,

P = County Q's private activity bond limit,

W = the July 1, 1983, population estimate for State R,

Y = the July 1, 1982, population estimate for County Q, and

Z = the July 1, 1982, population estimate for State R.

If the State ceiling for State R is not in excess of $200 million, County Q may determine its private activity bond limit by using the following formula:

$P = \$200{,}000{,}000 \times .5 \times Y/Z$, where

P, Y, and Z have the same meaning as above.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 103(n) and 7805 of the Internal Revenue Code of 1954 (98 Stat. 916, 26 U.S.C. 103(n); 68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: September 14, 1984.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84-26507 Filed 10-2-84; 4:22 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 181 and 183

[CGD 83-012]

Certification, Safe Loading and Flotation Standards

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the Certification Regulations in Subpart B of Part 181 and the Safe Loading and Flotation Standards in Subparts C, E, G and H of Part 183 of Title 33, Code of Federal Regulations. The Coast Guard undertook a review of its regulations governing construction standards which apply to the manufacture of recreational boats in an effort to reduce the burden of existing regulations without sacrificing safety. Based upon the review effort, several sections have been determined to no longer be necessary, or have limited value in improving boating safety. These amendments revise or remove these sections of the Certification regulations and the Safe Loading and Flotation Standards to relieve the regulatory burden upon recreational boat manufacturers. Changes in the actual weights of currently manufactured outboard motors are reflected in the table used to determine safe loading capacities and the amount of required flotation material and require the installation of additional flotation material in some boats.

EFFECTIVE DATE: April 3, 1985, except Table 4 in Subpart H which will be effective July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Alston Colihan, Office of Boating, Public, and Consumer Affairs (G-BBS/43), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-1065, between 8 a.m. and 4 p.m. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The Coast Guard published a notice of proposed rulemaking in the **Federal Register** on April 12, 1984 (49 FR 14538). An extension of the comment period for the notice was published in the **Federal Register** on June 7, 1984 (49 FR 23663). Interested persons were invited to participate in this rulemaking by submitting relevant comments. No comments were received. The National Boating Safety Advisory Council was consulted and its opinions and advice have been considered in the formulation of these amendments. The transcripts of the proceedings of the National Boating Safety Advisory Council at which this rule was discussed are available for examination in Room 4304, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. The minutes of the meetings are available from the Executive Director, National Boating Safety Advisory Council, c/o Commandant (G-BBS), U.S. Coast Guard, Washington, D.C. 20593.

This document is in furtherance of Executive Order No. 12291. It removes those sections of the Certification Regulations in Subpart B of Part 181 and the Safe Loading and Flotation Standards in Subparts C, E, G and H of Part 183 that do not significantly contribute to boating safety.

Drafting Information

The principal persons involved in drafting these amendments are Mr. Alston Colihan, Project Manager, Office of Boating, Public, and Consumer Affairs, and LT Sandra Sylvester, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

No comments were received on the proposal.

Regulatory Evaluation

These regulations are considered to be nonmajor under the provisions of section 2 of Executive Order No. 12291 and are nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). The Coast Guard estimates that 2,000 boat models have a rated capacity of more than 550 pounds of persons. The elimination of the requirement for conducting the dry stability test for each of these models will result in an estimated total savings to the boating industry of $200,000 per year. The amendments to the Flotation Standard would result in only minor increases in the costs of manufacturing some boats. Using 1982 sales estimates, forty percent of the 236,000 outboard boats manufactured will be subject to an increase in the amount of flotation material required using the new Table 4 in Subpart H. Some boats with low horsepower ratings will require less flotation material because the weights for those motors have decreased. As a result, performing calculations in accordance with the Flotation Standard using the new Table 4 in Subpart H will amount to an average increased cost of $8.00 per boat.

Since the cost per boat is minimal, in accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this rule will not have a significant economic impact on a substantial number of small entities. Boat builders have until July 1, 1986 before the change to Table 4 in Subpart H becomes effective and any design modifications necessary to accommodate additional flotation material can be incorporated in normal model year changes within this two year period.

List of Subjects in 33 CFR Parts 181 and 183

Marine safety.

In consideration of the foregoing, Parts 181 and 183 of Title 33, Code of Federal Regulations are amended to read as follows:

PART 181—MANUFACTURER REQUIREMENTS

1. By removing and reserving § 181.15(c) and revising § 181.15(d) to read as follows:

§ 181.15 Contents of labels.

* * * * *

(c) [Reserved]

(d) Except as provided in paragraph (e) of this section, the manufacturer may, in addition to the information required by paragraphs (a) and (b) of this section, display on the certification label any or all of the following information:

* * * * *

PART 183—BOATS AND ASSOCIATED EQUIPMENT

2. By revising § 183.39(a) to read as follows:

§ 183.39 Persons capacity: Inboard and inboard-outdrive boats.

(a) The persons capacity in pounds marked on a boat that is designed to use one or more inboard engines or inboard-outdrive units for propulsion must not exceed:

(1) The maximum weight capacity determined under § 183.33 for the boat; or

(2) For boats with a maximum persons capacity less than 550 pounds, the maximum persons capacity determined in the following manner:

* * * * *

3. By revising § 183.41(a) to read as follows:

§ 183.41 Persons Capacity: Outboard boats.

(a) The persons capacity in pounds marked on a boat that is designed to use one or more outboard motors for propulsion must not exceed:

(1) The maximum weight capacity determined under § 183.35 for the boat minus the motor and control weight, battery weight (dry), and full portable fuel tank weight from Table 4 of Subpart H of this Part; or

(2) For boats with a maximum persons capacity less than 550 pounds, the maximum persons capacity determined in the following manner:

* * * * *

Subpart E—Flotation—[Reserved]

4. Part 183 is amended by removing and reserving Subpart E (§§ 183.61–183.67).

5. Effective July 1, 1986 Table 4 in Subpart H is revised to read as follows:

TABLE 4.—WEIGHTS (POUNDS) OF OUTBOARD MOTOR AND RELATED EQUIPMENT FOR VARIOUS BOAT HORSEPOWER RATINGS

Boat horsepower rating	Motor and control weight		Battery weight		Full portable fuel tank weight	1+3+5
	Dry	Swamped	Dry	Submerged		
Column No.	1	2	3	4	5	6
0.1 to 2	25	20				25
2.1 to 3.9	40	34				40
4.0 to 7	60	52			25	35
7.1 to 15	90	82	20	11	50	160
15.1 to 25	125	105	45	25	50	220
25.1 to 45	170	143	45	25	100	315
45.1 to 60	235	195	45	25	100	380
60.1 to 80	280	235	45	25	100	425
80.1 to 145	405	352	45	25	100	550
145.1 to 275	430	380	45	25	100	575
275.1 and up	605	538	45	25	100	750
TRANSOMS DESIGNED FOR TWIN MOTORS						
50.1 to 90	340	286	90	50	100	530
90.1 to 120	470	390	90	50	100	660
120.1 to 160	560	470	90	50	100	750
160.1 to 290	810	704	90	50	100	1000
290.1 to 550	860	760	90	50	100	1050
550.1 and up	1210	1076	90	50	100	1400

(46 U.S.C. 4302; 49 CFR 1.46(n)(1))

Dated: August 27, 1984.

A.D. Breed,

Commodore, U.S. Coast Guard, Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 84-26365 Filed 10-4-84; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Parts 5, 8, 13, and 17

Revocation of Obsolete Regulations

AGENCY: Veterans Administration.

ACTION: Final rule; Revocation.

SUMMARY: The Veterans Administration is revoking a number of obsolete and superfluous regulations. The provisions of these regulations have been either incorporated into other regulations or have been made obsolete by subsequently enacted legislation.

EFFECTIVE DATE: September 28, 1984.

FOR FURTHER INFORMATION CONTACT: Nancy C. McCoy, Chief, Directives Management Division, Paperwork Management and Regulations Service (731), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389-2308.

SUPPLEMENTARY INFORMATION: The Veterans Administration is revoking 38 CFR 5.50, 8.185, 8.186, 13.500 17.951, 17.952 and 17.953. The sections are listed showing current provisions:

Section 5.50 (forfeiture)—superseded by §§ 3.900–3.905.

Sections 8.185 and 8.186 (certain NSLI dividends and premium refunds)—no longer needed.

Section 13.500 (certain disbursements from personal funds of patients)—superseded by § 13.108(b).

Section 17.951 (hospital, domiciliary care and medical treatment)—superseded by §§ 17.31(b)(4), 17.36(b), 17.47(c)(1), 17.60 and 17.115.

Section 17.952 (determination of mental competency of certain members of the Uniformed Services)—no longer needed

Section 17.953 (hospital and medical services for veterans suffering from noncompensable peacetime service-connected disabilities)—superseded by §§ 17.30, 17.47.

The Veterans Administration finds that this action is not included within the term "major rulemaking" as set forth in section 1(a)(3) of Executive Order 12291, Federal Regulation. This action is a purely administrative matter. In addition, this action has no effect under the Regulatory Flexibility Act (15 U.S.C. 601–612).

Under the authority of the Administrator of Veterans Affairs as set forth in 38 U.S.C. 210, sections 5.50, 8.185, 8.186, 13.500, 17.951, 17.952 and 17.953 are hereby revoked and reserved.

Dated: September 28, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 84-26458 Filed 10-4-84; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[WH-FRL-2686-8]

North Dakota Decision on Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Determination on Application of North Dakota for Final Authorization.