

A310-52-2017, Revision 2, dated December 22, 1987.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 13, 1989.

Issued in Seattle, Washington, on August 29, 1989.

Darrell M. Pederson,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 89-21135 Filed 9-7-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 93

[Docket No. 25758; Amdt. No. 93-57]

High Density Traffic Airports Slot Allocation and Transfer Methods

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; correction.

SUMMARY: This action corrects editorial errors which appeared in a final rule, published on August 22, 1989 (54 FR 34904), amending the High Density Traffic Airports Rule and slot allocation and transfer regulations.

FOR FURTHER INFORMATION CONTACT: David L. Bennett at (202) 267-3491.

SUPPLEMENTARY INFORMATION: On August 22, 1989, the Department of Transportation published a final rule which made several technical amendments to Subparts K and S of Part 93 of the Federal Aviation Regulations (14 CFR Part 93); High Density Traffic

Airports Slot Allocation and Transfer Methods; Docket No. 25758 (54 FR 34904).

The amendment number, given as No. 93-56, should be changed to No. 93-57.

Editorial errors in the regulatory text of Amendment No. 93-57, page 34906, third column, are corrected by making the following changes:

§ 93.123 [Corrected]

1. In the fourth line of the first full sentence under § 93.123(c)(1), remove "and § 93.127".

2. In the third and fourth lines of the first sentence under § 93.123(c)(2), remove "and § 93.124".

§ 93.213 [Corrected]

3. In the third line under § 93.213(a)(3), and in the second line under § 93.213(a)(4), change "fourth" to "last".

Issued in Washington, DC, on September 5, 1989.

Donald P. Byrne,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 89-21138 Filed 9-7-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154, 157, 260, 284, 385 and 388

[Docket No. RM87-17-000]

Natural Gas Data Collection System; Availability of PC Print Software and Corrected Record Formats for Rate, Tariff, and Certificate Filings

Issued August 31, 1989.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Availability of Print Software and Corrected Record Formats for Rate, Tariff, and Certificate Filings.

SUMMARY: Software to print rate, tariff and certificate filings required to be filed on electronic medium in accordance with Order Nos. 493 (53 FR 15025 (Apr. 27, 1988)), 493-A (53 FR 30027 (Aug. 10, 1988)), 493-B (53 FR 49652 (Dec. 9, 1988)) and 493-C (54 FR 21197 (May 17, 1989)) is now available on diskette. This notice also identifies corrections and revisions to the record formats for rate, tariff and certificate filings. The print software may be ordered on the enclosed Print Software Order Form.

DATE: The print software and the revised record formats are available on August 31, 1989.

ADDRESS: Requests for copies of the various print software packages should be directed to: Reference and Information Center, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 2200, Washington, DC 20426, (202) 357-8118.

FOR FURTHER INFORMATION CONTACT: Brooks Carter (for General Information & Tariffs) (202)357-8866, Bob Czarick (for Certificates) (202)357-8995, Craig Hill (for Rates) (202)357-8822, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 6100, Washington, DC 20426.

SUPPLEMENTARY INFORMATION: The PC software to produce a hardcopy printout of rate, tariff and certificate filings, when filed in accordance with updated record formats, is now available on diskette. The record formats for rate filings were issued on May 10, 1989; the record formats for tariff and certificate filings were issued on June 8, 1989. Staff has corrected certain errors in these formats and has made certain other minor revisions to correct anomalies or to clarify the filing instructions. The latest corrections and revisions to the record formats for rate, tariff and certificate filings are described in Appendices A, B, and C respectively. Complete copies of record formats, for rates, tariffs and certificates, as revised by this notice, are available on a separate diskette.

The programming language used for the print software is ANSI 1974 Standard COBOL. The diskettes contain files which can be run on an IBM-compatible PC with at least 640K RAM and DOS 3.0 (or later version). The PC print software is available in separate packages for rates, tariffs and certificates. Each print software package consists of 3.5" (1.44MB) or 5.25" (1.2MB) double-sided, high density diskettes containing a user's guide and hard copy executable code. The tariff and certificate print software packages also contain a test data file and COBOL source code. Persons interested in the COBOL source code for the PC version of the rates print software should contact Craig Hill at (202) 357-8822 for additional information. Mainframe versions of the print software for rates, tariffs, and certificates are scheduled for release in early October.

The PC print software has been initially tested by staff. If software problems occur, the Commission staff encourages users to provide written comments as to the exact nature of the problem and submit them to Bob Czarick, Office of Pipeline and Producer

Regulation, Room 6106, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC.

This notice is available through the Commission Issuance Posting System (CIPS), an electronic bulletin board service that provides access to formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed on a 24-hour basis using a personal computer with a modem by dialing (202) 357-8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, eight data bits and one stop bit. The text of the notice will be available on CIPS for 30 days from the date of issuance.

In addition to publishing the text of this notice in the *Federal Register*, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this notice and the revised record formats during normal business hours in the Reference and Information Center (Room 2200) at the Commission's headquarters, 825 North Capitol Street, NE., Washington, DC 20426.

The PC hard copy software packages are available from the Commission's Reference and Information Center through its photocopy contractor, LaDorn Systems Corporation, also located in Room 2200, 825 North Capitol Street, NE., Washington, DC 20426. Persons requesting the PC software packages should fill out the enclosed Print Software Order Form. The software is available without charge. However, the Commission's copy contractor has copy fees for both diskettes and hardcopy.

Lois D. Cashell,
Secretary.

Print Software Order Form
(please print or type)

Use this form to order copies of the print software packages relating to rates, tariffs, and certificate filings (Notice of Availability issued August 31, 1989).

Send to: LaDorn Systems Corporation, 825 North Capitol Street, NE., Room 2200, Washington, DC 20426 (202) 898-1151.

Ordered By: _____

Company: _____

Address: _____

Phone Number: (____) _____

Type of Diskette: 3.5" (1.44MB): \$6.00/diskette
(specify) 5.25" (1.2MB): \$5.00/diskette

Package	Description	Copy fee
—Package A.....	Executable PC Print Software: Rates. 10 Diskettes x fee/diskette.

Package	Description	Copy fee
—Package B.....	Executable PC Print Software: Tariffs. 1 Diskette x fee/diskette.
—Package C.....	Executable PC Print Software: Certificates. 2 Diskettes x fee/diskette.
—Package D.....	Complete Set of Corrected Record Formats for Rates, Tariffs and Certificates (ASCII). 1 Diskette x fee/diskette.
Total Copy Fee.	

Make check payable to LaDorn Systems Corporation. Receipt of payment is required before shipment.

Information Available on Diskettes

PC Print Software: Rates

Diskette 1: *User's Guide, File name = R-USERPC.ASC Driver and Subdriver files

Diskette 2: PC Executable Files for Statements A-D

Diskette 3: PC Executable Files for Statement E

Diskette 4: PC Executable Files for Statement F

Diskette 5: PC Executable Files for Statement G, Part 1

Diskette 6: PC Executable Files for Statement G, Part 2

PC Executable Files for Statement H, Part 1

Diskette 7: PC Executable Files for Statement H, Part 2

PC Executable Files for Statement I

Diskette 8: PC Executable Files for Statements L and M

Diskette 9: PC Executable Files for Statement N, Part 1

Diskette 10: PC Executable Files for Statement N, Part 2

PC Print Software: Tariffs

Diskette 1: *Notice of Availability of PC Print Software for Rates, Tariffs and Certificates

*User's Guide, File Name = T-USERPC.ASC PC Executable Print Software for Tariffs Test Data, File name = TARIFF.DAT Source Code for PC Print Software for Tariffs

PC Print Software: Certificates

Diskette 1: *User's Guide, File name = C-USERPC.ASC PC Executable Print Software for Certificates Test Data, File names: FILE1, FILE2, FILE3

Diskette 2: Source Code for PC Print Software for Certificates

Record Formats:

Diskette 1: *Corrected Record Formats for Rates, Tariffs and Certificates (August 31, 1989)

Note: An '*' indicates that the item is available in hardcopy from LaDorn Corp. An abbreviated version of the record formats, containing only those sections or records that have been revised, is also available in hardcopy.

Appendix A—Corrections/Revisions to Rate Filing Record Formats

General Instructions

All filings by anyone to the Federal Energy Regulatory Commission, whether by mail or in person, are to be submitted to the Secretary, through the Dockets Branch, in Room 3110, 825 North Capitol Street, NE., Washington, DC 20426. Courtesy copies of filings to be delivered to other Commission offices must be left with staff in the Dockets Branch for delivery. Courtesy copies will be enclosed in an outer envelope addressed to Room 3110 with the individual's name and address on an inner envelope. Courtesy copies will be delivered to Commission staff addresses throughout the business day.

The following revisions correct errors in the final rate filing record formats dated May 10, 1989:

1. RA16: Statement F(2), Rate of Return and Cost of Capital

The number of character positions for Items 241, 242 and 243 is increased from five to six to agree with the specified format of f(6,2). Character positions for Items 243 and 244 are revised accordingly.

2. RA17: Statement F(3), Debt Capital-Individual Instruments

The format for Item 259, Net Proceeds Per Unit, is revised from f(10,2) to f(14,2). Character positions for Item 259 and subsequent are revised accordingly.

3. RA18: Statement F(3)-1, Debt Capital-Total Debt

The number of positions for Item 274 is increased from 12 to 14. Revise character positions for Item 274 and subsequent.

The number of positions for Item 280 is decreased from 14 to 6 and the entry is now a percent instead of a dollar amount. Comment column is revised to: "(%); format, f(6,2); {[item 277]-(item 279)} / (item 276) * 100"

4. RA19: Statement F(3)(g), Amortization of Gain/Loss on Reacquired Debt and Reacquired Preferred Stock—Part 1

The comment for Item 287, Historical Amortization Factor [Future Amortization Factor] is revised to: "format, f(7, 6); when item 282 is "1" or "3", enter the quotient $1 / \{ [yy \text{ of item } 285] - [yy \text{ of item } 286] \} * 12 + [mm \text{ of item } 285] - 1 \} * 12$; when item 282 is "2" or "4", enter the quotient $1 / \{ [yy \text{ of item } 285] - [yy \text{ of item } 286] - 1 - \} * 12 + [(mm \text{ of item } 285) - (mm \text{ of item } 286) + 12] \} * 12$

5. RA21: Statement F(4), Preferred Stock Capital

The number of positions for Item 307 is increased from 6 to 14 and the format is now f(14,2). Revise subsequent character positions accordingly.

Item 319, Weighted Average Cost of Money-Total Only, is deleted.

Old Item Numbers 320 and 321 are renumbered 319 (Optional Gain on Reacquired Preferred for Total) and 320 (Optional Adjusted Annual Cost of all Preferred Capital), respectively. The comment for Item 320 is revised to: "amount, (\$); (item 317) — (item 319)"

A new Item 321, Optional Adjusted Percent Cost of all Preferred Capital, is added in positions 210-215. The Comment column contains: "(%); format, f(6,2); (item 320) / (item 316) * 100.

6. RA22: Statement F(5) / F(5)-3(a), Common Stock Capital

The number of positions for Item 330, Title, is reduced to 35.

The format for Items 339, 340, 342, 343, 344 and 345 is revised from f(7,2) to f(12,2). Character positions for Items 330-347 are adjusted accordingly.

7. RA23: Schedule F(5)-1, Stock Dividends, Splits, Etc.

The format for Items 360 through 363 is revised from f(7,2) to f(14,2). Character positions are adjusted.

8. RA24: Schedule F(5)-2/3(b), Stock Information

The format for Items 372 through 374 is revised from f(7,2) to f(14,2). The format for Item 376 is revised from f(8,2) to f(14,2). Character positions are adjusted.

9. RA25: Schedule F(5)-4/5, Earnings Per Share/Interest Coverage

The format for Item 382 is revised from f(7,2) to f(14,2) and character positions are revised.

10. RA26: Schedule F(6) Statement of Cash Flows—Part 1

The word "Less" is deleted from the names of Items 406 and 407. A (—) sign

is added after the names of Items 410 through 413 and Item 415. The (—) sign after Item 414 is deleted.

11. RA27: Schedule F(6), Statement of Cash Flows—Part 2

A (—) sign is added after the names of Items 419, 421, 424 and 431.

The (—) sign is deleted from the names of Items 420, 422, 425, 427 and 437.

12. RA28: Schedule F(6), Statement of Cash Flows—Part 3

A (—) sign is added after the name of Item 446.

13. RA30: Statement G, Gas Operating Revenues and Sales Volumes Field Sales, Non-Jurisdictional Sales and Other Sales

The note below the title is deleted. The codes for Item 481, Total Indicator, are revised. Instead of the codes in Exhibit C, use the following codes for Item 481:

code = 0, customer data
code = 1, month data
code = 2, juris./non-juris. total
code = 3, period total
code = 4, grand total for jurisdictional
code = 5, grand total for non-jurisdictional

14. RA30: Statement G, Gas Operating Revenues and Sales Volumes Transportation of Gas for Others

The codes for Item 511, Total, are expanded as follows:

code = 0, customer data
code = 1, month data
code = 2, period total
code = 3, grand total

15. RA34: Statement G, Gas Operating Revenues and Sales Volumes Products Extracted

The character positions for the Footnote ID are revised to 149-152 and the Filler (Tape Only) begins in 153.

16. RA40: Statement H(1), Operation and Maintenance Expenses

The codes for Item 617, Type of Balance, are revised as follows:

code = 1, individual item
code = 2, total operation
code = 3, total maintenance
code = 4, total oper. and maint.
code = 5, sub-function total
code = 6, project total
code = 7, function total
code = 8, grand total

17. RA47: Schedule H(1)-2, Purchased Gas Costs—Part 6

Comments text for Item 762 is properly aligned.

18. RA49: Schedule H(2)-1, Reconciliation of Depreciable Plant

The correct positions for Items 800 and 801 are 81-92 and 93-112, respectively.

19. RA50: Statement H(3), Income Taxes

In the comments for Item 819, code = 20, delete the words "at rate specified in item 833".

In the comments column for Item 833, delete the words following "19".

20. RA51: Schedule H(3)-6, Accumulated Deferred Income Taxes

The character positions for Item 840 are revised to 52-63; Footnote ID is now in 64-67 and 68-255 are blank filled (tape only).

21. RA78, RA79 and RA80: Statement M, Parts 1-3

In Items 1311, 1331 and 1354 (Year Reported), "change from" is deleted from the comments for code = 2.

22. RB05: Schedule N-4, Rate of Return and Cost of Capital

(Changes are the same as for RA16)

23. RB06: Schedule N-5, Operation and Maintenance

(Changes are the same as for RA40)

24. RB08: Schedule N-7, Income Taxes

(Changes are the same as for RA50)

25. Exhibit A: Magnetic Tape Procedures

The correct prefix for the file name is "RF", not "RA". The example at the end of Exhibit A is incorrect.

Appendix B—Corrections/Revisions to Tariff Filing Record Formats

The General Instruction for submitting filings to FERC is revised as indicated in Appendix A.

The following revisions correct errors in the final tariff filing record formats dated June 8, 1989:

1. Tariff sheet pagination guidelines

A new Exhibit C is added to the tariff sheet record formats and contains voluntary guidelines for numbering tariff sheets. These are staff guidelines only and do not constitute revisions to the regulations in § 154.33(d)(2). The guidelines follow this section.

The previous Exhibit C, Hard Copy Formats for Tariff Sheets, is now Exhibit D.

2. TF03: Tariff Sheet Header Record Number 1

Informal comments and the pagination guidelines for inserted tariff sheets (No. 6 on the guidelines), there is now a

possibility that "Sheet Number" may exceed six characters. Sheet Number will be increased to eight positions (char. pos. 5-12) and the subsequent position locations in TF03 are increased by 2.

3. TF04: Tariff Sheet Header Record Number 2

This record is revised to include two items which are needed for FERC processing of tariff sheets which supersede a range of tariff sheets. The new items indicate the first and last superseded sheet numbers. "Superseded Sheet Number" is revised to "Superseded Sheet ID. Refer to General Instruction 8 in the tariff record formats for an example of a tariff sheet superseding a range of sheets. In that example, the items in TF04 have the following values:

First Superseded Sheet No.: 10

Last Superseded Sheet No.: 39

Superseded Sheet ID: Sheet Nos. 10 through 39

The text of the tariff sheet will include a list of the specific sheets that are superseded.

Appendix C—Corrections/Revisions to Certificate Filing Record Formats

Introduction

After the release of the Certificate Formats on June 8, 1989, several typographical errors were brought to our attention. Staff also had several informal discussions with pipeline company personnel regarding anomalies in the formats, the instructions, and the exhibits. Revised pages issued with this notice reflect these discussions and specific indications of changes, and clarifications to the certificate formats detailed below. Finally, Staff has performed exhaustive tests on the print software being issued today with this notice. Several modifications to the instructions and notations on the formats have been made in this regard.

General Information

I. Purpose

The words "and Subpart H" are added after Subpart G.

III. What to Submit

The word "Selected" is added to the title, "Items not required on Electronic Media." This indicates that the Commission has the flexibility to capture other sections of the regulations under these subparts or other subparts of the regulations with respect to certificated activities on electronic media.

V. Where to Submit

"Room 3110" is added to the address of the Commission. Since this is also the address for hand deliveries, that address is deleted.

General Instructions

1(B): The first sentence in the second paragraph is modified to indicate that the Regulation Codes as found in Exhibit C do not have to be inserted into FILE3 (the write or composition file) in sequential order.

1(C): This paragraph and the table are modified to indicate a new maximum number of print specifications for FILE3 as follows:

Page orientation	Maximum line length (Char.)			Max. lines per page
	10 cpi	12 cpi	15 cpi	
Vertical (Portrait)	70	84	105	54
Horizontal (Landscape)	100	120	150	42

These modifications of line length in characters per inch (cpi) will fix the margins for both portrait and landscape orientations. For portrait orientation (vertical), there will be a one inch (1") margin at the top, on the left (binding edge), and the bottom, and a one-half inch (½") margin on the right. For landscape orientation, there will be a one inch (1") margin at the top (binding edge) and a one-half inch (½") margin on the left, right, and bottom of the page.

13. Pipeline Facility/Segment Number:

The words, "within a project or projects," are deleted. This will clarify the intent that facility/segments in Exhibit K must be numbered in the following manner so as to coincide with the segment number in Schedule/Record CA/03, the Environmental Report (Part B—Environmental Factors). The following example has been added to this instruction:

For example, Exhibit K project numbers and facility/segment numbers must use the following convention:

Project Number 01; Facility/Segment Number 01, 02, 03, 04;

Project Number 02; Facility/Segment Number 05, 06, 07;

Project Number 03; Facility/Segment Number 08, 09, 10; and so on.

25. Joint Applications:

This instruction is completely revised to read as follows:

Each company in a joint application will file its own structured data (FILE1), accompanying footnotes (FILE2), and a driver file (FILE3) to produce the applicant's hard copy submission. Each company's Schedule/Record CA/01 must contain a footnote explaining, in detail, the joint nature of the application and must cross-reference the other joint applicants and their respective file names. Also, the submittal letter with

the application should identify the joint applicants and file names to avoid confusion when submitting the proper filing fee for such an application.

Schedule/Records

CA/01: General Information

Item No. 3: The comment section is revised to read as follows: Year, Month, and Day the application is filed (yyymmdd)

Item No. 10e:

The comment section is revised to include "See NOTE 1A" and a new NOTE 1A is added to Record CA/01:

NOTE 1A: For applications which contain new facilities and proposed abandonments, Item 10e should indicate a net amount of capacity. Indicate in a footnote what the gross amounts of capacity are for the new facilities and the abandoned capacity.

Character Positions: Starting with Item No. 10e, the character positions have been corrected.

CA/10: Exhibit K, Cost Factors & Total Costs

Character Positions: The character positions for the Footnote ID have been corrected to 196-199 and the Filler has been revised to positions 200-255.

Exhibits

Exhibit C: Certificate Applications: Filing Requirements

Regulation Code 121: Structured Data Records entry is corrected to "CA/09-CA/10".

Regulation Code 403: Regulation Section and Exhibit/Information to be reported column entries are corrected to "284.224, Certain Transportation, Sales, and Assignments by Local Distribution Companies."

Regulation Code 600 (New): This is a new code for SUBPART H, Section 284.244, Application Requirements for Interstate Pipelines.

Exhibit H: Hard Copy Formats for Certificate Applications

Printout of Customer/Shipper and Services, Schedule 1: The third line in the first note is corrected to indicate Items [11], [16], [17], and [18].

Printout of Exh. K—Summary of Project Estimates: The words "New" and "Abandonment" have been added to the "Total" line, respectively, for both reports.

Printout of Exh. K—Detail of Est. Facilities Costs: The note to this report has been modified to label pipe diameter and wall thickness. Also Item

113, code = 4 has been paired with Item 113, code = 3.
 [FR Doc. 89-21084 Filed 9-7-89; 8:45 am]
 BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket Nos. 76N-0366 and 87N-0182]

Listing of Color Additives Subject to Certification; D&C Red No. 36

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is removing D&C Red No. 36 from the regulations (21 CFR 81.1(b) and 81.27(d)) that provide for the provisional listing of color additives. This removal corrects an inadvertent error that continued to include D&C Red No. 36 in these regulations after the confirmed effective date for the permanent listing of D&C Red No. 36 for general use in drugs and cosmetics, except for use in the area of the eye.

EFFECTIVE DATE: September 8, 1989.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Center for Food and Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 2, 1988 (53 FR 29024), FDA published a final rule permanently listing D&C Red No. 36 for general use in drugs and cosmetics, except for use in the area of the eye. Among other things, the rule amended the tables of 21 CFR 81.1(b) and 81.27(d) by removing the entries for "D&C Red No. 36" from these regulations that provisionally listed the color additive. Provisional listing of D&C Red No. 36 was no longer necessary once the agency issued final regulations that permanently listed the color additive for the same uses for which the color additive was provisionally listed. The final rule was to be effective on September 2, 1988.

On October 28, 1988 (53 FR 43682), FDA published a final rule confirming the effective date of September 2, 1988, for the permanent listing of D&C Red No. 36; however, the agency stayed until December 27, 1988, one provision in the permanent listing regulations to which an objection had been made. Because of this stay, the agency also postponed the closing date of the provisional listing for

D&C Red No. 36 until December 27, 1988. This postponement permitted the continued use of the color additive pending resolution of the one provision in the permanent listing to which an objection has been filed.

On December 27, 1988 (53 FR 52129), FDA terminated the stay of the one provision noted in the October 28, 1988, final rule (53 FR 43682) and amended the regulation for the permanent listing of D&C Red No. 36 to modify a limitation on use in ingested drugs. The effective date of the amended final rule was January 27, 1989, which provided time for interested persons to submit objections to the amendment. In the same issue of the *Federal Register*, FDA published a final rule (53 FR 52130) that postponed the closing date for the provisional listing of D&C Red No. 36 until February 27, 1989, so that FDA could respond to any objection received regarding the amended final rule permanently listing D&C Red No. 36.

On March 6, 1989 (54 FR 9200), the agency published a final rule announcing that no objections to the amended final rule had been submitted and confirming the effective date of January 27, 1989, for the amended final rule permanently listing D&C Red No. 36 for general use in drugs and cosmetics, except in the area of the eye. Inadvertently, FDA neglected to remove the entries from the regulations (tables in 21 CFR 81.1(b) and 81.27(d)) that provided for the provisional listing of D&C Red No. 36 until February 27, 1989. Although the passage of this date terminated the provisional listing of D&C Red No. 36, the agency's policy has been to remove references to color additives in the provisionally listed regulations when the color additives are either permanently listed or when petitions for such permanent listing are denied.

Therefore, FDA concludes that 21 CFR 81.1(b) and 81.27(d) should be amended to remove the entry for D&C Red No. 36 from each table. This action does not affect the permanent listing of this color additive for general drug and cosmetic use.

FDA further concludes that it is unnecessary to provide an opportunity for the filing of objections to this action because this rule is editorial in nature, and because the transitional provisions of the color additive amendments provide for the issuance of a final rule without providing an opportunity for objection.

List of Subjects in 21 CFR Part 81

Color additives, Cosmetics, Drugs.

Therefore, under the Transitional Provisions of the Color Additive Amendments of 1960 to the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

1. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055-1056 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

2. Section 81.1 *Provisional lists of color additives* is amended in the table of paragraph (b) by removing the entry for "D&C Red No. 36".

§ 81.27 [Amended]

3. Section 81.27 *Conditions of provisional listing* is amended in the table in the introductory text of paragraph (d) by removing the entry for "D&C Red No. 36".

Dated: August 30, 1989.

Ronald G. Chesemore,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-21068 Filed 9-7-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF STATE

22 CFR Part 136

[Public Notice 1128; 108,889]

Personal Property Disposition at Posts Abroad

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This action promulgates the final rule setting forth regulations governing disposition of personal property abroad by certain United States Government employees and contractors, and members of their families. As required by section 303(a) of the State Department's Basic Authorities Act (22 U.S.C. 4343(a)), the purpose of these regulations is to ensure that employees and members of their families do not personally profit from transactions with persons not entitled to exemptions from import restrictions, duties, or taxes.

EFFECTIVE DATE: August 21, 1989.

FOR FURTHER INFORMATION CONTACT:
Mr. James Marable, Office of the
Comptroller, Department of State,
telephone 703-875-8918.

SUPPLEMENTARY INFORMATION: On June 20, 1988, the State Department published interim regulations (53 FR 23188) on Personal Property Disposition at Posts Abroad. The comment period ended on August 20, 1988. Comments were received from Foreign Service posts abroad, USG employees who serve abroad, an employee organization (American Foreign Service Association or "AFSA"), and several USG agencies whose employees are affected. Most of the comments received were critical of parts of the legislation, asked for clarification, or concerned tax implications. Only one minor change has been made to the interim regulations based on comments received. Comments are summarized below.

Section 136.4(g) of the interim regulations stipulated that for the purposes of computing profits on property dispositions, proceeds received and costs incurred in a foreign currency shall be valued in US dollars at the time of receipt or payment. Use of these procedures was questioned by commenters. The section has been amended to provide that such conversion is only required when the purchase and sale occur in two different currencies. Profit on transactions involving goods both purchased and sold in the local currency will be calculated in the local currency rather than converting each part of the transaction to dollars before computing profit, as is required in all other transactions.

A number of comments were received which criticized the interim rule and the legislation as being unduly restrictive, or inequitable for USG employees. No regulatory relief could be provided along those lines, however, since the interim rule tracked the statute closely. The regulations already provide flexibility for chiefs of mission where the statute allows it.

For instance, it was asked if the rule could be changed to include interest or extraordinary maintenance expense in the calculation of the base price of an item. This could not be accomplished since base price (basis) and profit are defined in the statute. Similarly, the regulations cannot provide for averaging losses and profits on vehicle sales, as requested, since the law contains no such provision. Nor can they accommodate a request from AFSA and others to permit employees to retain any proceeds from the sale of personal

property up to the fair replacement cost of the item sold.

The statute excludes from the definition of profit amounts contributed as charitable contributions. Commenters complained that since the IRS considers such receipts as realizable income, employees will be subject to taxes on all or part of money given to charity which they were required by the statute not to keep. The statute did not address the tax liabilities of employees, however, and does not allow retention of any profits, even to pay taxes on a capital gain, although this was suggested by several organizations and individuals.

E.O. 12991, Federal Regulations

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulations.

Regulatory Flexibility Act

These rules will not have a significant impact on a substantial number of small entities because they will affect only Federal employees and agencies.

Paperwork Reduction Act

These regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

List of Subjects in 22 CFR Part 136

Government employees, Foreign relations.

Accordingly, new part 136 is added to title 22, Code of Federal Regulations, as follows:

PART 136—PERSONAL PROPERTY DISPOSITION AT POSTS ABROAD

Sec.

- 136.1 Purpose.
- 136.2 Authority.
- 136.3 Definitions.
- 136.4 Restrictions on dispositions of personal property.
- 136.5 Chief of mission policies, rules or procedures.
- 136.6 Contractors.

Authority: 22 U.S.C. 4341.

§ 136.1 Purpose.

The primary purpose of these regulations is to ensure that employees and members of their families do not profit personally from sales or other transactions with persons who are not themselves entitled to exemption from import restrictions, duties, or taxes.

§ 136.2 Authority.

Section 303(a) of the State Department Basic Authorities Act of 1958 authorizes the Secretary of State to issue regulations to carry out the purposes of Title III of that Act.

§ 136.3 Definitions.

(a) *Basis* of an item shall include the initial price paid (or retail value at the time of acquisition if acquired by gift), inland and overseas transportation costs (if not reimbursed by the United States Government), shipping insurance, taxes, customs fees, duties or other charges, and capital improvements, but shall not include insurance on an item while in use or storage, maintenance, repair or related costs, or financing charges.

(b) *Charitable contribution* means a contribution or gift as defined in section 170(c) of the Internal Revenue Code, or other similar contribution or gift to a bona fide charitable foreign entity as determined pursuant to policies, rules or procedures issued by the chief of mission pursuant to § 136.5(b).

(c) *Chief of mission* has the meaning given such term by section 102(e) of the Foreign Service Act of 1980 (22 U.S.C. 2902(3)).

(d) *Contractor* means: (1) An individual employed by personal services contract pursuant to section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)), pursuant to section 636(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(3)), or pursuant to any other similar authority including, in the case of an organization performing services under such authority, an individual involved in the performance of such service; and (2) any other individual or firm that enjoys exemptions from import limitations, customs duties or taxes on personal property from a foreign country in connection with performance of a contract for goods or services when such contract is with the United States Government or an agency or instrumentality thereof or when such contract is directly financed by grant assistance from the United States Government or an agency or instrumentality thereof and the individual or firm is a party to the contract, a subcontractor, or an employee of a contractor or subcontractor.

(e) *Employee* means an individual who is under the jurisdiction of a chief of mission to a foreign country as provided under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) and who is—

(1) An employee as defined by section 2105 of title 5, United States Code;

(2) An officer or employee of the United States Postal Service or of the Postal Rate Commission;

(3) A member of a uniformed service who is not under the command of an area military commander, or

(4) An expert or consultant as authorized pursuant to section 3109 of title 5, United States Code, with the United States or any agency, department, or establishment thereof; but is not a national or permanent resident of the foreign country in which employed.

(f) *Family member* means any member of the family of an employee who is entitled to exemption from import limitation, customs duties, or taxes which would otherwise apply by virtue of his or her status as a dependent or member of the household of the employee.

(g) *Foreign country* means any country or territory, excluding the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, American Samoa, Guam, the Virgin Islands, and other territories and possessions of the United States.

(h) Except as otherwise provided by a chief of mission in policies, rules or procedures issued pursuant to § 136.5(b), an item shall be deemed of "minimal value" if its acquisition cost in U.S. dollars (or retail value if received as a gift) is within the limit determined by the Administrator of General Services for "minimal value" of foreign gifts under 5 U.S.C. 7342, currently \$180. For purposes of determining "minimal value," all constituent parts of components of an audio or visual system, automobile, boat, computer system, or other integrated machine, system or item of equipment must be valued as a single item even if acquired separately, except that spare or superseded parts (e.g., an old set of tires that has been replaced on vehicle) may be valued as separate items.

(i) *Personal property* means any item of personal property, including automobiles, computers, boats, audio and video equipment and any other items acquired for personal use, except that items properly determined to be of "minimal value" shall not be subject to limitations on disposition except for purposes of § 136.4(d) or as prescribed in policies, rules or procedures issued by a chief of mission.

(j) *Profit* means any proceeds (including cash and other valuable consideration but not including amounts of such proceeds given as charitable contributions) for the sale, disposition or assignment of personal property in excess of the basis for such property.

§ 136.4 Restrictions on dispositions of personal property.

(a) An employee or family member shall not sell, assign or otherwise

dispose of personal property within a foreign country except with the prior written approval of the chief of mission or designee, except where the category of dispositions has been authorized to be undertaken without prior written approval in policies, rules or procedures issued by the chief of mission (cf. § 136.5(b)(1)).

(b) An employee or family member shall not retain any profit from the sale, assignment or other disposition within a foreign country of personal property that was imported into or purchased in that foreign country and that, by virtue of the official status of the employee, was exempt from import restrictions, customs duties, or taxes which would otherwise apply, when such sale, assignment or other disposition is made to persons not entitled to exemptions from import restrictions, duties, or taxes. An employee or family member shall not profit from an indirect disposition to persons not entitled to such exemptions, such as sale through a third country diplomat acting as a middleman, where the employee or family member knows or should know that the property is being acquired by the third party for resale to persons not entitled to exemptions, except that this restriction shall not apply to sales of personal property to official agencies of the foreign country in accordance with the laws or regulations of that country.

(c) Profits obtained from dispositions of personal property by an employee or family member that cannot be retained under paragraph (b) of this section including any interest earned by the employee or family member on such profits, shall be disposed of within 90 days of receipt by contribution or gift as defined in section 170(c) of the Internal Revenue Code or by other similar contribution or gift to a bona fide charitable foreign entity as designated by the chief of mission pursuant to § 136.5(b)(11) of this part.

(d) Except as authorized in advance by the chief of mission on a case-by-case basis, no employee or family member shall sell, assign or otherwise dispose of personal property within a foreign country that was not acquired for bona fide personal use. There shall be a presumption that property that is new, unused or held by the employer or family member in unusual or commercial quantities was not acquired for bona fide personal use. For purposes of this subsection, there is no exemption for items of minimal value § 136.3(h).

(e) No employee or family member shall import, sell, assign or otherwise dispose of personal property within a foreign country in a manner that violates

the law or regulations of that country or governing international law.

(f) Violations of the restrictions or requirements of paragraphs (a) through (e) of this section shall be grounds for disciplinary actions against the employee in accordance with the employing agency's procedures and regulations. Employees shall be responsible for ensuring compliance with these regulations by family members.

(g) For purposes of computing profits on personal property dispositions subject to these regulations, where acquisition and disposition of the property were transacted in different currencies, proceeds received and costs incurred in a foreign currency shall be valued in United States dollars at the time of receipt or payment at the rate of exchange that was in effect for reverse accommodation exchanges at U.S. missions at the time of such receipt or payment. Where property was acquired and sold in the same currency, no conversion is required.

§ 136.5 Chief of mission policies, rules or procedures.

(a) Each chief of mission shall establish a procedure under which employees may request approval for the sale of personal property and for conversion of proceeds of such sale from local currency into U.S. dollars, if applicable. This procedure may be modified to meet local conditions, but must produce a documentary record to be held by the post of the following:

(1) The employee's signed request for permission to sell personal property, and, if applicable, to convert local currency proceeds to U.S. dollars;

(2) A description of each item of personal property having more than minimal value, and the cost basis and actual sales price for each item;

(3) All profits received and whether profit is retainable;

(4) Donation to charities or other authorized recipients of non-retainable profits;

(5) Approvals to sell and, if applicable, to exchange proceeds, with any restrictions or refusals of the employee's request noted, signed by the chief of mission or designee; and

(6) For privately owned vehicle transactions, data on purchaser and statement that customs requirements have been met and title has been transferred or arranged with an agent identified on document.

(b) In order to ensure that due account is taken of local conditions, including applicable laws, markets, exchange rate factors, and accommodation exchange

facilities, the chief of mission to each foreign country is authorized to establish policies, rules, and procedures governing the disposition of personal property by employees and family members in that country under the chief of mission's jurisdiction. Policies, rules and procedures issued by the chief of mission shall be consistent with the general restrictions set forth in § 136.4 and may include at least the following:

(1) Identification of categories of dispositions (e.g., sales of minimal value items) that may be made without prior written approval;

(2) Identification of categories of individuals or entities to whom sales of personal property can be made without restrictions on profits (e.g., other employees, third country diplomats), individuals or entities to whom sales can be made but profits not retained, and individuals or entities to whom sales may not be made;

(3) Requirements to report the total estimated and actual proceeds for all minimal value items, even if such items are otherwise exempted from limitations on profits of sale;

(4) Categories of items of personal property excluded from restrictions on disposition because generally exempt from taxation and import duties under local law;

(5) More restrictive definition of "minimal value" (see § 136.3(h) of this part);

(6) Limitations on manner of disposition (e.g., restrictions on advertising or yard sales);

(7) Limitations on total proceeds that may be generated by dispositions of personal property, including limitations on proceeds from disposition of "minimal value" items;

(8) Limitations on total profits that may be generated by dispositions of personal property, including limitations on profits from dispositions of "minimal value" items;

(9) Limitations on total proceeds from dispositions of personal property that may be converted into dollars by reverse accommodation exchange;

(10) Limitations on the timing and number of reverse accommodation exchanges permitted for proceeds of dispositions of personal property (e.g., only in last six months of tour and no more than two exchange conversions);

(11) Designation of bona fide charitable foreign entities to whom an employee or family member may donate profits that cannot be retained under these regulations.

(12) Designation of post officials authorized to approve on behalf of chief of mission employee requests for permission to sell personal property and

requests to convert local currency proceeds of sale to U.S. dollars by reverse accommodation exchange.

(c) All policies, rules, and procedures that are issued by the chief of mission pursuant to paragraphs (a) and (b) of this section shall be announced by notice circulated to all affected mission employees and copies of all such policies, rules and procedures shall be made readily accessible to all affected employees and family members.

(d) Violations of restrictions or requirements established by a chief of mission in policies, rules, or procedures issued by a chief of mission pursuant to paragraphs (a) and (b) of this section shall be grounds for disciplinary actions against the employee in accordance with the employing agency's procedures and regulations. Employees shall ensure compliance by family members with policies, rules or procedures issued by the chief of mission.

§ 136.6 Contractors.

To the extent that contractors enjoy importation or tax privileges in a foreign country because of their contractual relationship to the United States Government, contracting agencies shall include provisions in their contracts that require the contractors to observe the requirements of these regulations and all policies, rules, and procedures issued by the chief of mission in that foreign country.

Lawrence S. Eagleburger,
Acting Secretary of State.

[FR Doc. 89-21157 Filed 9-7-89; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8260]

RIN 1545-AJ92

Income Tax; Limitation on Taxpayer's Basis or Inventory Cost in Property Imported From Related Persons

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final Income Tax Regulations relating to the limitation on taxpayer's basis or inventory cost in property imported from a related person. This limitation is contained in section 1059A of the Internal Revenue Code of 1986 and was enacted by the Tax Reform Act of 1986.

These regulations provide the public with the guidance needed to comply with section 1059A.

DATES: The regulations are effective with respect to imported property if the entry documentation required to be filed to obtain the release of the property from the custody of the United States Customs Service was filed after March 18, 1986, except that the regulations will not apply to property imported into the United States in an open transaction as described in § 1.1059A(c)(9), provided the entry documentation is filed prior to September 3, 1987.

FOR FURTHER INFORMATION CONTACT: W. Edward Williams of the Office of the Associate Chief Counsel (International) within the Office of Chief Counsel, Internal Revenue Service, Room 3319, 950 L'Enfant Plaza, Washington, DC 20024, Attention: CC:INTL:1 (INTL-960-86). Telephone 202-287-4851 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 1059A of the Internal Revenue Code of 1986, as added by section 1248 of the Tax Reform Act of 1986. These regulations are issued under the authority contained in section 7805 of the Internal Revenue Code of 1986 (68A Stat. 917, 26 U.S.C. 7805).

On September 3, 1987, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 1059A of the Internal Revenue Code of 1986 (52 FR 33427) [INTL-960-86, 1987-43 I.R.B. 36].

Section 1059A provides that a U.S. taxpayer that imports property into the U.S. in a transaction (directly or indirectly) from a person or persons related to the taxpayer, within the meaning of section 482 of the Code, may not claim, for purposes of computing the basis or inventory cost of the property, a greater cost than the amount of the cost taken into account for customs valuation purposes. However, because the rules for determining the value of imported property for customs purposes differ in some respects from the rules for determining cost basis or inventory cost for income tax purposes, certain adjustments to the customs value are required to determine the limitation to cost basis or inventory cost for income tax purposes. Congress was aware of the need for these adjustments, and the legislative history of section 1059A contemplates that the Internal Revenue Service will provide rules for making