or separate labeling that accompanies the device to incorporate the updated procedures for determining technical data values, provided in these documents.

FDA concludes that its original worst-case total cost estimate of slightly more than $1 million is unchanged and reaffirms its initial determination that the rule does not require a regulatory impact analysis under Executive Order 12291. Further, in accordance with section 605(b) of the Regulatory Flexibility Act, FDA concludes that the final rule will not have a significant economic impact on a substantial number of small entities, including small businesses. Even if the agency were to accept the comment's cost figure of $2,600 per company, this would not be a substantial impact on small businesses.

List of Subjects in 21 CFR Part 801

Incorporation by reference, Labeling, Medical devices, Over-the-counter devices, Prescription devices, Requirements for specific devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 801 is amended as follows:

PART 801—LABELING

1. The authority citation for Part 801 is revised to read as follows:

Authority: Sec. 701, 52 Stat. 1055–1056 as amended (21 U.S.C. 371) unless otherwise noted; 21 CFR 5.10. § 801.420 also is issued under secs. 201(h), (k), (m), and (n), 502, 519, 520(e), 704, 52 Stat. 1041 as amended, 1050–1051 as amended, 67 Stat. 477 as amended, 90 Stat. 564–565, 567, 575 (21 U.S.C. 321(h), (k), (m), and (n), 352, 360i, 360j(e), 374).

2. In § 801.420(c)(4) by revising the second and third sentences to read as follows:

§ 801.420 Hearing aid devices; professional and patient labeling.

* * * * *

(c) * * *

(4) * * * The determination of technical data values for the hearing aid labeling shall be conducted in accordance with the test procedures of the American National Standard Specification of Hearing Aid Characteristics, ANSI S3.22–1982 (Revision of S3.22–1976) (ASA 7–1982), which is incorporated by reference. Copies are available from the American National Standards Institute, 1430 Broadway, New York, NY 10018, or are available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * *

* * * * *

Dated: July 2, 1985.

Joseph P. Hile,

Acting Commissioner of Food and Drugs.

[FR Doc. 85–17532 Filed 7–23–85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N-85-1540; FR-2127]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas.

SUMMARY: This Notice is the annual complete listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act and their applicable limits. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices and notice of the determination is published in the **Federal Register**.

EFFECTIVE DATE: July 24, 1985.

FOR FURTHER INFORMATION CONTACT: For single family: Brian Chappelle, Director, Single Family Development Division, Room 9270; telephone (202) 755–6720. For manufactured homes: Christopher Peterson, Director, Office of Title I Insured Loans, Room 9160; telephone (202) 755–6880; 451 Seventh Street, S.W., Washington, D.C. 20410. (Telephones are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) (12 U.S.C. 1701–1749) authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and combination manufactured homes and lots. The NHA, as amended by the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, sections 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam and Hawaii.

The Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98–181, November 30, 1983) (the 1983 Act) further amended HUD's insuring authority. Of particular interest here are: (1) the authorization to insure condominiums in high-cost areas at the same levels as the high-cost limits for one-family residences insured under section 203(b) of the National Housing Act; and (2) the authorization to increase maximum loan limits under the Title I loan insurance program for combination manufactured home and lot loans and for individual lot loans in high-cost areas, so long as the percentage increase in the maximum loan limit does not exceed the percentage increase made to a one-family resident in the area authorized under section 203(b) of the NHA.

The Department implemented these provisions of the 1983 Act in related documents published in the **Federal Register** on April 11, 1984 (see 49 FR 14332, 14335, 14336), effective May 22, 1984. These documents amended the Department's rules to codify the procedure of announcing high-cost mortgage limits for single-family residences, condominiums, combination manufactured homes and lots and manufactured home lots by notice in the **Federal Register** (see the April 11, 1984 documents, amending 24 CFR 201.1504, 203.18b, 203.29, 234.27, and 234.49). In addition, the documents codified the procedure whereby a party may request an alternative mortgage limit (see the same sections cited above).

On May 22, 1984, the Department published a revised list of areas eligible for "high-cost" mortgage limits, which contained several new features. (See 49 FR 21520.) First, there was no separate listing for condominium units, since these limits are not the same as those for other one-family residences. Second, the listing included instructions on how to compute the high-cost limits for combination manufactured homes and lots and individual lots, and specified the special high-cost amounts for manufactured homes, combination manufactured homes and lots and individual lots insured in Alaska, Guam and Hawaii. And, third, it made changes to the list based on a new definition of "metropolitan area".

On December 6, 1984 (49 FR 47657) and May 8, 1985 (50 FR 19341), the Department published amendments to the "high-cost" mortgage amounts that added additional areas and further increased the limits of several previously designated high-cost areas.

This Document

In this document, the Department publishes its entire list of high-cost areas with applicable mortgage limits. It incorporates the updates published on December 6, 1984 (49 FR 47657) and May 8, 1985 (50 FR 19341).

In addition, it adds the following new high-cost areas, with applicable limits: Hamilton County, IN; Hendricks County, IN; Johnson County, IN; Marion County, IN; Lafayette Parish, LA; Feller County, CO; Fargo-Moorhead, ND–MN MSA; Sedgwick County, KS; Minnehaha County, SD; Lincoln County, SD; Pennington County, SD; Meade County, SD; Lowndes County, MS; and Galveston County, TX.

It further increases the limits for the following existing high-cost areas: Hillsborough County, NH; Bristol County, MA; Essex County, MA; Middlesex County, MA; Norfolk County, MA; Plymouth County, MA; Suffolk County, MA; Worcester County, MA; Fairfield County, CT; New Haven County, CT; Litchfield County, CT; Richmond-Petersburg, VA MSA; Salt Lake City-Ogden, UT MSA; and Phoenix, AZ MSA.

These high-cost limits are effective July 24, 1985 and supersede other published amounts in effect, to the extent they are inconsistent with figures appearing in this document.

The listing of high-cost areas appears in two parts. Part I explains high-cost limits for mortgatges insured under Title I of the National Housing Act. Part II lists each high-cost area, with applicable limits for single family residences (including condominiums) insured under sections 203(b), 234(c) and 214 of the National Housing Act.

List of Subjects

24 CFR Part 201

Fire prevention, Health facilities, Historic preservation, Home improvement, Loan programs—housing and community development, Manufactured homes, Reporting and recordkeeping requirements.

24 CFR Part 203

Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 234

Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, the Department publishes the revised dollar limitations as follows:

National Housing Act High Cost Mortgage Limits

I. Title I: Method of Computing Limits

A. Section 2(b)(1)(D). Combination manufactured home and lot (excluding Alaska, Guam and Hawaii):

To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II of this list by .80. For example, the first entry, Bristol County, MA, has a one-family limit of $90,000. The combination home and lot loan limit for Bristol County is $90,000 × .80, or $72,000.

B. Section 2(b)(1)(E): Lot only (excluding Alaska, Guam and Hawaii):

To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one-family" column of Part II of this list by .20. For example, the first entry, Bristol County, MA, has a one-family limit of $90,000. The lot only loan limit for Bristol County is $90,000 × .20, or $18,000.

C. Section 2(b)(2). Alaska, Guam and Hawaii limits:

The maximum dollar limits for Alaska, Guam and Hawaii may be 140% of the statutory loan limits set out in section 2(b)(1).

Accordingly, the dollar limits for Alaska, Guam and Hawaii are as follows:

1. For manufactured homes: $56,700. ($40,500 × 140%).

2. For combination manufactured homes and lots: $75,600. ($54,000 × 140%).

3. For lots only: $18,900. ($13,500 × 140%).

II. Title II

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS

Market area designation and local jurisdictions	Mortgage limits: 1-family and condominium unit	2-family	3-family	4-family
Region I				
HUD FIELD OFFICE: BOSTON OFFICE				
Bristol County	$90,000	$101,300	$122,650	$142,650
Essex County				
Middlesex County				
Norfolk County				
Plymouth County				
Suffolk County				
Worcester County				
Berkshire County	$72,200	$81,300	$98,800	$114,000

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits: 1-family and condominium unit	2-family	3-family	4-family
HUD FIELD OFFICE: HARTFORD OFFICE				
Fairfield County	$90,000	$101,300	$122,650	$142,650
Litchfield County				
New Haven County				
Hartford County	$79,800	$89,850	$109,200	$126,000
Middlesex County				
New London County				
Tolland County				
Other Areas	$71,800	$80,900	$98,300	$113,400
HUD FIELD OFFICE: MANCHESTER OFFICE				
Hillsborough County	$72,350	$81,500	$99,050	$114,300
Rockingham County				
Region II				
HUD FIELD OFFICE: CARIBBEAN OFFICE				
San Juan, PR PMSA				
Barceloneta Municipio	$87,100	$98,100	$119,200	$137,550
Bayamon Municipio				
Canovanas Municipio				
Carolina Municipio				
Catano Municipio				
Corozal Municipio				
Dorado Municipio				
Fajardo Municipio				
Florida Municipio				
Guaynabo Municipio				
Humacao Municipio				
Juncos Municipio				
Las Piedras Municipio				
Loiza Municipio				
Luquillo Municipio				
Manati Municipio				
Naranjito Municipio				
Rio Grande Municipio				
San Juan Municipio				
Toa Alta Municipio				
Toa Baja Municipio				
Trujillo Alto Municipio				
Vega Alta Municipio				
Vega Baja Municipio				
Caguas, PR PMSA				
Aguas Buenas Municipio	$79,400	$89,450	$108,700	$125,400
Caguas Municipio				
Cayey Municipio				
Cidra Municipio				
Gurabo Municipio				
San Lorenzo Municipio				

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits: 1-family and condominium unit	2-family	3-family	4-family
Mayaguez, PR MSA				
Anasco Municipio	$79,650	$89,700	$109,000	$125,800
Cabo Rojo Municipio				
Hormigueros Municipio				
Mayaguez Municipio				
San German Municipio				
Ponce, PR MSA				
Juana Diaz Municipio	$81,700	$92,000	$111,800	$129,000
Ponce Municipio				
HUD FIELD OFFICE: NEW YORK OFFICE				
New York, NY PMSA				
Bronx County	$90,000	$101,300	$122,650	$142,650
Kings County				
New York County				
Putnam County				
Queens County				
Richmond County				
Rockland County				
Westchester County				
Nassau-Suffolk, NY PMSA				
Nassau County	$90,000	$101,300	$122,650	$142,650
Suffolk County				
HUD FIELD OFFICE: ALBANY OFFICE				
Albany County	$85,500	$96,300	$117,000	$135,000
Saratoga County				
Schenectady County				
Dutchess County	$90,000	$101,300	$122,650	$142,650
Ulster County				
Onondaga County	$84,350	$95,000	$115,400	$133,200
HUD FIELD OFFICE: NEWARK OFFICE				
Bergen-Passaic, NJ PMSA				
Bergen County	$90,000	$101,300	$122,650	$142,650
Passaic County				
Jersey City, NJ PMSA				
Hudson County	$90,000	$101,300	$122,650	$142,650
Middlesex-Somerset-Hunterdon, NJ PMSA				
Hunterdon County	$90,000	$101,300	$122,650	$142,650
Middlesex County				
Somerset County				
Monmouth-Ocean, NJ PMSA				
Monmouth County	$90,000	$101,300	$122,650	$142,650
Newark, NJ PMSA				
Essex County	$90,000	$101,300	$122,650	$142,650
Morris County				
Sussex County				
Union County				

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits: 1-family and condominium unit	2-family	3-family	4-family
HUD FIELD OFFICE: CAMDEN OFFICE				
Atlantic City, NJ MSA				
Atlantic County	$89,000	$100,000	$121,000	$141,000
Cape May County				
Monmouth-Ocean, NJ PMSA				
Ocean County	$90,000	$101,300	$122,650	$142,650
Trenton, NJ MSA				
Mercer County	$68,500	$77,000	$93,500	$108,000
Wilmington, DE-NJ-MD PMSA				
Salem County, NJ	$70,200	$79,100	$96,100	$110,900
HUD FIELD OFFICE: BUFFALO OFFICE				
Monroe County	$71,250	$80,250	$97,500	$112,000
Region III				
HUD FIELD OFFICE: PHILADELPHIA OFFICE				
Chester County, PA	$90,000	$101,300	$122,650	$142,650
Delaware County, PA	$78,850	$88,800	$107,900	$124,500
Montgomery County, PA	$77,450	$87,200	$105,950	$122,250
HUD FIELD OFFICE: WASHINGTON, DC OFFICE				
Washington, DC-MD-VA MSA				
District of Columbia	$90,000	$101,300	$122,650	$142,650
Montgomery County, MD				
Prince Georges County, MD				
Alexandria City, VA				
Arlington County, VA				
Fairfax County, VA				
Falls Church City, VA				
Loudon County, VA				
Manassas City, VA				
Manassas Park City, VA				
Prince William County, VA				
HUD FIELD OFFICE: BALTIMORE OFFICE				
Washington, DC-MD-VA MSA				
Charles County, MD	$90,000	$101,300	$122,650	$142,650
Calvert County, MD				
Frederick County, MD				
Baltimore, MD MSA (part)				
Howard County	$90,000	$101,300	$122,650	$142,650
Anne Arundel County				
Baltimore, MD MSA (part)				
Baltimore City	$81,400	$91,700	$111,400	$128,550

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits: 1-family and condominium unit	2-family	3-family	4-family
Baltimore County				
Carroll County				
Harford County				
Queen Anne's County				
Wilmington, DE-NJ-MD PMSA				
Cecil County, MD	$70,200	$79,100	$96,100	$110,900
Other Areas:				
Worcester County, MD	$71,250	$80,250	$97,500	$112,500
HUD FIELD OFFICE: RICHMOND OFFICE				
Washington, DC-MD-VA MSA				
Stafford County, VA	$90,000	$101,300	$122,650	$142,650
Richmond-Petersburg, VA MSA				
Charles City County	$72,200	$81,300	$98,800	$114,000
Chesterfield County				
Colonial Heights City				
Dinwiddie County				
Goochland County				
Hanover County				
Henrico County				
Hopewell City				
New Kent County				
Petersburg City				
Powhatan County				
Richmond City				
Norfolk-VA Beach-Newport News, VA MSA				
Chesapeake City	$78,500	$88,450	$107,450	$124,000
Gloucester County				
Hampton City				
James City County				
Newport News City				
Norfolk City				
Poquoson City				
Portsmouth City				
Suffolk City				
Virginia Beach City				
Williamsburg City				
York County				
HUD FIELD OFFICE: WILMINGTON OFFICE				
Wilmington, DE-NJ-MD PMSA				
New Castle County, DE	$70,200	$79,100	$96,100	$110,900
Region IV				
HUD FIELD OFFICE: COLUMBIA OFFICE				
Charleston-North Charleston, SC MSA				
Berkeley County	$80,500	$90,500	$110,000	$127,500
Charleston County				

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family and condominium unit	2-family	3-family	4-family
Dorchester County				
Greenville-Spartanburg, SC MSA				
Greenville County	$72,900	$82,100	$99,700	$115,100
Pickens County				
Spartanburg County				
Charlotte-Gastonia-Rock Hill, NC-SC MSA (part)				
York County, SC	$76,000	$85,500	$104,000	$120,500
HUD FIELD OFFICE: GREENSBORO OFFICE				
Raleigh-Durham, NC MSA				
Durham County	$75,800	$85,350	$103,700	$119,700
Franklin County				
Orange County				
Wake County				
Charlotte-Gastonia-Rock Hill, NC-SC MSA				
Cabarrus County	$76,000	$85,500	$104,000	$120,500
Gaston County				
Lincoln County				
Mecklenburg County				
Rowan County				
Union County				
Other Areas:				
Guilford County	$74,550	$83,950	$102,050	$117,750
FIELD OFFICE: ATLANTA OFFICE				
Atlanta, GA MSA				
Barrow County	$85,250	$96,000	$116,650	$134,600
Butts County				
Cherokee County				
Clayton County				
Cobb County				
Coweta County				
De Kalb County				
Douglas County				
Fayette County				
Forsyth County				
Fulton County				
Gwinnett County				
Henry County				
Newton County				
Paulding County				
Rockdale County				
Spalding County				
Walton County				
HUD FIELD OFFICE: BIRMINGHAM OFFICE				
Mobile, AL MSA				
Baldwin County	$75,000	$84,000	$102,500	$118,000
Mobile County				
Montgomery, AL MSA				
Autauga County				
Elmore County				
Montgomery County				
Birmingham, AL MSA				
Blount County	$69,550	$78,300	$95,150	$109,800
Jefferson County				
St. Clair County				

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family and condominium unit	2-family	3-family	4-family
Shelby County				
Walker County				
HUD FIELD OFFICE: LOUISVILLE OFFICE				
Cincinnati, OH-KY-IN PMSA (part)				
Boone County, KY	$80,750	$90,950	$110,500	$127,500
Campbell County, KY				
Kenton County, KY				
Other Areas:				
Fayette County	$85,500	$96,300	$117,000	$135,000
HUD FIELD OFFICE: MEMPHIS OFFICE				
Memphis, TN-AR-MS MSA				
Shelby, County, TN	$87,750	$98,850	$120,100	$138,600
Tipton County, TN				
HUD FIELD OFFICE: NASHVILLE OFFICE				
Nashville, TN MSA				
Cheatham County	$75,000	$84,000	$102,500	$118,000
Davidson County				
Dickson County				
Robertson County				
Rutherford County				
Sumner County				
Williamson County				
Wilson County				
HUD FIELD OFFICE: JACKSON OFFICE				
Jackson, MS MSA				
Hinds County	$76,000	$85,600	$104,000	$120,000
Madison County				
Rankin County				
Memphis, TN-AR-MS MSA				
Desoto County, MS	$87,750	$98,850	$120,100	$138,600
Other Areas:				
Lowndes County	$70,200	$79,100	$96,100	$110,900
HUD FIELD OFFICE: CORAL GABLES OFFICE				
Ft. Lauderdale-Hollywood-Pompano Beach, FL PMSA				
Broward County	$78,700	$88,700	$107,700	$124,300
Miami-Hialeah, FL PMSA				
Dade County	$81,800	$92,100	$111,900	$129,100
West Palm Beach-Boca Raton-Delray Beach, FL MSA				
Palm Beach County	$79,700	$89,800	$109,100	$125,900

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits			
	1-family and condominium unit	2-family	3-family	4-family
Other Areas:				
Collier County	$76,000	$85,500	$103,500	$120,500
Monroe County	$80,750	$90,950	$110,500	$127,500
HUD FIELD OFFICE: TAMPA OFFICE				
Sarasota, FL MSA				
Sarasota County	$76,100	$85,700	$104,100	$120,100
Tampa-St. Petersburgh-Clearwater, FL MSA				
Hernando County	$71,500	$80,500	$97,900	$112,900
Hillsborough County				
Pasco County				
Pinellas County				
HUD FIELD OFFICE: JACKSONVILLE OFFICE				
Jacksonville, FL MSA				
Clay County	$72,800	$82,000	$99,600	$114,950
Duval County				
Nassau County				
St. Johns County				
HUD FIELD OFFICE: ORLANDO OFFICE				
Orlando, FL MSA				
Orange County	$72,800	$82,000	$99,600	$114,950
Osceola County				
Seminole County				
Region V				
HUD FIELD OFFICE: MINNEAPOLIS-ST. PAUL OFFICE				
Minneapolis-St. Paul, MN MSA				
Anoka County	$90,000	$101,300	$122,650	$142,650
Carver County				
Chisago County				
Dakota County				
Hennepin County				
Isanti County				
Ramsey County				
Scott County				
Washington County				
Wright County				
St. Cloud, MN MSA				
Benton County	$68,500	$77,000	$93,500	$108,500
Sherburne County				
Stearns County				
Fargo-Moorhead, ND-MN MSA				
Clay County	$77,900	$87,750	$106,600	$123,000
HUD FIELD OFFICE: MILWAUKEE OFFICE				
Minneapolis-St. Paul, MN MSA				
St. Croix County, WI	$90,000	$101,300	$122,650	$142,650
Milwaukee, WI PMSA				
Milwaukee County	$77,800	$87,600	$106,450	$122,850

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits: 1-family and condominium unit	2-family	3-family	4-family
Ozaukee County				
Washington County				
Waukesha County				
Madison, WI				
Dane County	$70,800	$79,750	$96,900	$111,800
HUD FIELD OFFICE: CHICAGO OFFICE				
Chicago, IL PMSA				
Cook County	$87,250	$98,300	$119,400	$137,800
DuPage County				
McHenry County				
Lake County, IL PMSA				
Lake County	$87,250	$98,300	$119,400	$137,800
Joliet, IL PMSA				
Grundy County	$87,250	$98,300	$119,400	$137,800
Will County				
Aurora-Elgin, IL PMSA				
Kane County	$87,250	$98,300	$119,400	$137,800
Kendall County				
St. Louis, MO-IL PMSA				
Monroe County, IL	$85,500	$96,300	$117,000	$135,000
East St. Louis-Belleville, IL PMSA				
Clinton County, IL	$85,500	$96,300	$117,000	$135,000
St. Clair County, IL				
HUD FIELD OFFICE: DETROIT OFFICE				
Detroit, MI PMSA				
Lapeer County	$75,300	$84,800	$103,000	$118,900
Livingston County				
Macomb County				
Monroe County				
Oakland County				
St. Clair County				
Wayne County				
Ann Arbor, MI PMSA				
Washtenaw County	$76,800	$86,500	$105,100	$121,250
HUD FIELD OFFICE: CLEVELAND OFFICE				
Cleveland, OH PMSA				
Cuyahoga County	$75,400	$84,900	$103,100	$119,000
Geauga County				
Lake County				
Medina County				
HUD FIELD OFFICE: COLUMBUS OFFICE				
Columbus, OH MSA				
Delaware County	$81,100	$91,400	$111,000	$128,100
Fairfield County				
Franklin County				
Licking County				
Madison County				
Pickaway County				
Union County				

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits: 1-family and condominium unit	2-family	3-family	4-family
HUD FIELD OFFICE: CINCINNATI OFFICE				
Cincinnati, OH-KY-IN PMSA (part)				
Clermont County, OH	$80,750	$90,950	$110,500	$127,500
Hamilton County, OH				
Warren County, OH				
Hamilton-Middleton, OH PMSA				
Butler County	$80,750	$90,950	$110,500	$127,500
HUD FIELD OFFICE: INDIANAPOLIS OFFICE				
Cincinnati, OH-KY-IN PMSA (part)				
Dearborn County, IN	$80,750	$90,950	$110,500	$127,500
Other Areas:				
Hamilton County	$80,750	$90,950	$110,500	$127,500
Hendricks County				
Johnson County				
Marion County				
Region VI				
HUD FIELD OFFICE: DALLAS OFFICE				
Dallas, TX PMSA				
Collin County	$90,000	$101,300	$122,650	$142,650
Dallas County				
Denton County				
Ellis County				
Kaufman County				
Rockwall County				
Sherman-Denison, TX MSA				
Grayson County	$78,000	$88,000	$106,500	$124,000
HUD FIELD OFFICE: FORT WORTH OFFICE				
Ft. Worth-Arlington, TX PMSA				
Johnson County	$90,000	$101,300	$122,650	$142,650
Parker County				
Tarrant County				
HUD FIELD OFFICE: HOUSTON OFFICE				
Houston, TX PMSA				
Brazoria County	$90,000	$101,300	$122,650	$142,650
Ft. Bend County				
Harris County				
Liberty County				
Montgomery County				
Waller County				
Other Areas:				
Galveston County	$90,000	$101,300	$122,650	$142,650
HUD FIELD OFFICE: LUBBOCK OFFICE				
Amarillo, TX MSA				
Potter County	$68,500	$77,000	$93,500	$108,500

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits: 1-family and condominium unit	2-family	3-family	4-family
Randall County				
Lubbock, TX MSA				
Lubbock County	$70,000	$78,500	$95,500	$110,500
Midland, TX MSA				
Midland County	$70,000	$78,500	$95,500	$110,500
HUD FIELD OFFICE: SAN ANTONIO OFFICE				
Austin, TX MSA				
Hays County	$90,000	$101,300	$122,650	$142,650
Travis County				
Williamson County				
San Antonio, TX MSA				
Bexar County	$82,750	$93,250	$113,250	$130,700
Comal County				
Guadalupe County				
Corpus Christi, TX MSA				
Nueces County	$70,000	$76,500	$95,500	$110,500
San Patricio County				
HUD FIELD OFFICE: LITTLE ROCK OFFICE				
Memphis, TN-AR-MS MSA				
Crittenden County, AR	$87,750	$98,850	$120,100	$138,600
HUD FIELD OFFICE: OKLAHOMA CITY OFFICE				
Oklahoma City, OK MSA				
Canadian County	$72,800	$82,000	$99,600	$114,950
Cleveland County				
Logan County				
McClain County				
Oklahoma County				
Pottawatomie County				
HUD FIELD OFFICE: NEW ORLEANS OFFICE				
Baton Rouge, LA MSA				
Ascension Parish	$76,000	$85,600	$104,000	$120,000
East Baton Rouge Parish				
Livingston Parish				
West Baton Rouge Parish				
New Orleans, LA MSA				
Jefferson Parish	$76,000	$85,600	$104,000	$120,000
Orleans Parish				
St. Bernard Parish				
St. Charles Parish				
St. John the Baptist Parish				
St. Tammany Parish				
Other Areas:				
Lafayette Parish	$76,000	$85,600	$104,000	$120,000

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits: 1-family and condominium unit	2-family	3-family	4-family
HUD Field Office: Shreveport Office				
Shreveport, LA MSA				
Bossier Parish	$75,500	$85,000	$103,300	$119,200
Caddo Parish				
HUD Field Office: Albuquerque Office				
Albuquerque, NM MSA				
Bernalillo County	$76,500	$86,000	$104,000	$121,000
HUD Field Office: Tulsa Office				
Tulsa, OK MSA				
Creek County	$82,500	$92,900	$112,900	$130,300
Osage County				
Rogers County				
Tulsa County				
Wagoner County				
Region VII				
HUD Field Office: Kansas City Office				
Kansas City, MO PMSA				
Cass County, MO	$81,600	$91,900	$111,700	$128,900
Clay County, MO				
Jackson County, MO				
Lafayette County, MO				
Platt County, MO				
Ray County, MO				
Kansas City, KS PMSA				
Johnson County, KS	$81,600	$91,900	$111,700	$128,900
Leavenworth County, KS				
Miami County, KS				
Wyandotte County, KS				
HUD Field Office: St. Louis Office				
St. Louis, MO-IL PMSA				
St. Louis City	$85,500	$96,300	$117,000	$135,000
Franklin County				
Jefferson County				
St. Charles County				
St. Louis County				
HUD Field Office: Des Moines Office				
Des Moines, IA MSA				
Dallas County	$69,300	$78,000	$94,850	$109,450
Polk County				
Warren County				
Omaha, NE-IA MSA (part)				
Pottawattamie County, IA	$78,800	$88,750	$107,800	$124,400
HUD Field Office: Omaha Office				
Omaha, NE-IA MSA (part)				
Douglas County, NE	$78,800	$88,750	$107,800	$124,400

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits: 1-family and condominium unit	2-family	3-family	4-family
Sarpy County, NE				
Washington County, NE				
HUD Field Office: Topeka Office				
Sedgwick County, KS	$76,000	$85,500	$103,500	$120,500
Region VIII				
HUD Field Office: Denver Office				
Denver, CO PMSA				
Adams County	$90,000	$101,300	$122,650	$142,650
Arapahoe County				
Denver County				
Douglas County				
Jefferson County				
Boulder-Longmont, CO PMSA				
Boulder County, CO	$90,000	$101,300	$122,650	$142,650
State of Colorado:				
Elbert County	$83,900	$94,500	$114,850	$132,500
Grand County	$80,750	$90,950	$110,500	$127,500
Routt County	$90,000	$101,300	$122,650	$142,650
Teller County	$80,750	$90,950	$110,500	$127,500
Other Areas	$71,800	$80,900	$98,300	$113,400
HUD Field Office: Helena Office				
State of Montana	$75,500	$84,000	$102,500	$118,000
HUD Field Office: Salt Lake City Office				
Salt Lake City-Ogden, UT MSA				
David County	$80,450	$90,600	$110,100	$127,050
Salt Lake County				
Weber County				
HUD Field Office: Casper Office				
State of Wyoming	$75,000	$84,000	$102,500	$118,000
HUD Field Office: Fargo Office				
Fargo-Moorhead, ND-MN MSA				
Cass County, ND	$77,900	$87,750	$106,600	$123,000
HUD Field Office: Sioux Falls Office				
Minnehaha County	$75,000	$84,000	$102,500	$118,000
Lincoln County				
Pennington County				
Meade County				
Region IX				
HUD Field Office: Los Angeles Office				
Los Angeles Office Metro and Non-Metro Areas:				
Los Angeles County	$90,000	$101,300	$122,650	$142,650

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits: 1-family and condominium unit	2-family	3-family	4-family
San Lius Obispo County				
Santa Barbara County				
Ventura County				
HUD Field Office: San Francisco Office				
San Francisco Office Metro and Non-Metro Areas				
Alamdea County	$90,000	$101,300	$122,650	$142,650
Contra Costa County				
Del Norte County				
Humboldt County				
Lake County				
Marin County				
Mendocino County				
Monterey County				
Napa County				
San Benito County				
San Francisco County				
San Mateo County				
Santa Clara County				
Santa Cruz County				
Solano County				
Sonoma County				
HUD Field Office: Fresno Office				
Fresno Office Metro and Non-Metro Areas				
Fresno County	$90,000	$101,300	$122,650	$142,650
Kern County				
Kings County				
Madera County				
Mariposa County				
Merced County				
Stanislaus County				
Tulare County				
HUD Field Office: Sacramento Office				
Sacramento Office Metro and Non-Metro Areas				
Alpine County	$90,000	$101,300	$122,650	$142,650
Amador County				
Butte County				
Calaveras County				
Colusa County				
El Dorado County				
Glenn County				
Lassen County				
Modoc County				
Nevada County				
Placer County				
Plumas County				
Sacramento County				
San Joaquin County				
Shasta County				
Sierra County				
Siskiyou County				
Sutter County				
Tehema County				

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits: 1-family and condominium unit	2-family	3-family	4-family
Trinity County				
Tuolumne County				
Yolo County				
Yuba County				
HUD Field Office: San Diego Office				
San Diego Office Metro and Non-Metro Areas				
Imperial County	$90,000	$101,300	$122,650	$142,650
San Diego County				
HUD Field Office: Santa Ana Office				
Metro Areas				
Orange County	$90,000	$101,300	$122,650	$142,650
Riverside County				
San Bernardino County				
Non-Metro Areas:				
Inyo County	$75,000	$84,000	$102,500	$118,000
Mono County				
HUD Field Office: Las Vegas Office				
Las Vegas, NV MSA				
Clark County	$90,000	$101,300	$122,650	$142,650
State of Nevada				
Non-Metro Areas:				
Lincoln County	$75,000	$84,000	$102,500	$118,000
Nye County (part)				
HUD Field Office: Reno Office				
Reno, NV MSA				
Washoe County	$89,500	$101,000	$122,000	$142,000
State of Nevada				
None-Metro Areas:				
Carson City County	75,000	$84,000	$102,500	$118,000
Churchill County				
Douglas County				
Elko County				
Esmeralda County				
Eureka County				
Humbolt County				
Lander County				
Lyon County				
Mineral County				
Nye County (part)				
Pershing County				
Storey County				
White Pine County				
HUD Field Office: Phoenix Office				
Phoenix, AZ MSA				
Maricopa County	$90,000	$101,300	$122,650	$142,650

UPDATING OF FHA SECTIONS 203(b), 234(c) AND 214 AREA-WIDE MORTGAGE LIMITS—Continued

Market area designation and local jurisdictions	Mortgage limits: 1-family and condominium unit	2-family	3-family	4-family
HUD Field Office: Tucson Office				
Tucson, AZ MSA				
Pima County	$90,000	$101,300	$122,650	$142,650
HUD Field Office: Honolulu Office				
State of Hawaii				
Metro and Non-Metro Areas	$135,000	$151,950	$183,950	$213,950
Territory of Guam	$101,250	$114,000	$138,000	$160,500
Region X				
HUD Field Office: Seattle Office				
Seattle, WA PMSA				
King County	$87,750	$98,850	$120,100	$138,600
Snohomish County				
Tacoma, WA PMSA				
Pierce County	$75,300	$84,800	$103,050	$118,900
Yakima, WA MSA				
Yakima County	$72,000	$81,500	$99,000	$114,000
Bremerton, WA MSA				
Kitsap County	$80,200	$90,350	$109,750	$126,650
HUD Field Office: Portland Office				
Portland, OR PMSA				
Clackamas County	$81,600	$91,900	$111,600	$128,800
Multnomah County				
Washington County				
Yamhill County				
Vancouver, WA PMSA				
Clark County, WA	$81,600	$91,900	$111,600	$128,800
HUD Field Office: Anchorage Office				
State of Alaska				
All Areas	$135,000	$151,950	$183,950	$213,950
HUD Field Office: Spokane Office				
Richland-Kennewick-Pasco, WA MSA				
Benton County	$72,000	$81,500	$99,000	$114,000
Franklin County				
Spokane, WA MSA				
Spokane County	$72,000	$81,500	$99,000	$114,000
HUD Field Office: Boise Office				
Boise City, ID MSA				
Ada County	$75,000	$84,000	$102,500	$118,000

Dated: July 18, 1985.

Janet Hale,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85-17539 Filed 7-23-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8040]

Information Returns Required of Certain Foreign-owned Corporations, and Information Returns Required of United States Persons With Respect to Certain Foreign Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to information returns required of United States persons with respect to certain foreign corporations, and information returns required of certain foreign-owned corporations with respect to transactions with related corporations, under sections 6038 and 6038A, respectively, of the Internal Revenue Code of 1954. These regulations set forth the requirements for who must report, the information required to be reported, the time and manner for filing the information returns, and penalties for failure to report information. Changes to the applicable tax law were made by the Tax Equity and Fiscal Responsibility Act of 1982. These regulations provide the public with the guidance needed to comply with that Act.

DATES: Effective August 24, 1985. The amendments under section 6038 with respect to penalties are applicable for information required with respect to annual accounting periods of the foreign corporations ending after September 3, 1982. The remaining amendments under setion 6038 are applicable for taxable years beginning after August 23, 1985. The amendments under section 6038A are applicable for taxable years beginning after December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Charles C. Saverude of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, (Attention: CC:LR:T) (202-566-3323, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On December 19, 1983, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 6038 and 6038A of the Internal Revenue Code of 1954 (48 FR 56076). These amendments were proposed to conform the regulations to changes made to section 6038 and the addition of section 6038A by sections 338 and 339 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 631). A public hearing was held on March 29, 1984. After consideration of all comments regarding the proposed amendments, the amendments as set forth below are adopted by this Treasury decision.

Discussion of Comments and Changes From Proposed Amendments

Sections 1.6038–2 and 1.6038A–1

Two commentors suggested that a reporting person who has "substantially complied" with the reporting rules should not be penalized for errors or omissions. In both § 1.6038–2 and § 1.6038A–1, an explicit statement to that effect is not needed because "substantial compliance," as well as other factors, may be considered in determining whether reasonable cause existed for failure to furnish some information if a penalty for such a failure is asserted. However, a provision relating to "substantial compliance" has been retained, slightly modified for clarification, in § 1.6038–2(k)(3), and the same language has been added to § 1.6038A–1(f)(3)(ii) for foreign-owned corporations. The Service anticipates that the broad range of estimates and descriptions allowed in § 1.6038A–1 for reporting of transactions will prevent most inadvertent errors from causing a technical violation if the reporting corporation has made a reasonable effort to comply.

The filing requirements for information returns under sections 6038 and 6038A have also been changed to require that duplicate returns be filed with the Philadelphia Service Center. This will facilitate use of the information in a centralized statistical analysis program (in addition to its use in audits), without the delays and additional costs to the Service of sorting, duplicating, and transferring the information received in the regional service centers for a second use in Philadelphia.

Section 1.6038–2

One comment criticized the proposal to allow other information to be required by forms. The commentor suggested that any requirement to provide additional information should be subject to notice and public comment procedures. The regulation has been modified to allow changes in the form or manner in which the prescribed information is to be reported, or to allow some items of information to be deleted, by the form, without allowing the form to require additional information.

Section 1.6038A–1

Changes have been made in paragraphs (a) and (b) to allow a group of corporations filing a consolidated income tax return to file Form 5472 on a consolidated basis, and to eliminate reporting with respect to transactions within the group. However, a reporting corporation (or group) is still required to file separately with respect to each related corporation with which it has transactions. Two commentors suggested that it might be easier to file one form (or one computer listing) for all related-corporation transactions, with details attached on a company-by-company basis if necessary. In the Service's view, adoption of that suggestion would not significantly reduce any burden of compliance, but it would reduce the usefulness of the information to the Service.

Two commentors suggested that the Service not require annual reporting of information, but rather collect it on a sample basis. This suggestion has not been adopted. Other commentors suggested that information reporting should not be required under section 6038A when a transaction must also be reported under section 6038. This suggestion has been adopted in paragraph (a)(3).

Paragraph (b)(1), defining "reporting corporation," contains an exception from reporting for corporations having no income subject to U.S. taxation. Several commentors felt that the exception should be clarified and expanded in various ways. That exception has been revised to include more situations in which reporting may not be particularly useful to the Internal Revenue Service. Banks are now excepted from reporting, as are other foreign corporations having no income except income subject to withholding or exempt from tax under the provisions of an income tax treaty.

A sentence has been added to the example in paragraph (b)(2), defining control to explain that control is attributed directly rather than proportionately, once the 50 percent ownership threshold is met.

Paragraph (b)(3) has been changed to clarify that the term "foreign person" includes a foreign government or government agency.

The definition of "related corporation" has been narrowed to eliminate reporting of transactions between corporations that join in filing a consolidated income tax return.

In paragraph (c)(1), several items of information concerning the related corporation have been deleted in response to comments that the information required was overly burdensome or not readily available to the reporting corporation. All of the items of information listed in the proposed regulations were carefully considered, and those items that are retained have been determined to be the information most necessary to the Internal Revenue Service. One commentor suggested that some of the required information may be unavailable to the reporting corporation. Inability to obtain information may be reasonable cause for failure to provide that information. If the reporting corporation shows reasonable cause for failure to provide any information, paragraph (f)(3) provides procedures for avoiding imposition of penalties.

Paragraph (c)(2) has been revised to allow the form to change the manner in which information is reported without allowing it to require new information.

In response to comments that the reporting of transactions in exact amounts would be extremely burdensome, unnecessary, and subject to potentially severe penalties for monor errors, paragraph (c)(2) has been revised to allow reporting by reasonable estimates. The term "reasonable estimate" is defined in paragraph (c)(2)(iv), providing permissible percentages of variation and a simple method for reporting small amounts, as well as allowing a reporting corporation to show by facts and circumstances that its estimates were reasonable, if not within the ranges provided.

Two comments suggested that more types of reportable service transactions were listed in paragraph (c)(2)(i)(E) than in § 1. 6038–2 (f)(11)(iv), producing a reporting burden that would discriminate against foreign-owned corporations in violation of income tax treaties. While the Service does not agree that the difference in reporting requirements would violate income tax treaty provisions, this item has nonetheless been changed to duplicate the services listed in § 1.6038–2 to avoid any appearance of discrimination.

One commentor requested that the regulations provide guidance with respect to the method for reporting amounts loaned or borrowed. In response to this, a new sentence has been added at the end of paragraph (c)(2)(i) to provide a method for reporting those amounts, and to allow that method to be changed by forms.

A suggestion that banking transactions entered into on behalf of customers should be excluded from the information to be reported has not been adopted because banks have been excluded from reporting in general. A similar suggestion was made to exclude transactions by brokers and insurance companies on behalf of customers. This suggestion has not been adopted.

The requirements in paragraph (c)(2)(ii) for reporting transactions involving non-monetary consideration or no consideration have been revised to allow more flexibility in the manner in which transactions may be described. A description may be provided for a single transaction or a group of similar or related transactions. While a description should include all property and services transferred, the essential requirement is that it include sufficient information from which to determine the substance and size of the transaction. In reporting the value of these transactions, the reasonable estimate rules (discussed above) apply. These liberalized requirements are intended to permit one fairly brief description to be used to report a pattern of transactions for which no individual records are kept because the transactions are considered too insignificant to require compensation or because they are performed on a reciprocal basis. Also, a sentence has been added at the end of paragraph (c)(2)(ii) to clarify that description of transactions under that subdivision are not required merely because the transaction involves a transfer of some intangible property in connection with tangible property for which monetary consideration is paid or received. A transaction fitting that description may be reported under paragraph (c)(2)(i), which only requires the reporting of a dollar amount.

In paragraph (c)(2)(iii), the exception for transactions that are not required to be reported has also been expanded and simplified, and now includes nonrecognition transactions, such as like-kind exchanges under section 1031.

Two comments stated that reporting of amounts in U.S. dollars, with exchange rates used, would be irrelevant, unnecessary and unduly burdensome in light of constantly changing exchange rates. It is precisely because of changing exchange rates that the rates used are relevant and necessary. Since a rate of exchange must be used in order to translate one currency into another, the reporting corporation will always have this information.

One commentor suggested that these information returns should not be due until 6 months after the reporting corporation's income tax return is filed. The information returns are required to be filed with the income tax return because they will be used with the income tax return to determine certain areas for which closer examination may be appropriate during an audit. Separate filing would require the Internal Revenue Service to match these information returns with the reporting corporation's tax returns. Therefore, the suggestion has not been adopted.

A few commentors proposed that no reporting should be required for past years, or that reports for those years should be made in an abbreviated fashion. These final regulations require reporting for all taxable years beginning after December 31, 1983. Reporting is not required for taxable years beginning before January 1, 1984. The reasonable estimate rule for reporting amounts of transactions should help to reduce the burden of compiling information on past transactions. Information returns for taxable years ending before July 24, 1985 must be filed by November 21, 1985, or, if later, with the reporting corporation's tax return for the same taxable year.

Paragraph (f)(1) has been revised to clarify that the penalty for failure to furnish information only applies once with respect to each related corporation for each year that a report is required. Suggestions that a "substantial compliance" exception should be added to the penalty provisions have been adopted, as discussed previously. In addition, the "reasonable estimate" provisions of the reporting requirements operate, in effect, quite similarly to the substantial compliance provision to prevent imposition of a penalty if a reporting corporation has complied with those requirements. Another commentor suggested that the regulations should provide specific guidelines for determining reasonable cause for failing to provide information, for the purpose of avoiding the penalty provided. For example, the comment suggested that a reporting corporation would not know and would not be able to determine whether it was dealing with a related corporation, and therefore the regulations should provide rules specifically excepting that reporting corporation from the penalty provisions. The final regulations do not include any specific guidelines or exceptions for determining whether a failure to provide information was due to reasonable cause. This determination must be based on the facts and circumstances of each individual case. Specific guidelines may be helpful in some cases but not in others because a failure may be due to reasonable cause under some facts but not under other similar facts.

Certification of Nonapplicability of Regulatory Flexibility Act of 1980 and Executive Order 12291

The Secretary of the Treasury has certified that these regulations will not have a significant economic impact on a substantial number of small entities and are, therefore, not subject to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. chapter 6). Accordingly, a Regulatory Flexibility Analysis is not required and has not been prepared. These regulations will generally only affect United States persons that have significant holdings in foreign corporations and certain foreign-owned corporations that have transactions with related corporations. The Commissioner of Internal Revenue has determined that these regulations are not major regulations subject to Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required and has not been prepared.

Paperwork Reduction Act

The collection of information contained in these regulations has been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB under control number 1545–0805.

Drafting Information

The principal author of these regulations is David J. Dean of the Legislation and Regulations Division, Office of the 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

26 CFR §§ 1.6001–1 through 1.6109–2

Income taxes, Administration and procedure, Filing requirements.

26 CFR Part 602

OMB control numbers, Paperwork Reduction Act.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 and Part 602 are amended as follows:

PART 1—[AMENDED]

Income Tax Regulations

Paragraph 1. The authority cite for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. 26 U.S.C. 6038 and 26 U.S.C. 6038A. * * *

Sections 1.6038–2 and 1.6038A–1 also issued under 26 U.S.C. 6038 and 6038A.

Par. 2. Section 1.6038–2 is revised to read as follows:

§ 1.6038–2 Information returns required of United States persons with respect to annual accounting periods of certain foreign corporations beginning after December 31, 1962.

(a) *Requirement of return.* Every U.S. person shall make a separate annual information return with respect to each annual accounting period (described in paragraph (e) of this section) beginning after December 31, 1962, of each foreign corporation which that person controls (as defined in paragraph (b) of this section) for an uninterrupted period of 30 days or more during such annual accounting period. Such information shall not be required to be furnished, however, with respect to a corporation defined in section 1504(d) of the Code which makes a consolidated return for the taxable year. The return shall be made, with respect to annual accounting periods ending with or within the United States person's taxable year, on—

(1) Form 2952 if such taxable year ends before December 31, 1982,

(2) Form 5471 if such taxable year ends on or after December 31, 1983, or

(3) Either Form 5471 or Form 2952 if such taxable year ends on or after December 31, 1982 and before December 31, 1983.

(b) *Control.* A person shall be deemed to be in control of a foreign corporation if at any time during that person's taxable year it owns stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote, or more than 50 percent of the total value of shares of all classes of stock of the foreign corporation. A person in control of a corporation which, in turn, owns more than 50 percent of the combined voting power, or of the value, of all classes of stock of another corporation is also treated as being in control of such other corporation. The provisions of this paragraph may be illustrated by the following example:

Example. Corporation A owns 51 percent of the voting stock in Corporation B. Corporation B owns 51 percent of the voting stock in Corporation C. Corporation C in turn owns 51 percent of the voting stock in Corporation D. Corporation D is controlled by Corporation A.

(c) *Attribution rules.* For the purpose of determining control of domestic or foreign corporations the constructive ownership rules of section 318(a) shall apply except that:

(1) Stock owned by or for a partner or a beneficiary of an estate or trust shall not be considered owned by the partnership, estate, or trust when the effect is to consider a United States person as owning stock owned by a person who is not a United States person;

(2) A corporation will not be considered as owning stock owned by or for a 50 percent or more shareholder when the effect is to consider a United States person as owning stock owned by a person who is not a United States person; and

(3) If 10 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, section 318(a)(2)(C) shall apply.

The constructive ownership rules of section 318(a) apply only for purposes of determining control as defined in paragraph (b) of this section.

(d) *U.S. person.* For purposes of section 6038 and this section, the term "United States person" has the meaning assigned to it by section 7701(a)(30) of the Code, except that—

(1) With respect to a corporation organized under the laws of the Commonwealth of Puerto Rico, such term does not include an individual who is a bona fide resident of Puerto Rico, if a dividened received by such individual during the taxable year from such corporation would be excluded from gross income under section 933(1),

(2) With respect to a corporation organized under the laws of the Virgin Islands, such term does not include an individual who is a bona fide resident of the Virgin Islands and whose income tax obligation under subtitle A (relating to income taxes) of the Code for the taxable year is satisfied pursuant to section 28(a) of the Revised Organic Act of the Virgin Islands, approved July 22, 1954 (48 U.S.C. 1642), by paying tax on income derived from all sources both within and outside the Virgin Islands into the treasury of the Virgin Islands,

(3) With respect to a corporation organized under the laws of Guam or the Northern Mariana Islands, such term does not include an individual who is a bona fide resident of Guam or the Northern Mariana Islands, respectively, and who is relieved of liability for income tax to the United States under section 935(c)(3) of the Code or section 601 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. 94-241), respectively, for such individual's taxable year referred to in paragraph (e) of this section, and

(4) With respect to a corporation organized under the laws of any possession of the United States (other than Guam, the Northern Mariana Islands, Puerto Rico, or the Virgin Islands), such term does not include an individual who is a bona fide resident of such possession for the entire taxable year and whose income derived from sources within any possession of the United States is not, by reason of section 931(a), includible in gross income under subtitle A (relating to income taxes) of the Code for the taxable year.

An individual for whom an election under section 6013 (g) or (h) is in effect shall, subject to the exceptions contained in this paragraph (d), be considered a United States person for purposes of section 6038 and this section.

(e) *Period covered by return.* The information required under paragraphs (f) and (g) of this section with respect to a foreign corporation shall be furnished for the annual accounting period of the foreign corporation ending with or within the United States person's taxable year. For purposes of this section, the annual accounting period of a foreign corporation is the annual period on the basis of which that corporation regularly computes its income in keeping its books. The term "annual accounting period" may refer to a period of less than one year, where, for example, the foreign income, war profits, and excess profits taxes are determined on the basis of an accounting period of less than one year as described in section 902(c)(2). If more than one annual accounting period ends with or within the United States person's taxable year, separate annual information returns shall be submitted for each annual accounting period.

(f) *Contents of return.* The return on Form 2952 or Form 5471 shall contain so much of the following information, and in such form or manner, as the form shall prescribe with respect to each foreign corporation:

(1) The name, address, and employer identification number, if any, of the corporation;

(2) The principal place of business of the corporation;

(3) The date of incorporation and the country under whose laws incorporated;

(4) The name and address of the foreign corporation's statutory or

resident agent in the country of incorporation;

(5) The name, address, and identifying number of any branch office or agent of the foreign corporation located in the United States;

(6) The name and address of the person (or persons) having custody of the books of account and records of the foreign corporation, and the location of such books and records if different from such address;

(7) The nature of the corporation's business and the principal places where conducted;

(8) As regards the outstanding stock of the corporation—

(i) A description of each class of the corporation's stock, and

(ii) The number of shares of each class outstanding at the beginning and end of the annual accounting period;

(9) A list showing the name, address, and identifying number of, and the number of shares of each class of the corporation's stock held by, each United States person who is a shareholder owning at any time during the annual accounting period 5 percent or more in value of any class of the corporation's outstanding stock;

(10) For the annual accounting period, the amount of the corporation's:

(i) Current earnings and profits;

(ii) Foreign income, war profits, and excess profits taxes paid or accrued;

(iii) Distributions out of current earnings and profits for the period; and

(iv) Distributions other than those described in paragraph (f)(10)(iii) of this section and the source thereof: and

(11) A summary showing the total amount of each of the following types of transactions of the corporation, which took place during the annual accounting period, with the person required to file this return, any other corporation controlled by that person, or any United States person owning at the time of the transaction 10 percent or more in value of any class of stock outstanding of the foreign corporation, or of any corporation controlling that foreign corporation:

(i) Sales and purchases of stock in trade;

(ii) Purchases of tangible property other than stock in trade;

(iii) Sales and purchases of patents, inventions, models, or designs (whether or not patented), copyrights, trademarks, secret formulas or processes, or any other similar property rights;

(iv) Compensation paid and compensation received for the rendition of technical, managerial, engineering, construction, scientific, or like services;

(v) Commission paid and commissions received;

(vi) Rents and royalties paid and rents and royalties received;

(vii) Amount loaned and amounts borrowed (except open accounts resulting from sales and purchases reported under other items listed in this paragraph (f)(11) that arise and are collected in full in the ordinary course of business);

(viii) Dividends paid and dividends received;

(ix) Interest paid and interest received; and

(x) Premiums received for insurance or reinsurance.

For purposes of paragraph (f)(11) of this section, if the United States person is a bank, as defined in section 581, or is controlled within the meaning of section 368(c) by a bank, the term "transactions" shall not, as to a corportion with respect to which a return is filed, include banking transactions entered into on behalf of customers; in any event, however, deposits in accounts between a foreign corporation, controlled (within the meaning of paragraph (b) of this section) by a United States person, and a person described in paragraph (f)(11) of this section and withdrawals from such accounts shall be summarized by reporting end-of-month balances.

(g) *Financial statements.* The following information with respect to the foreign corporation shall be attached to and filed as part of the return required by this section:

(1) A statement of the corporation's profit and loss for the annual accounting period;

(2) A balance sheet as of the end of the annual accounting period of the corporation showing—

(i) The corporation's asset;

(ii) The corporation's liabilities; and

(iii) The corporation's net worth; and

(3) An analysis of changes in the corporation's surplus accounts during the annual accounting period including both opening and closing balances.

The information listed in this paragraph (g) shall be prepared in conformity with generally accepted accounting principles, and in such form and detail as is customary for the corporation's accounting records.

(h) *Method of reporting.* All amounts furnished under paragraphs (f) and (g) of this section shall be expressed in United States currency with a statement of the exchange rates used. All statements submitted on or with the return required under this section shall be rendered in the English language.

(i) *Time and place for filing return.* Returns on Form 2952 or Form 5471 required under paragraph (a) of this section shall be filed with the United States person's income tax return on or before the date required by law for the filing of that person's income tax return. District directors and directors of service centers are authorized to grant reasonable extensions of time for filing returns on Form 2952 or Form 5471 in accordance with the applicable provisions of § 1.6081-1 of this chapter. An application for an extension of time for filing a return of income shall also be considered as an application for an extension of time for filing returns on Form 2952 or Form 5471.

(j) *Two or more persons required to submit the same information*—(1) *Return jointly made.* If two or more persons are required to furnish information with respect to the same foreign corporation for the same period, such persons may, in lieu of making separate returns, jointly make one return. Such joint return shall be filed with the income tax return of any one of the persons making such joint return.

(2) *Persons excepted from furnishing information*—(i) *Conditions.* Any person required to furnish information under this section with respect to a foreign corporation need not furnish that information provided all of the following conditions are met:

(A) Such person does not directly own an interest in the foreign corporation;

(B) Such person is required to furnish the information solely by reason of attribution of stock ownership from a United States person under paragraph (c) of this section; and

(C) The person from whom the stock ownership is attributed furnishes all of the information required under this section of the person to whom the stock ownership is attributed.

(ii) *Illustrations.* The rule of this paragraph (j)(2) is illustrated by the following examples:

Example (1). A, a U.S. person owns 100 percent of the stock of M, a domestic corporation. A also owns 100 percent of the stock of N, a foreign corporation organized under the laws of foreign country Y. A, in filing the information return required by this section with respect to N Corporation, in fact furnishes all of the information required of M Corporation with respect to N Corporation. M Corporation need not file the information.

Example (2). X, a domestic corporation owns 100 percent of the stock of Y, a domestic corporation, Y Corporation owns 100 percent of the stock of Z, a foreign corporation. X Corporation is not excused by this paragraph (j)(2) from filing information with respect to Z Corporation because X Corporation is deemed to control Z Corporation under the provisions of paragraph (b) of this section without recourse to the attribution rules in paragraph (c) of this section.

(3) *Statement required.* Any United States person required to furnish information under this section with his return who does not do so by reason of the provisions of paragraph (j)(1) or (j)(2) of this section shall file a statement with his income tax return indicating that such liability has been (or, in the case of a joint return made under paragraph (j)(1) of this section, will be) satisfied and identifying the return with which the information was or will be filed and the place of filing.

(k) *Failure to furnish information*—(1) *Dollar amount penalty*—(i) *In general.* If any person required to file Form 2952 or Form 5471 under section 6038 and this section fails to furnish any information described in paragraphs (f) and (g) of this section within the time prescribed by paragraph (i) of this section, such person shall pay a penalty of $1,000 for each annual accounting period of each foreign corporation with respect to which such failure occurs.

(ii) *Increase in penalty for continued failure after notification.* If a failure described in paragraph (k)(1)(i) of this section continues for more than 90 days after the date on which the district director mails notice of such failure to the person required to file Form 2952 or Form 5471, such person shall pay a penalty of $1,000, in addition to the penalty imposed by section 6038(b)(1) and paragraph (k)(1)(i) of this section, for each 30-day period (or fraction thereof) during which such failure continues after such 90-day period has expired. The additional penalty imposed by section 6038(b)(2) and this paragraph (k)(1)(ii) shall be limited to a maximum of $24,000 for each failure.

(iii) *Effective date.* The penalty imposed by section 6038(b) and this paragraph (k)(1) shall apply with respect to information for annual accounting periods ending after September 3, 1982.

(2) *Penalty of reducing foreign tax credit*—(i) *Effect on foreign tax credit.* Failure of a United States person to furnish, in accordance with the provisions of this section, any return or any information in any return, required to be filed for a taxable year under authority of section 6038 on or before the date prescribed in paragraph (i) of this section may affect the application of section 901 as provided in paragraph (k)(2)(ii) of this section and may affect the application of sections 902 and 960 as provided in paragraph (k)(2)(iii) of this section. Such failure may affect the application of sections 902 and 960 to any such United States person which is a corporation or to any person who acquires from any other person any portion (but only to the extent of such portion) of the interest of such other person in any such foreign corporation.

(ii) *Application of section 901.* In the application of section 901 to a United States person referred to in paragraph (k)(2)(i) of this section, the amount of taxes paid or deemed paid by such person for any taxable year, with or within which the annual accounting peroid of a foreign corporation for which such person failed to furnish information required under this section ended, may be reduced by 10 percent. However, no tax reduced under paragraph (k)(2)(iii) of this section or deemed paid under section 904(c) shall be reduced under the provisions of this paragraph (k)(2)(ii).

(iii) *Application of sections 902 and 960.* In the application of sections 902 and 960 to a United States person referred to in paragraph (k)(2)(i) of this section for any taxable year, the amount of taxes paid or deemed paid by each foreign corporation for the accounting period or periods for which such person was required for the taxable year of the failure to furnish information under this section may be reduced by 10 percent. The 10-percent reduction is not limited to the taxes paid or deemed paid by the foreign corporation with respect to which there is a failure to file information but may apply to the taxes paid or deemed paid by all foreign corporations controlled by that person. In applying subsections (a) and (b) of section 902, and in applying subsection (a) of section 960, the reduction provided by this paragraph (k)(2) shall not apply for purposes of determining the amount of accumulated profits in excess of income, war profits, and excess profits taxes.

(iv) *Reduction for continued failure after notice.* (A) If the failure referred to in paragraph (k)(2)(i) of this section continues for more than 90 days after the date on which the district director mails notice of such failure to such United States person, then the amount of the reduction referred to in paragraph (k)(2) (ii) and (iii) of this section may be 10 percent plus an additional 5 percent for each 3-month period, or fraction thereof, during which such failure continues after the expiration of such 90-day period.

(B) No taxes shall be reduced under this paragraph (k)(2) more than once for the same failure. Taxes paid by a foreign corporation when once reduced for a failure shall not be reduced again for the same failure in their status as taxes deemed paid by a corporate shareholder. Where a failure continues, each additional periodic 5-percent reduction, referred to in paragraph (k)(2)(iv)(A) of this section, shall be considered as part of the one reduction.

(v) *Limitation on reduction of foreign tax credit.* The amount of the reduction under this paragraph (k)(2) for each failure to furnish information with respect to a foreign corporation as required under this section shall not exceed the greater of:

(A) $10,000, or

(B) The income of the foreign corporation for its annual accounting period with respect to which the failure occurs. For purposes of this section if a person is required to furnish information with respect to more than one foreign corporation, controlled (within the meaning of paragraph (b) of this section) by that person, each failure to submit information for each such corporation constitutes a separate failure.

(vi) *Offset for dollar amount penalty imposed.* The total amount of the reduction or reductions which, but for this paragraph (k)(2)(vi), may be made under this paragraph (k)(2) with respect to any separate failure, shall not exceed the maximum amount of such reductions which may be imposed, reduced (but not below zero) by the amount of the dollar amount penalty imposed by paragraph (k)(1) of this section with respect to such separate failure.

(3) *Reasonable cause*—(i) For purposes of section 6038 (b) and (c) and this section, the time prescribed for furnishing information under paragraph (i) of this section, and the beginning of the 90-day period after mailing of notice by the district director under paragraph (k)(1)(ii) and (k)(2)(iv)(A) of this section, shall be treated as being not earlier than the last day on which reasonable cause existed for failure to furnish the information.

(ii) To show that reasonable cause existed for failure to furnish information as required by section 6038 and this section, the person required to report such information must make an affirmative showing of all facts alleged as reasonable cause for such failure in a written statement containing a declaration that it is made under the penalties of prejury. The statement must be filed with the district director for the district or the director of the service center where the return is required to be filed. The district director or the director of the service center shall determine whether the failure to furnish information was due to reasonable cause, and if so, the period of time for which such reasonable cause existed. In the case of a return that has been filed as required by this section except for an omission of, or error with respect to, some of the information required, if the person who filed the return establishes to the satisfaction of the district director or the director of the service center that the person has substantially complied with this section, then the omission or error shall not constitute a failure under this section.

(4) *Other penalties.* The information required by section 6038 and this section must be furnished even though there are no foreign taxes which would be reduced under the provisions of this section, and even though the information required may not affect the amount of any tax due under the Internal Revenue Code. For criminal penalties for failure to file a return and filing a false or fraudulent return, see sections 7203, 7206, and 7207 of the Code.

(5) *Illustrations.* The provisions of this paragraph may be illustrated by the following examples.

Example (1). M, a domestic corporation owns 100 percent of the stock of N, a foreign corporation. Both M and N use the calendar year as a taxable year and annual accounting period, and all of the following events occur in or with respect to the 1980 taxable year. The dividend from N is the only dividend from a foreign corporation received by M during the taxable year, and the foreign taxes listed are the only foreign taxes paid or deemed paid by M and N for the taxable year. On March 15, 1981, M filed its income tax return and paid its income tax, but M did not file Form 2952 with respect to N's 1980 annual accounting period. On June 1, 1981, the district director mailed notice to M of M's failure to file Form 2952 with respect to N. On November 30, 1981, M filed a complete Form 2952 with respect to N's 1980 annual accounting period.

(a) Gains, profits, and income of N	$100,000
(b) Foreign tax paid by N with respect to such gains, profits, and income	40,000
(c) Reduction of foreign tax paid by N (for purposes of M's section 902 deemed paid credit) resulting from M's failure to file information with respect to N as required under section 6038(a) and this section: failure to file within the time prescribed in paragraph (i) of this section, 10-percent reduction; continued failure for one additional 3-month period after 90-day period after notice mailed, 5-percent reduction; total reduction, 15 percent ($40,000 times 15 percent)	6,000
(d) Foreign tax paid by N after section 6038(c)(1)(B) reduction	34,000
(e) Dividend paid by N to M	45,000
(f) Accumulated profits of N as defined in section 902(c)(1) (determined without regard to the section 6038(c)(1)(B) reduction)	100,000
(g) Accumulated profits of N as described in section 902(a) (determined without regard to the section 6038(c)(1)(B) reduction)	60,000
(h) For purposes of the section 902 credit, M is deemed to have paid the same proportion of foreign taxes paid (reduced as provided under section 6038(c)) with respect to the accumulated profits described in section 902(a) (determined without regard to the reduction provided under section 6038(c)) as the amount of the dividend (determined without regard to section 78) bears to such amount of accumulated profits	25,500

$$(45{,}000 \div 60{,}000) \times 34{,}000 = 25{,}500$$

M must include $25,500 in gross income as a dividend under the provisions of section 78 of the Code. This example illustrates that the reductions in foreign taxes paid by the foreign corporation provided under section 6038(c) are taken into account in determining the amount included in gross income of the domestic corporation under section 78 of the Code as foreign taxes deemed paid, but such reductions are not taken into account in computing accumulated profits for purposes of determining the portion of foreign taxes deemed paid with respect to a particular dividend. The dollar amount penalty imposed by section 6038 (b) and paragraph (k)(1) of this section does not apply with respect to information for annual accounting periods ending before September 4, 1982, and therefore does not apply to M with respect to M's failure to file Form 2952 in this example.

Example (2). The facts are the same as in example (1) except that all of the events occur in or with respect to the 1982 taxable year. On March 15, 1983, M filed its income tax return and paid its income tax, but M did not file Form 2952 or Form 5471 with respect to N's 1982 annual accounting period. On June 1, 1983, the district director mailed notice to M of M's failure to file Form 2952 or Form 5471 with respect to N. On November 30, 1983, M filed a complete Form 5471 with respect to N's 1982 annual accounting period. Under paragraph (k)(1)(i) of this section, M is subject to a penalty of $1,000. Under paragraph (k)(1)(ii) of this section, that penalty is increased by $4,000 because the failure continued for 92 days (three full 30-day periods and a fraction of a fourth 30-day period) after the end of the 90-day period following mailing of the notice by the district director, bringing M's dollar amount penalty under paragraph (k)(1) of this section to $5,000. For purpose of determining the foreign tax credit available to M, there may be imposed a reduction of foreign tax paid by N of $6,000, which would be the total of reductions under paragraph (k)(2) of this section with respect to M's failure to file under section 6038 for N's 1982 annual accounting period, before application of paragraph (k)(2)(vi) of this section. Under said paragraph (k)(2)(vi), the amount of the foreign tax reduction imposed is reduced by the amount of the dollar amount penalty, leaving a foreign tax reduction penalty of $1,000 which may be imposed in addition to the $5,000 dollar amount penalty. If imposed, the $1,000 tax reduction would then be applied in the calculation of taxes deemed paid by M under section 902 as in example (1), item (c), (d), and (h).

Par. 3 There is added after § 1.6038-2 the following new section.

§ 1.6038A-1 Information returns required of certain foreign-owned corporations.

(a) *Requirement of return*—(1) *In general.* Every corporation which at any time during its taxable year is a reporting corporation (described in paragraph (b)(1) of this section) shall make a separate annual information return on Form 5472 with respect to each related corporation (described in paragraph (b)(4) of this section) with which such reporting corporation has had any transaction of the types listed in paragraph (c)(2) of this section during such taxable year.

(2) *Consolidated returns.* If a reporting corporation is a member of an affiliated group of corporations filing a consolidated income tax return, it may join in filing information returns on Form 5472 on a consolidated basis. A consolidated Form 5472 shall be filed by the common parent corporation and shall be accompanied by a copy of the group's Form 851 (Affiliations Schedule), indicating which members listed thereon are reporting on the Form 5472. A member is not required to join in filing a consolidated Form 5472 merely because other members of the group choose to file one or more Forms 5472 on a consolidated basis.

(3) *Exception.* Notwithstanding paragraph (a)(1) of this section, a reporting corporation is not required to make a return of information on Form 5472 with respect to a related corporation for a taxable year for which a U.S. person that controls the reporting corporation makes a return of information on Form 5471 that is required under section 6038 and § 1.6038-2, if that return contains information required under § 1.6038-2 (f)(11) with respect to the transactions between the reporting corporation and the related corporation for that taxable year.

(b) *Definitions*—(1) *Reporting corporation*—(i) *In general.* For purposes of section 6038A and this section, a corporation is a reporting corporation if—

(A) It is a domestic corporation or is a foreign corporation engaged in a trade or business within the United States, and

(B) It is a controlled (as defined in paragraph (b)(2) of this section) by a foreign person.

(ii) *Exceptions*. Notwithstanding paragraph (b)(1)(i) of this section, a corporation is not a reporting corporation if—

(A) It has had no transactions of the types listed in paragraph (c)(2) during the taxable year with any related corporation,

(B) It has no gross income (determined without reference to losses) for the taxable year subject to United States taxation, other than a withholding tax under section 881 of the Code, or

(C) Its sole trade or business in the United States is a banking, financing, or similar business, as defined in § 1.864-4(c)(5)(i).

(iii) *Consolidated returns*. For purposes of paragraph (c)(1)(iv) of this section only, in the case of a group of reporting corporations filing a consolidated information return under this section the term "reporting corporation" means the common parent corporation (as shown on Form 851).

(2) *Control* (i) *Generally*. A corporation shall be deemed to be controlled by a foreign person if at any time during that corporation's taxable year such foreign person owns stock possessing at least 50 percent of the total combined voting power of all classes of outstanding stock of the corporation entitled to vote, or stock possessing at least 50 percent of the total value of outstanding shares of all classes of stock of the corporation. A corporation that is controlled (by this same test) by another corporation, which in turn, is controlled by a foreign person, is also treated as being controlled by such foreign person. The provisions of this paragraph (b)(2)(i) are illustrated by the following example:

Example F, a foreign person, owns 50 percent of the voting stock of X, a domestic corporation. X owns 50 percent of the total value of shares of all classes of stock of Y, also a domestic corporation. Y is controlled by F for purposes of section 6038A and this section. Thus, control is attributed directly under section 6038A (c)(1) and this section, rather than proportionately (as is stock ownership under section 318(a)(2) and paragraph (b)(2)(ii) of this section).

(ii) *Attribution rules*. For the purpose of determining ownership of stock of domestic or foreign corporations under section 6038A and this section, the constructive ownership rules of section 318(a) shall apply, except that section 318(a)(2)(C) shall be applied by substituting the phrase "10 percent" for the phrase "50 percent".

(3) *Foreign person*. For purposes of section 6038A and this section, a foreign person is—

(i) Any individual who is not a citizen or resident of the United States, but not including any individual for whom an election under section 6013 (g) or (h) is in effect;

(ii) Any individual who is a citizen of any possession of the United States but is not otherwise a citizen of the United States and is not a resident of the United States;

(iii) Any partnership, association, company, or corporation which is not created or organized in the United States or under the law of the United States or any State thereof;

(iv) Any foreign trust or foreign estate, as defined in section 7701(a)(31); or

(v) Any foreign government (or agency or instrumentality thereof).

(4) *Related corporation*. For purposes of section 6038A and this section, a related corporation is any corporation which is a member of the same controlled group (as defined in paragraph (b)(5) of this section) as the reporting corporation. The term "member" shall include any component member, excluded member, or additional member (as defined in section 1563(b)) of the controlled group. However, the term "related corporation" does not include any corporation filing a consolidated income tax return with the reporting corporation.

(5) *Controlled group*. For purposes of section 6038A and this section, the term "controlled group" has the meaning given to such term by § 1563(a), except that—

(i) Section 1563(a)(1) shall be applied by substituting the term "at least 50 percent" for the them "at least 80 percent" each time it appears;

(ii) Section 1563(a)(2)(B) shall be applied by substituting the term "at least 50 percent" for the term "more than 50 percent" each time it appears; and

(iii) Section 1563(a)(4), (b)(2)(C), and (e)(3)(C) shall not apply.

(c) *Contents of return*—(1) *The related corporation*. The return on Form 5472 shall contain such information as the form shall prescribe, with respect to each related corporation (whether foreign or domestic) with which the reporting corporation has had a transaction of the types listed in paragraph (c)(2) of this section during its taxable year, relating to:

(i) The name and address of the corporation;

(ii) The nature of the corporation's business or businesses and the principal place or places where conducted;

(iii) Each country in which the corporation treats itself as resident for purposes of the tax laws of the country; and

(iv) The relationship of the reporting corporation to the related corporation (such as reporting corporation controls related corporation, reporting corporation is controlled by related corporation, or reporting and related corporations are under common control).

(2) *Transactions with related foreign corporations*—(i) *Transactions for which monetary consideration was paid or received*. If the related corporation is a foreign corporation, the return on Form 5472 shall contain, with respect to transactions (other than transactions excepted by paragraph (c)(2)(iii) of this section) of the reporting corporation with the related corporation, in such form or manner as the form shall prescribe, a summary showing a reasonable estimate of the total dollar amount of each of the following types of transactions for which monetary consideration (U.S. currency and/or foreign currency) was the sole consideration paid or received, during the taxable year of the reporting corporation:

(A) Sales and purchases of stock in trade;

(B) Sales and purchases of tangible property other than stock in trade;

(C) Rents and royalties paid and received (other than amounts reported under paragraph (c)(2)(i)(D) of this section);

(D) Sales, purchases, and amounts paid and received as consideration for the use of intangible property such as copyrights, designs, fomulas, inventions, models, patents, processes, trademarks, and other similar property rights;

(E) Consideration paid and received for the rendition of technical, managerial, engineering, construction, scientific, or like services;

(F) Commissions paid and received;

(G) Amounts loaned and borrowed (except open accounts resulting from sales and purchases reported under other items listed in this paragraph (c)(2)(i) that arise and are collected in full in the ordinary course of business

(H) Interest paid and received;);

(I) Premiums paid and received for insurance and reinsurance.

Amounts required to be reported under paragraph (c)(2)(i)(G) of this section shall be reported as monthly averages or outstanding balances at the beginning and end of the taxable year, as the form shall prescribe.

(ii) *Transactions involving nonmonetary consideration or no consideration*. If the related corporation is a foreign corporation, the return on

Form 5472 shall contain a description of any transaction, or group of transactions, listed in paragraph (c)(2)(i) of this section (other than transactions excepted by paragraph (c)(2)(iii) of this section), of the reporting corporation with the related corporation, for which any consideration paid or received was other than monetary consideration described in paragraph (c)(2)(i) of this section, or for which no consideration was paid or received. A description required under this paragraph (c)(2)(ii) shall include sufficient information from which to determine the substance and approximate size of the transaction or group of transactions, and should include—

(A) A description of all property (including monetary consideration), rights, or obligations transferred from the reporting corporation to the related corporation and from the related corporation to the reporting corporation,

(B) A description of all services performed by the reporting corporation for the related corporation and by the related corporation for the reporting corporation, and

(C) A reasonable estimate of the fair market value or a statement of the nature and importance of such property (other than money), rights, obligations, or services.

A transaction for which the entire consideration paid or received by one party was monetary consideration is not required to be described under this paragraph (c)(2)(ii) even though the transaction involved the transfer of both tangible and intangible property, as long as the transfer of the intangible property was related and incidental to the transfer of the tangible property (e.g., a right to warranty services).

(iii) *Exception.* This paragraph (c)(2) shall not apply to any transaction if neither party to the transaction is a United States person (as defined in section 7701(a)(30)) and the transaction—

(A) Does not give rise to any recognized income or gain which is from sources within the United States or which is effectively connected with the conduct of a trade or business within the United States, and

(B) Does not give rise to any expense, loss, or other deduction properly allocable or apportionable to such income.

(iv) *Reasonable estimate defined*—(A) *Estimate within 25 percent of actual amount.* Any amount reported under this section is considered a reasonable estimate if such amount is at least 75 percent and not more than 125 percent of the actual amount to which the amount reported relates.

(B) *Other estimates.* If any amount reported under this section fails to meet the reasonable estimate of paragraph (c)(2)(iv)(A) of this section, the reporting corporation may, nevertheless, show that such amount is a reasonable estimate by making an affirmative showing of relevant facts and circumstances in a written statement containing a declaration that it is made under the penalties of perjury. The statement must be filed with the district director or the director of the service center where the reporting corporation's income tax return and the return on Form 5472 were filed. The district director or the director of the service center shall determine whether the amount reported was a reasonable estimate.

(v) *Small amounts.* If any actual amount required to be reported under this section does not exceed $66,667, the amount may be reported as "$50,000 or less."

(vi) *Accrued payments and receipts.* For purposes of this section, in the case of an accrual basis taxpayer, the terms "paid" and "received" shall include accured payments and receipts, respectively.

(d) *Method of reporting.* All statements required on or with the return on Form 5472 under this section shall be rendered in the English language. All amounts of consideration or value required to be reported under this section shall be expressed in terms of United States currency, with a statement of any exchange rates used.

(e) *Time and place for filing returns*—(1) *In general.* Returns on Form 5472 required under this section shall generally be filed with the reporting corporation's income tax return for the same taxable year, and the due date (including extensions) for filing that income tax return is the due date for filing Form 5472. However, if a reporting corporation's income tax return is not timely filed (including extensions), the return on Form 5472 shall be filed with the Internal Revenue Service Center with which the reporting corporation's income tax return is required to be filed, and shall be filed on or before the date required by law (including extensions of time) for filing of such income tax return.

(2) *Taxable years ending before July 24, 1985.* Returns on Form 5472 required under this section for any taxable year ending before July 24, 1985 shall be filed either with the reporting corporation's income tax return or with the Internal Revenue Service Center or the district director with which the reporting corporation's income tax return has been filed. Returns on Form 5472 for such taxable years shall be filed on or before November 21, 1985, or, if later, with the reporting corporation's income tax return for the same taxable year on or before the date required by law (including extensions of time) for the filing of such income tax return.

(3) *Duplicate filing required.* The reporting corporation shall file a duplicate copy of each Form 5472 (at the same time as the original copy is filed) with the Internal Revenue Service Center, Philadelphia, PA 19255.

(f) *Penalty for failure to furnish information*—(1) *In general.* If a corporation required to file Form 5472 under section 6038A and this section fails to furnish any information required under paragraph (c) of this section with respect to any related corporation, within the time prescribed by paragraph (e) of this section, such corporation shall pay a penalty of $1,000 for each taxable year with respect to which such information is not timely reported. This penalty shall only be imposed on a reporting corporation once for each related corporation for each taxable year for which a failure to furnish information occurs. For purposes of this paragraph (f)(1), each member of a group of corporations filing a consolidated information return is a separate reporting corporation.

(2) *Increase in penalty for continued failure after notification.* If a failure described in paragraph (f)(1) of this section continues for more than 90 days after the date on which the district director mails notice of such failure to the reporting corporation, that corporation shall pay a penalty of $1,000, in addition to the penalty imposed by section 6038A(d)(1) and paragraph (f)(1) of this section, for each 30-day period (or fraction thereof) during which such failure continues after such 90-day period has expired. The additional penalty imposed by section 6038A(d)(2) and this paragraph (f)(2) shall be limited to a maximum of $24,000 for such continuing failure.

(3) *Reasonable cause*—(i) For purposes of section 6038A(d) and this section, the time prescribed for furnishing information under paragraph (e) of this section, and the beginning of

the 90-day period after mailing of notice by the district director under paragraph (f)(2) of this section, shall be treated as being not earlier than the last day on which reasonable cause existed for failure to furnish the information.

(ii) To show that reasonable cause existed for failure to furnish information as required by section 6038A and this section, the reporting corporation must make an affirmative showing of all facts alleged as reasonable cause for such failure in a written statement containing a declaration that it is made under the penalties of perjury. The statement must be filed with the district director for the district or the director of the service center where the return is required to be filed. The district director or the director of the service center shall determine whether the failure to furnish information was due to reasonable cause, and if so, the period of time for which such reasonable cause existed. In the case of a return that has been filed as required by this section except for an omission of, or error with respect to, some of the information required, if the person who filed the return establishes to the satisfaction of the district director or the director of the service center that the person has substantially complied with this section, then the omission or error shall not constitute a failure under this section.

(4) *Other penalties.* The information required by section 6038A and this section must be furnished even though it may not affect the amount of any tax due under the Internal Revenue Code. For criminal penalties for failure to file a return and filing a false or fraudulent return, see sections 7203, 7206, and 7207 of the Code.

(g) *Effective date.* This regulation is effective for taxable years beginning after December 31, 1983.

PART 602—[AMENDED]

Par. 4. The authority for Part 602 is as follows:

Authority: 26 U.S.C. 7805.

Par. 5. Section 602.101(c) is amended by inserting in the appropriate place in the table § 1.6038-2 . . . 1545-0805" and "1.6038A-1 . . . 1545-0805".

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: July 2, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85-17458 Filed 7-23-85; 8:45 am]

BILLING CODE 4830-01-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201 and 202

[Docket RM 84-3]

Office Organization and Procedures in Providing Information

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulations.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is amending 37 CFR Parts 201 and 202, concerning Office organization and procedures in providing information. In view of the 1976 revision of the Copyright Act, the citation of the statutory authority for Parts 201 and 202 of the Copyright Office Regulations is being amended. Section 201.1 has been amended to give the addresses to which various kinds of requests to the Copyright Office should be directed. Section 201.2 explains the general information that can be obtained from the Copyright Office and prescribes the conditions under which records, correspondence, and deposit material may be inspected and copied.

EFFECTIVE DATE: July 24, 1985.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, (202) 287-8380.

SUPPLEMENTARY INFORMATION:

1. Statutory authority. The statutory authority under which Parts 201 and 202 have been promulgated has been amended to cite the relevant section in the Copyright Act of 1976 and to give the correct citation in the statutes at large.

2. Mailing addresses. Section 201.1 presently directs that all mail and other communications be sent to the Register of Copyrights at one address. This remains the address to be used when submitting applications for registration of claims to copyright, documents for recordation, and the vast majority of communications with the Copyright Office. However, for more expeditious handling of certain kinds of requests, the Copyright Office asks that those communications be sent directly to the particular Division or Section responsible for responding to the request. The Copyright Office has amended § 201.1 to include the additional addresses.

3. Information given by the Copyright Office. Section 201.2(a)(1) presently states that the Office does not give "legal opinions or advice." This has been interpreted and applied by the Office to mean that it will not act as an attorney for members of the general public. The Office does not give *specific* advice whether certain conduct actually constitutes copyright infringement. With respect to administration of the Copyright Act in general, however, the Copyright Office must and does, interpret the Act. The courts, of course, are the final arbiters of what the law means. The wording of the present regulation is misleading and could be misinterpreted to mean that the Office has no authority to give opinions or define legal terms in the Act. This would be contrary to the opinions in a number of cases in which courts have accorded weight to Office interpretations. In order to clarify its position, the Office has amended § 201.2(a) by adding a new paragraph (3) as follows:

(3) In the administration of the Copyright Act in general, the Copyright Office interprets the Act. The Copyright Office, however, does not give specific legal advice on the rights of persons, whether in connection with particular uses of copyrighted works, cases of alleged foreign or domestic infringement, contracts between authors and publishers, or other matters of a similar nature.

4. Inspection and copying of records. Section 201.2(b) is amended to reflect the Copyright Office's policy regarding public use of in-process files.

"In-process files" are those which the Copyright Office makes for its own immediate internal use in connection with pending applications for registration or the recordation of documents and which are preliminary to the completion of the public record. These files include the Receipt-in-Process Records, Correspondence Management System Records, accounting files, open unfinished business files (U.B.), and other files of a similar nature. These files are maintained and are constantly used to facilitate the internal administrative operations of the Office in processing applications for registration and recording documents. They are not a part of the records that are required by section 705 of the Copyright Act to be open to public inspection.

As a general policy the regulations deny *direct* public access to in-process files and any of the areas where they are kept. A procedure is provided, however, whereby *information* contained in the in-process files may be obtained by anyone, following payment of applicable fees, upon request to the Information and Reference Division.

The regulations provide as an exception to the general policy of denying direct public access to in-process files that in the case of pending applications for registration and their accompanying deposits, access will be afforded without charge upon request of the copyright claimant or his/her authorized representative to those applications and deposits that were submitted for registration within the twelve month period immediately preceding the request. Likewise, access will be afforded to pending documents for recordation upon the request of at least one of the persons who executed the document or by an authorized representative of that person. These requests must be presented in the Public Information Office.

Requests for certain information contained in pending applications and documents may be made by anyone and the information will be supplied, following payment of applicable fees. The request should be made to the Certifications and Documents Section.

5. Correspondence. A significant amendment is proposed in § 201.2(c)(1). Consistent with Copyright Office practices under the Freedom of Information Act since 1978, the amended regulation makes correspondence directly relating to rejected applications for registration and documents for which recordation was refused records that are open to public inspection.

6. Requests for copies. The Copyright Office has amended § 201.2(d)(1) to specify more precisely the information to be given when requests for copies of records are made. The regulations would retain the same conditions that must be presently satisfied when copies of copyright deposits are requested, but the proposed amendment of § 201.2(d)(2)(i) makes clear that the written authorization may also be made by the owner of any of the exclusive rights in the copyright as long as it can be documented in writing that the transfer of ownership occurred. The remaining subsections in § 201.2(d)(2) have minor non-substantive changes in wording. Section 201.2(d)(3) is new. It specifies that in responding to a request for a reproduction of a phonorecord the Office will provide "proximate reproduction," and reserves to the Office the right to substitute a monaural reproduction for a stereo, quadraphonic, or any other type of fixation of the work accepted for deposit.

* * * * *

These amendments have been issued as final regulations, effective immediately, without public comment, since they concern Office organization and procedures and are not substantive in nature. Moreover, the changes are either technical, or clarify or confirm previously announced policies regarding access to Office in-process files.

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5, Chapter 5 of the U.S. Code, Subchapter II and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.[1]

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Acting Register of Copyrights has determined that the regulations will have no significant impact on small businesses.

List of Subjects in 37 CFR Parts 201 and 202

Copyright, Copyright office.

In consideration of the foregoing, Parts 201 and 202 of 37 CFR Chapter II are amended in the manner set forth below.

PART 201—[AMENDED]

To the authority citation for Part 201 is revised to read as follows:

Authority: Sec. 702, 90 Stat. 2541; 17 U.S.C. 702. * * *

2. Section 201.1 is revised to read as follows:

§ 201.1 Communications with the Copyright Office.

(a) *In general.* Mail and other communications shall be addressed to the Register of Copyrights, Library of Congress, Washington, D.C. 20559.

(b) *Inquiries to Licensing Division.* Inquiries about filings related to the four compulsory licenses (17 U.S.C. 111, 115, 116, and 118) should be addressed to the Licensing Division, LM-454, Copyright Office, Library of Congress, Washington, D.C. 20557.

(c) *Copies of records or deposits.* Requests for copies of records or deposits should be addressed to the Certifications and Documents Section, LM-402, Copyright Office, Library of Congress, Washington D.C. 20559.

(d) *Search of records.* Requests for searches of registrations and recordations in the completed catalogs, indexes, and other records of the Copyright Office should be addressed to the Reference and Bibliography Section, LM-450, Copyright Office, Library of Congress, Washington, D.C. 20559.

3. Section 201.2 is revised to read as follows:

§ 201.2 Information given by the Copyright Office.

(a) *In general.* (1) Information relative to the operations of the Copyright Office is supplied without charge. A search of the records, indexes, and deposits will be made for such information as they may contain relative to copyright claims upon application and payment of the statutory fee. The Copyright Office, however, does not undertake the making of comparisons of copyright deposits to determine similarity between works.

(2) The Copyright Office does not furnish the names of copyright attorneys, publishers, agents, or other similar information.

(3) In the administration of the Copyright Act in general, the Copyright Office interprets the Act. The Copyright Office, however, does not give specific legal advice on the rights of persons, whether in connection with particular uses of copyrighted works, cases of alleged foreign or domestic copyright infringement, contracts between authors and publishers, or other matters of a similar nature.

(b) *Inspection and copying of records.* (1) Inspection and copying of completed records and indexes relating to a registration or a recorded document, and inspection of copies or identifying material deposited in connection with a completed copyright registration may be undertaken in the Certifications and Documents Section. Since some of these materials are not stored on the immediate premises of the Copyright Office, it is advisable to consult the Certifications and Documents Section to determine the length of time necessary to produce the requested materials.

(2) It is the general policy of the Copyright Office to deny direct public access to in-process files and to any work (or other) areas where they are kept. Likewise, direct public use of computer terminal intended to access the automated equivalents of these files is not permitted.

[1] The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title [17]," except with respect to the making of copies of copyright deposits). [17 U.S.C. 706(b)]. The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA-FOIA requirements.

(3) Information contained in Copyright Office in-process files may be obtained by anyone upon payment of applicable fees and request to the Information and Reference Division, in accordance with the following procedures:

(i) In general, all requests by the public for information in the in-process and open unfinished business files should be made to the Certifications and Documents Section, which upon receipts of applicable fees will give a report that provides the following for each request:

(A) the date(s) of receipt of: (*1*) The application(s) for registration that may have been submitted and is (are) in process; (*2*) the document(s) that may have been submitted for recordation and is (are) in process; (*3*) the copy or copies (or phonorecords) that may have been submitted; (B) the title of the work(s); and (C) the name of the remitter.

(ii) Such searches of the in-process files will be given priority to the extent permitted by the demands of normal work flow of the affected sections of the Copyright Office.

(4) Access will be afforded as follows to pending applications for registration, the deposit material accompanying them, and pending documents for recordation that were submitted within the twelve month period immediately preceding the request for access: (i) in the case of applications for registration and deposits accompanying them, upon the request of the copyright claimant or his/her authorized representative, and (ii) in the case of documents, upon the request of at least one of the persons who executed the document or by an authorized representative of that person. These requests should be made to the Public Information Office, and the review of the materials will be permitted there. No charge will be made for this service.

(5) In exceptional circumstances, the Register of Copyrights may allow inspection of pending applications and open correspondence files by someone other than the copyright claimant, upon submission of a written request which is deemed by the Register to show good cause for such access and establishes that the person making the request is one properly and directly concerned. The written request should be addressed to the General Counsel of the Copyright Office, Department DS, Washington, D.C. 20540.

(6) In no case will direct public access be permitted to any financial or accounting records.

(7) The Copyright Office maintains administrative staff manuals referred to as its "Compendium of Office Practices I" and "Compendium of Office Practices II" for the general guidance of its staff in making registrations and recording documents. The manuals, as amended and supplemented from time to time, are available for purchase from the National Technical Information Service (Compendium I) and the Government Printig Office (Compendium II). They are also available for public inspection and copying in the Certifications and Documents Section.

(c) *Correspondence.* (1) Official correspondence, including preliminary applications, between copyright claimants or their agents and the Copyright Office, and directly relating to a completed registration, a recorded document, a rejected application for registration, or a document for which recordation was refused is available for public inspection. Requests for reproductions of the correspondence shall be made pursuant to paragraph (d) of this section.

(2) Correspondence, application forms, and any accompanying material forming a part of a pending application are considered in-process files and access to them is governed by paragraph (b) of this section.

(3) Correspondence, memoranda, reports, opinions, and similar material relating to internal matters of personnel and procedures, office administration, security matters, and internal consideration of policy and decisional matters including the work product of an attorney, are not open to public inspection.

(4) The Copyright Office will return unanswered any abusive or scurrilous correspondence.

(d) *Requests for copies.* (1) Requests for copies of records should include the following:

(i) A clear identification of the type of records desired (for example, additional certificates of registration, copies of correspondence, copies of deposits).

(ii) A specification of whether the copies are to be certified or uncertified.

(iii) A clear identification of the specific records to be copied. Requests should include the following specific information, if possible: (A) the type of work involved (for example, novel, lyrics, photograph); (B) the registration number; (C) the year date or approximate year date of registration; (D) the complete title of the work; (E) the author(s) including any pseudonym by which the author may be known; and (F) the claimant(s); and (G) if the requested copy is of an assignment, license, contract, or other recorded document, the volume and page number of the recorded document.

(iv) If the copy requested is an additional certificate of registration, include the fee. The Certifications and Documents Section will review requests for copies of other records and quote fees for each.

(v) The telephone number and address of the requestor.

(2) Requests for certified or uncertified reproductions of the copies, phonorecords, or identifying material deposited in connection with a copyright registration of published or unpublished works in the custody of the Copyright Office will be granted only when one of the following three conditions has been met:

(i) The Copyright Office receives written authorization from the copyright claimant of record or his or her designated agent, or from the owner of any of the exclusive rights in the copyright as long as this ownership can be demonstrated by written documentation of the transfer of ownership.

(ii) The Copyright Office receives a written request from an attorney on behalf of either the plaintiff or defendant in connection with litigation, actual or prospective, involving the copyrighted work. The following information must be included in such a request: (A) The names of all the parties involved and the nature of the controversy; (B) the name of the court in which the actual case is pending or, in the case of a prospective proceeding, a full statement of the facts of the controversy in which the copyrighted work is involved; and (C) satisfactory assurance that the requested reproduction will be used only in connection with the specified litigation.

(iii) The Copyright Office receives a court order for reproduction of the deposited copies, phonorecords, or identifying material of a registered work which is the subject of litigation. The order must be issued by a court having jurisdiction of the case in which the reproduction is to be submitted as evidence.

(3) When a request is made for a reproduction of a phonorecord, such as an audiotape or cassette, in which either a sound recording or the underlying musical, dramatic, or literary work is embodied, the Copyright Office will provide proximate reproduction. The Copyright Office reserves the right to substitute a monaural reproduction for a stereo, quadraphonic, or any other type of fixation of the work accepted for deposit.

PART 202—REGISTRATIONS OF CLAIMS TO COPYRIGHT

4. The authority citation for Part 202 is revised to read as follows:

Authority: Sec. 702, 90 Stat. 2541, 17 U.S.C. 702.

Dated: July 17, 1985.

Donald C. Curran,

Acting Register of Copyrights.

[FR Doc. 85-17538 Filed 7-23-85; 8:45 am]

BILLING CODE 1401-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[FRL-2869-4; PP 3E2939/R778]

Pesticide Tolerance of Chlorothalonil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the fungicide chlorothalonil and its metabolite in or on the raw argicultural commodity cranberries. This regulation to establish a maximum permissible level for residues of chlorothalonil in or on cranberrries was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on July 24, 1985.

ADDRESS: Written objections, identified by the document control number [PP 3E2939/R778], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald Stubbs, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of June 27, 1985 (50 FR 26592), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, submitted pesticide petition 3E2939 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Stations of Massachusetts, New Jersey, Washington, and Wisconsin proposing the establishment of a tolerance for the combined residues of the fungicide chlorothalonil (tetrachloroisophthalonitrile) and its metabolite 4 hydroxy-2,5,6-(trichloroisophthalonitrile) in or on the raw agricultural commodity cranberries at 5.0 parts per million (ppm).

The pesticide is considered useful for the purpose for which the tolerance is sought. There are no regulatory actions pending against the continued registration of the pesticide. Based on the data submitted and evaluated, discussed in the proposed rule, the Agency has determined that the establishment of the tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 17, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.275 is amended by adding and alphabetically inserting the raw agricultural commodity cranberries to read as follows:

§ 180.275 Chlorothalonil; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Cranberries	5.0
* * * * *	

[FR Doc. 85-17622 Filed 7-23-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 412

[BERC-317-F]

Medicare Program; Prospective Payment System for Hospital Inpatient Services; Redesignation of Rules; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rules.

SUMMARY: This document corrects §412.4(a)(1) of the Medicare rules by restoring content that was unintentionally omitted when the prospective payment rules were redesignated.

FOR FURTHER INFORMATION CONTACT: Luisa V. Iglesias, (202) 245-0383.

SUPPLEMENTARY INFORMATION: In FR Doc. 85-6604, published on March 29, 1985, beginning on page 12740, we used the text of 42 CFR 405.470(c)(1) as it appeared in the October 1, 1983 issue of the Code of Federal Regulations, and redesignated it as § 412.4(a)(1). We overlooked the fact that § 405.470(c)(1) had been revised by final rules published on January 3, 1984 (49 FR 314) to include reference to leave of absence from the hospital.

Accordingly, in 42 CFR 412.4, the introductory statement of paragraph (a) is reprinted without change, and paragraph (a)(1) is corrected to reflect the January 3, 1984 revision, to read as follows:

§ 412.4 Discharges and transfers.

(a) *Discharges.* A hospital inpatient is considered discharged when any of the following occurs:

(1) The patient is formally released from the hospital. (Release of the patient to another hospital as described in paragraph (b) of this section, or a leave of absence from the hospital, will not be recognized as a discharge for the purpose of determining payment under the prospective payment system.)

* * * * *

Dated: July 17, 1985.

Peter D. Gness,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85-17572 Filed 7-23-85; 8:45 am]

BILLING CODE 4120-01-M