may discontinue service. Service may be discontinued after proper notification by letter. Proper notification shall include:

(1) Written notice to user that payment is due. Such notice shall afford the user the opportunity to challenge payment or excuse non-payment within 14 days of the date on the notification letter.

(2) Following the expiration of the 14 day deadline for response, and after consideration of any such response, the Assistant Secretary—Indian Affairs may notify the user by letter that if payment is not received within 10 days of the date on the letter, the service will be discontinued.

(d) The Assistant Secretary has the discretion to continue services for health and safety reasons. However, the non-Federal user is still responsible for payment for goods/services provided.

(e) Once service has been discontinued based on deliquency of payment, the discontinuance may be appealed under Part 2 of this title.

Walter R. Mills,

Assistant Secretary—Indian Affairs.

[FR Doc. 90-10950 Filed 5-9-90; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 35a, 46, and 602

[T.D. 8300]

RIN 5145-AN60

Registration Requirements With Respect to Certain Debt Obligations; Application of Repeal of 30 Percent Withholding by the Tax Reform Act of 1984

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final Income Tax Regulations relating to the definition of the term "registration required obligations" with respect to obligations issued to certain foreign persons and relating to the imposition of sanctions on issuers of registration required obligations in bearer form. This document also contains temporary regulations relating to the repeal of 30 percent withholding on certain types of interest by the Tax Reform Act of 1984. These regulations provide the public with guidance necessary to comply with the Tax Equity and Fiscal Responsibility Act of 1982 and the Tax Reform Act of 1984 and affect persons issuing debt obligations to foreign persons.

EFFECTIVE DATE: These regulations are effective May 10, 1990. The text of the regulations states the dates of applicability of the rules contained therein to various transactions and taxpayers.

FOR FURTHER INFORMATION CONTACT: Carl Cooper of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:CORP:T:R (INTL-0536-89) (202-566-6795, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545-1132. The annual burden per respondent or recordkeeper is estimated to be 10 minutes.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on information available to the Internal Revenue Service. Individual respondents or recordkeepers may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attention: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Paperwork Reduction Project (1545-1132), Washington, DC 20503.

Background

On August 24, 1989, the **Federal Register** published proposed amendments (54 FR 35200) to the Income Tax Regulations (26 CFR parts 1 and 46) under sections 163(f), 871, 881, 1441, 1442 and 4701 of the Internal Revenue Code of 1986. Section 1.163-5(c) of the regulations incorporated by reference certain requirements based on the interpretation of the Securities Act of 1933 by the Securities and Exchange Commission (SEC). The SEC proposed to revise its interpretation of that Act. The proposed amendments were in response to that action. Written comments responding to this notice were received. No public hearing was requested and no public hearing was held. After consideration of all comments regarding the proposed amendments, those amendments are adopted by this Treasury Decision with revisions in response to those comments. The comments and revisions are discussed below.

Explanation of Provisions

The proposed regulations under § 1.163-5(c)(2)(i) provided rules relating to whether an obligation would be considered to be issued under arrangements reasonably designed to insure that the obligation will be sold (or resold in connection with its original issuance) only to a person who is not a United States person. Obligations that satisfied the "arrangements reasonably designed" test under § 1.163-5(c)(2)(i)(A) or (B) were required, after the effective date, to satisfy new § 1.163-5(c)(2)(i)(D).

Proposed § 1.163-5(c)(2)(i)(D) listed seven requirements. In brief they were:

(1) Neither the issuer nor any distributor makes a directed selling effort with respect to the obligation;

(2) Neither the issuer nor any distributor offers the obligation within the United States or its possessions or to a United States person;

(3) The issuer does not, and each distributor covenants that it will not, sell the obligation within the United States or its possessions or to a U.S. person during the restricted period;

(4) Neither the issuer nor any distributor delivers the obligation within the United States or its possessions during the restricted period;

(5) All offering materials and documents used in connection with the original issuance of the obligation include a statement that the obligation may not be offered or sold within the United States or its possessions or to a United States person;

(6) If the issuer or any distributor sells the obligation during the restricted period to a distributor, a dealer, or any other person who receives a selling concession, fee or other remuneration in respect to the security sold, the seller sends a confirmation to such person stating that such person is subject to the restrictions regarding offer, sale, and delivery of the obligation during the restricted period; and

(7) No later than the 10th day after the last day of the restricted period, a certificate is provided to the issuer or a distributor of the obligation stating that the owner of the obligation on the last day of the restricted period is not a United States person.

The term "distributor" was defined to mean any affiliate of the issuer, the lead underwriter, any person participating in

the original issuance of the obligation pursuant to a contractual arrangement, and any person acting on behalf of the issuer or any of the foregoing.

The term "restricted period" was defined as the forty day period beginning on the later of the closing of the offering or the first date on which the obligation is offered to persons other than a distributor.

Section 1.163–5(c)(2)(i)(D) was proposed to be applicable to obligations originally issued after the date 30 days after final regulations are published in the **Federal Register.**

Commentors have suggested a number of difficulties with the proposed regulations under § 1.163–5(c)(2)(i)(D). Principally, those difficulties arise from the possibility that an obligation may fail the requirements of § 1.163–5(c)(2)(i)(D) for reasons that may be beyond the control of the issuer, and from the possibility that all the obligations in an issue may fail such requirements if only a few obligations have failed an issue wide requirement. Other comments concerned the lack of an incentive for post-restricted period certifications when delivery of the obligation is not required, and the possibility that the date of applicability of the regulations may not allow sufficient time for amendment of the documentation associated with an issue.

In response to these comments, and in view of the SEC's requirements under Regulation S, these final regulations have deleted the requirements of the proposed regulations relating to directed selling efforts, offering materials and confirmations. The provisions regarding offers and sales have been amended to limit somewhat the issuer's liability for acts of distributors. The certification procedure has been amended so that delivery of an obligation in definitive form triggers certification, and a more delayed effective date of the regulations has been provided.

These final regulations are separate and independent from the rules and interpretations that the SEC chooses to adopt in its administration of the securities laws. The SEC's interpretations will be considered by the Service where appropriate; however, the Service must ultimately base its interpretations on the tax policies underlying section 163(f)(2)(B).

These final regulations contain three requirements: (1) Restrictions on offers and sales, (2) restrictions on delivery, and (3) certification.

With respect to offers and sales, the issuer and distributor must not offer or sell the obligation during the restricted period to a person within the United States or its possessions or to a United States person. (The obligation may, however, be sold to a U.S. person in certain circumstances if the person is a financial institution or acquires and holds through a financial institution.) The distributor of the obligation will be deemed to satisfy this requirement if it covenants that it will not offer or sell the obligation during the restricted period to a person who is within the United States or its possessions or to a United States person, and it has in effect, in connection with the offer and sale of the obligation during the restricted period, procedures reasonably designed to insure that its employees or other agents who are directly engaged in selling the obligation are aware that the obligation can not be offered or sold during the restricted period to a person who is within the United States or its possessions or to a United States person.

With respect to delivery of obligations sold during the restricted period, neither the issuer nor any distributor may deliver the obligation in definitive form within the United States or its possessions.

Certification is required on the earlier of the date of the first payment of interest on the obligation or the date of delivery by the issuer of the obligation in definitive form. The certification may be signed or sent either by the owner of the obligation or by a financial institution or clearing organization through which the owner holds the obligation.

The final regulations alter the exception from certification contained in the proposed regulations for "targeted offshore offerings". The changes are in response to comments concerning offers and sales, under the exception, of obligations within or without the targeted foreign country. The IRS will continue to review the use of the exception and may make further changes, if warranted; such changes would be effective on a prospective basis.

The definition of distributor has been amended in these final regulations. A distributor is a person that offers or sells the obligation during the restricted period pursuant to a written contract with the issuer, any person that offers or sells the obligation during the restricted period pursuant to a written contract with a person previously described, and certain affiliates of the issuer or another distributor that offer and sell the obligation during the restricted period.

The preamble to the proposed regulations solicited comments on several issues, including whether registered obligations convertible into bearer form should be treated as registered rather than bearer obligations at the time of issuance. Because of general tax compliance concerns, it has been decided to continue current law, which treats such convertible obligations as being in bearer form at the time of issuance.

These final regulations will apply to obligations originally issued after September 7, 1990. The issuer of an obligation may choose to apply either the rules of § 1.163–5(c)(2)(i)(A) or § 1.163–5(c)(2)(i)(B), or the rules of these final regulations, to an obligation that is originally issued after May 10, 1990 and on or before September 7, 1990.

This document also publishes temporary regulations revising paragraphs (a), (c) and (e) of § 35a.9999–5 and adding new paragraph (e) to § 1.163–5T. These temporary regulations amend A–6 of paragraph (a) to provide an exception from the certification requirement for certain short term commercial paper. Under this provision a certificate will not be required under § 1.163–5(c)(2)(i)(D)(*3*) by virtue of A–6 if the obligation is an original issue discount obligation with a maturity of 183 days or less from the date of issuance.

A–18 of paragraph (c) of § 35a.9999–5 provides that an obligation that would otherwise be in registered form but for the fact that it is convertible into bearer form is considered to be in bearer form. Under A–1 of § 35a.9999–5(a), this provision applies to obligations issued after July 18, 1984. The provision in A–18 is amended in order to better coordinate that provision with § 1.163–5(c)(2)(vi).

A–21 of paragraph (e) of § 35a.9999–5 provides that interest paid to the holder of a pass-through certificate described in § 1.163–5T(d) may qualify as portfolio interest. It provides further that, for purposes of sections 871(h) and 881 (c), interest is considered to be paid on or with respect to the pass-through certificate and not with respect to any obligations held by the fund or trust to which the pass-through certificate relates. This rule was intended to apply with respect to payment from the trustee of the pass-through trust to the certificate holder, but not with respect to payments made to the trustee of the pass-through trust. Thus, the rule applies when the trustee of the pass-through trust is a United States person who collects and pays out interest to the certificate holder, but does not apply when the payment is made to a trustee that is a foreign person. A–21 is amended to clarify this point. A–21 is also amended to clarify its application to REMICs. Section 1.163–5T is also

amended to add paragraph (e) concerning REMICs.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) and the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking for the regulation was submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Carl Cooper of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in developing the regulations.

List of Subjects 26 CFR §§ 1.61–1 through 1.28–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR Part 35a

Employment taxes, Income taxes, Backup withholding, Interest and Dividends Tax Compliance Act of 1983.

26 CFR Part 46

Banks, Banking, Excise taxes, Sugar.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 35a, 46 and 602 are amended as follows:

PART 1—INCOME TAX REGULATIONS

Paragraph 1. The authority for part 1 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

§ 1.163–5 [Amended]

Par. 2. Section 1.163–5(c) is amended as follows:

1. Paragraph (c)(2)(i) introductory text is amended by revising the first, fourth and fifth sentences and by adding a new sentence between the fourth and fifth sentences as set forth below.

2. Paragraph (c)(2)(i)(A) is amended by adding the sentence as set forth below after the last sentence thereof.

3. Paragraph (c)(2)(i)(B) introductory text is revised as set forth below.

4. Paragraph (c)(2)(i)(D) is added as set forth below.

5. Paragraph (c)(3) is amended by redesignating the existing text as paragraph (c)(3)(i) and adding a heading at the beginning of newly designated paragraph (c)(3)(i), and by adding a new paragraph (c)(3)(ii) as set forth below.

§ 1.163–5 Denial of interest deduction on certain obligations issued after December 31, 1982, unless issued in registered form.

* * * * *

(c) *Obligations issued to foreign persons after September 21, 1984—*

* * *

(2) *Rules for the application of this paragraph—(i) Arrangements reasonably designed to ensure sale to non-United States persons.* An obligation will be considered to satisfy paragraph (c)(1)(i) of this section if the conditions of paragraph (c)(2)(i) (A), (B), (C), or (D) of this section are met in connection with the original issuance of the obligation. * * * Obligations that meet the conditions of paragraph (c)(2)(i) (A), (B), (C) or (D) of this section may be issued in a single public offering. The preceding sentence does not apply to certificates of deposit issued under the conditions of paragraph (c)(2)(i)(C) of this section by a United States person or by a controlled foreign corporation within the meaning of section 957(a) that is engaged in the active conduct of a banking business within the meaning of section 954(c)(3)(B) as in effect prior to the Tax Reform Act of 1986, and the regulations thereunder. A temporary global security need not satisfy the conditions of paragraph (c)(2)(i) (A), (B) or (C) of this section, but must satisfy the applicable requirements of paragraph (c)(2)(i)(D) of this section.

(A) * * * Except as provided in paragraph (c)(3) of this section, this paragraph (c)(2)(i)(A) applies only to obligations issued on or before September 7, 1990.

(B) The obligation is registered under the Securities Act of 1933, is exempt from registration by reason of section 3 or section 4 of such Act, or does not qualify as a security under the Securities Act of 1933; all of the conditions set forth in paragraph (c)(2)(i)(B) (*1*), (*2*), (*3*), (*4*), and (*5*) of this section are met with respect to such obligations; and, except as provided in paragraph (c)(3) of this section, the obligation is issued on or before September 7, 1990.

* * * * *

(D) The obligation is issued after September 7, 1990, and all of the conditions set forth in this paragraph (c)(2)(i)(D) are met with respect to such obligation.

(*1*) *Offers and sales—(i) Issuer.* The issuer does not offer or sell the obligation during the restricted period to a person who is within the United States or its possessions or to a United States person.

(*ii*) *Distributors.* (*A*) The distributor of the obligation does not offer or sell the obligation during the restricted period to a person who is within the United States or its possessions or to a United States person.

(*B*) The distributor of the obligation will be deemed to satisfy the requirements of paragraph (c)(2)(i)(D)(*1*)(*ii*)(*A*) of this section if the distributor of the obligation convenants that it will not offer or sell the obligation during the restricted period to a person who is within the United States or its possessions or to a United States person; and the distributor of the obligation has in effect, in connection with the offer and sale of the obligation during the restricted period, procedures reasonably designed to ensure that its employees or agents who are directly engaged in selling the obligation are aware that the obligation cannot be offered or sold during the restricted period to a person who is within the United States or its possessions or is a United States person.

(*iii*) *Certain rules.* For purposes of paragraph (c)(2)(i)(D)(*1*) (*i*) and (*ii*) of this section:

(*A*) An offer or sale will be considered to be made to a person who is within the United States or its possessions if the offeror or seller of the obligation has an address within the United States or its possessions for the offeree or buyer of the obligation with respect to the offer or sale.

(*B*) An offer or sale of an obligation will not be treated as made to a person within the United States or its possessions or to a United States person if the person to whom the offer or sale is made is: An exempt distributor, as defined in paragraph (c)(2)(i)(D)(*5*) of this section; An international organization as defined in section 7701(a)(18) and the regulations thereunder, or a foreign central bank as defined in section 895 and the regulations thereunder; or The foreign branch of a United States financial institution as described in paragraph (c)(2)(i)(D)(*6*)(*i*) of this section. Paragraph (c)(2)(i)(D)(*1*)(*iii*)(*B*) regarding an exempt distributor will only apply to an offer to the United States office of an

exempt distributor, and paragraph (c)(2)(i)(D)(*1*)(*iii*)(*B*) regarding an international organization or foreign central bank will only apply to an offer to an international organization or foreign central bank, if such offer is made directly and specifically to the United States office, organization or bank.

(*C*) A sale of an obligation will not be treated as made to a person within the United States or its possessions or to a United States person if the person to whom the sale is made is a person described in paragraph (c)(2)(i)(D)(*6*)(*ii*) of this section.

(*2*) *Delivery.* In connection with the sale of the obligation during the restricted period, neither the issuer nor any distributor delivers the obligation in definitive form within the United States or it possessions.

(*3*) *Certification*—(*i*) *In general.* On the earlier of the date of the first actual payment of interest by the issuer on the obligation or the date of delivery by the issuer of the obligation in definitive form, a certificate is provided to the issuer of the obligation stating that on such date:

(*A*) The obligation is owned by a person that is not a United States person:

(*B*) The obligation is owned by a United States person described in paragraph (c)(2)(i)(D)(*6*) of this section; or

(*C*) The obligation is owned by a financial institution for purposes of resale during the restricted period, and such financial institution certifies in addition that it has not acquired the obligation for purposes of resale directly or indirectly to a United States person or to a person within the United States or its possessions.

A certificate described in paragraph (c)(2)(i)(D)(*3*)(*i*) (*A*) or (*B*) of this section may not be given with respect to an obligation that is owned by a financial institution for purposes of resale during the restricted period. For purposes of paragraph (c)(2)(i)(D) (*2*) and (*3*) of this section, a temporary global security (as defined in § 1.163–5 (c)(1)(ii)(B)) is not considered to be an obligation in definitive form. If the issuer does not make the obligation available for delivery in definitive form within a reasonable period of time after the end of the restricted period, then the obligation shall be treated as not satisfying the requirements of this paragraph (c)(2)(i)(D)(*3*). The certificate must be signed (or sent, as provided in paragraph (c)(2)(i)(D)(*3*)(*ii*) of this section) either by the owner of the obligation or by a financial institution or clearing organization through which the owner holds the obligation, directly or indirectly. For purposes of this paragraph (c)(2)(i)(D)(*3*), the term "financial institution" means a financial institution described in § 1.165–12(c)(i)(v). When a certificate is provided by a clearing organization, the certificate must be based on statements provided to it by its member organizations. The requirement of this paragraph (c)(1)(D)(*3*) shall be deemed not to be satisfied with respect to an obligation if the issuer knows or has reason to know that the certificate with respect to such obligation is false. The certificate must be retained by the issuer (and statements by member organizations must be retained by the clearing organization, in the case of certificates based on such statements) for a period of four calendar years following the year in which the certificate is received.

(*ii*) *Electronic certification.* The certificate required by paragraph (c)(2)(i)(D)(*3*)(*i*) of this section (including a statement provided to a clearing organization by a member organization) may be provided electronically, but only if the person receiving such electronic certificate maintains adequate records, for the retention period described in paragraph (c)(2)(i)(D)(*3*)(*i*) of this section, establishing that such certificate was received in respect of the subject obligation, and only if there is a written agreement entered into prior to the time of certification (including the written membership rules of a clearing organization) to which the sender and recipient are subject, providing that the electronic certificate shall have the effect of a signed certificate described in paragraph (c)(2)(i)(D)(*3*)(*i*) of this section.

(*iii*) *Exception for certain obligations.* This paragraph (c)(2)(i)(D)(*3*) shall not apply, and no certificate shall be required, in the case of an obligation that is sold during the restricted period and that satisfies all of the following requirements:

(*A*) The interest and principal with respect to the obligation are denominated only in the currency of a single foreign country.

(*B*) The interest and principal with respect to the obligation are payable only within that foreign country (according to rules similar to those set forth in § 1.163–5(c)(2)(v)).

(*C*) The obligation is offered and sold in accordance with practices and documentation customary in that foreign country.

(*D*) The distributor covenants to use reasonable efforts to sell the obligation within that foreign country.

(*E*) The obligation is not listed, or the subject of an application for listing, on an exchange located outside that foreign country.

(*F*) The Commissioner has designated that foreign country as a foreign country in which certification under paragraph (c)(2)(i)(D)(*3*)(*i*) of this section is not permissible.

(*G*) The issuance of the obligation is subject to guidelines or restrictions imposed by governmental, banking or securities authorities in that foreign country.

(*H*) More than 80 percent by value of the obligations included in the offering of which the obligation is a part are offered and sold to non-distributors by distributors maintaining an office located in that foreign country. Foreign currency denominated obligations that are convertible into U.S. dollar denominated obligations or that by their terms are linked to the U.S. dollar in a way which effectively converts the obligations to U.S. dollar denominated obligations do not satisfy the requirements of this paragraph (c)(2)(i)(D)(*3*)(*iii*). A foreign currency denominated obligation will not be treated as linked, by its terms, to the U.S. dollar solely because the obligation is the subject of a swap transaction.

(*4*) *Distributor.* For purposes of this paragraph (c)(2)(i)(D), the term "distributor" means:

(*i*) a person that offers or sells the obligation during the restricted period pursuant to a written contract with the issuer;

(*ii*) any person that offers or sells the obligation during the restricted period pursuant to a written contract with a person described in paragraph (c)(2)(i)(D) (*4*) (*i*); and

(*iii*) any affiliate that acquires the obligation from another member of its affiliated group for the purpose of offering or selling the obligation during the restricted period, but only if the transferor member of the group is the issuer or a person described in paragraph (c)(2)(i)(D) (*4*)(*i*) or (*ii*) of this section. The terms "affiliate" and "affiliated group" have the same meanings as in section 1504(a) of the Code, but without regard to the exceptions contained in section 1504(b) and substituting "50 percent" for "80 percent" each time it appears.

For purposes of this paragraph (c)(2)(i)(D)(*4*), a written contract does not include a confirmation or other notice of the transaction.

(*5*) *Exempt distributor.* For purposes of this paragraph (c)(2)(i)(D), the term "exempt distributor" means a distributor that convenants in its contract with the

issuer or with a distributor described in paragraph (c)(2)(i)(D)(*4*)(*i*) that it is buying the obligation for the purpose of resale in connection with the original issuance of the obligation, and that if it retains the obligation for its own account, it will only do so in accordance with the requirements of paragraph (c)(2)(i)(D)(*6*) of this section. In the latter case, the convenant will constitute the certificate required under paragraph (c)(2)(i)(D)(*6*). The provisions of paragraph (c)(2)(i)(D)(*7*) governing the restricted period for unsold allotments or subscriptions shall apply to any obligation retained for investment by an exempt distributor.

(*6*) *Certain United States persons.* A person is described in this paragraph (c)(2)(i)(D)(*6*) if the requirements of this paragraph are satisfied and the person is:

(*i*) The foreign branch of a United States financial institution purchasing for its own account or for resale, or

(*ii*) A United States person who acquired the obligation through the foreign branch of a United States financial institution and who, for purposes of the certification required in paragraph (c)(2)(i)(D)(*3*) of this section, holds the obligation through such financial institution on the date of certification.

For purposes of paragraph (c)(2)(i)(D)(*6*)(*ii*) of this section, a United States person will be considered to acquire and hold an obligation through the foreign branch of a United States financial institution if the United States person has an account with the United States office of a financial institution, and the transaction is executed by a foreign office of that financial institution, or by the foreign office of another financial institution acting on behalf of that financial institution. This paragraph (c)(2)(i)(D)(*6*) will apply, however, only if the United States financial institution (or the United States office of a foreign financial institution) holding the obligation provides a certificate to the issuer or distributor selling the obligation within a reasonable time stating that it agrees to comply with the requirements of section 165(j)(3)(A), (B), or (C) and the regulations thereunder. For purposes of this paragraph (c)(2)(i)(D)(*6*), the term "financial institution" means a financial institution as defined in § 1.165–12(c)(1)(v). As an alternative to the certification required above, a financial institution may provide a blanket certificate to the issuer or distributor selling the obligation stating that the financial institution will comply with the requirements of section 165(j)(3)(A), (B) or (C) and the regulations thereunder. A blanket certificate must be received by the issuer or the distributor in the year of the issuance of the obligation or in either of the preceding two calendar years, and must be retained by the issuer or distributor for at least four years after the end of the last calendar year to which it relates.

(*7*) *Restricted period.* For purposes of this paragraph (c)(2)(i)(D), the restricted period with respect to an obligation begins on the earlier of the closing date (or the date on which the issuer receives the loan proceeds, if there is no closing with respect to the obligation), or the first date on which the obligation is offered to persons other than a distributor. The restricted period with respect to an obligation ends on the expiration of the forty day period beginning on the closing date (or the date on which the issuer receives the loan proceeds, if there is no closing with respect to the obligation). Notwithstanding the preceding sentence, any offer or sale of the obligation by the issuer or a distributor shall be deemed to be during the restricted period if the issuer or distributor holds the obligation as part of an unsold allotment or subscription.

(*8*) *Clearing organization.* For purposes of this paragraph (c)(2)(i)(D), a "clearing organization" is an entity which is in the business of holding obligations for member organizations and transferring obligations among such members by credit or debit to the account of a member without the necessity of physical delivery of the obligation.

* * * * *

(3) *Effective date*—(i) *In general.*

* * *

(ii) *Special rules.* If an obligation is originally issued after September 7, 1990 pursuant to the exercise of a warrant or the conversion of a convertible obligation, which warrant or obligation (including conversion privilege) was issued on or before May 10, 1990, then the issuer may choose to apply either the rules of § 1.163–5(c)(2)(i)(A) or § 1.163–5(c)(2)(i)(B), or the rules of § 1.163–5(c)(2)(i)(D). The issuer of an obligation may choose to apply either the rules of § 1.163–5(c)(2)(i)(A) or (B), or the rules of § 1.163–5(c)(2)(i)(D), to an obligation that is originally issued after May 10, 1990, and on or before September 7, 1990. However, any issuer choosing to apply the rules of § 1.163–5(c)(2)(i)(A) must apply the definition of United States person used for such purposes on December 31, 1989, and must obtain any certificates that would have been required under applicable law on December 31, 1989.

Par. 3. Paragraph (e) of § 1.163–5T is added immediately after paragraph (d) of § 1.163–5T. Paragraph (e) reads as follows:

§ 1.163–5T Denial of interest deduction on certain obligations issued after December 31, 1982, unless issued in registered form (temporary).

* * * * *

(e) *Regular interests in REMICS.* (1) A regular interest in a REMIC, as defined in sections 860D and 860G and the regulations thereunder, is considered to be a "registration-required obligation" under section 163(f)(2)(A) and § 1.163–5(c) if the regular interest is described in section 163(f)(2)(A) and § 1.163–5(c), without regard to whether any obligation held by the REMIC to which the regular interest relates is described in section 163(f)(2)(A) and § 1.163–5(c). A regular interest in a REMIC is considered to be described in section 163(f)(2)(B) and § 1.163–5(c), if the regular interest is described in section 163(f)(2)(B) and § 1.163(c), without regard to whether any obligation held by the REMIC to which the regular interest relates is described in section 163(f)(2)(B) and § 1.163–5(c).

(2) An obligation held by a REMIC is considered to be described in section 163(f)(2) (A) or (B) if such obligation is described in section 163(f)(2) (A) or (B), respectively, without regard to whether the regular interests in the REMIC are so considered.

(3) For purposes of section 4701, a regular interest is considered to be issued solely by the recipient of the proceeds from the issuance of the regular interest (hereinafter the "sponsor"). The sponsor is therefore liable for any excise tax under section 4701 that may be imposed with reference to the principal amount of the regular interest.

(4) In order to implement the purpose of section 163, § 1.163–5(c), and this section, the Commissioner may characterize a regular interest in a REMIC and any obligation held by such REMIC in accordance with the substance of the arrangement they represent and may impose the penalties provided under sections 163(f)(1) and 4701 in the appropriate amounts and on the appropriate persons. This provision may be applied, for example, where a corporation issues an obligation that is purportedly in registered form and that will qualify as a "qualified mortgage" within the meaning of section 860G(a)(3) in the hands of a REMIC, contributes the obligation to a REMIC as its only asset,

and arranges for the sale to investors of regular interests in the REMIC in bearer form that do not meet the requirements of section 163(f)(2)(B). If this provision is applied, the obligation held by the REMIC will not be considered to be issued in registered form or to meet the requirements of section 163(f)(2)(B). The corporation will not be allowed a deduction for the payment of interest on the obligation held by the REMIC, and the excise tax under section 4701, calculated with reference to the principal amount of the obligation held by the REMIC, will be imposed on the corporation and may be collected from the corporation and its agents.

Par. 5. The authority for part 35a continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * *

Par. 6. Section 35a.9999–5 is amended by adding a parenthetical in A–5(ii) of paragraph (a) immediately before A–5(iii); by adding a parenthetical in A–5(iii) of paragraph (a) immediately before A–5(iv); by removing the first sentence of A–13 of paragraph (b), and adding a new sentence in its place; by adding new subdivision (i)(G) to A–14 of paragraph (b); by removing the sentence immediately before the last sentence of A–18 of paragraph (c), and adding two new sentences in its place; in paragraph (e), by redesignating the text of existing A–21 as subdivision (i) and adding a sentence immediately following the second sentence in newly designated subdivision (i), and adding new subdivision (ii). The added sentences read as follows:

§ 35a.9999–5 Questions and answers relating to repeal of 30 percent withholding by section 127 of the Tax Reform Act of 1984 and to the application of information reporting and backup withholding in light of such repeal.

* * * * *

(a) *Rules concerning obligations in bearer form.*

* * * * *

A–5. * * * (ii) * * * (determined by reference to the spot rate on the date of issuance, in the case of an obligation not denominated in United States dollars); (iii) * * * (However, an original issue discount obligation with a maturity of 183 days or less from the date of issuance is not required to satisfy the certification requirement of § 1.163–5(c)(2)(i)(D)(3).) * * *

* * * * *

(b) *Rules concerning obligations in registered form.*

* * * * *

A–13. An obligation is considered to be targeted to foreign markets for purposes of A–12 if it is sold (or resold in connection with its original issuance) only to foreign persons (or to foreign branches of United States financial institutions described in section 871(h)(4)(B)) in accordance with procedures similar to those prescribed in § 1.163–5(c)(2)(i) (A), (B), or (D). * * *

* * * * *

A–14. * * *

(i) * * *

(G) The certificate described in this subdivision may be provided electronically under the terms and conditions of § 1.163–5(c)(2)(i)(D)(*3*)(*ii*).

* * * * *

(c) *Convertibility of obligations.*

* * * * *

A–18. * * * An obligation issued after July 18, 1984, and on or before September 21, 1984, that would otherwise be in registered form but for the fact that it is convertible into bearer form, shall be considered to be in bearer form for purposes of A–1 if it satisfies the applicable requirements of the relevant temporary or proposed regulations under section 163(f)(2)(B), as described in § 1.163–5(c)(2)(vi). An obligation issued after September 21, 1984, that would otherwise be in registered form but for the fact that it is convertible into bearer form shall be considered to be in bearer form. * * *

* * * * *

(e) *Application of repeal of 30 percent withholding to pass-through certificates.*

* * * * *

A–21. (i) * * * The rule of this A–21 applies only to payments made to the holder of the pass-through certificate from the trustee of the pass-through trust and does not apply to payments made to the trustee of the pass-through trust. * * *

(ii) Interest paid to a holder of a regular or residual interest in a REMIC will qualify as portfolio interest under section 871(h)(2) or section 881(c)(2) for purposes of the exemption from 30 percent withholding if the interest paid to the holder satisfies the conditions described in A–1 or A–8 of this section. For purposes of A–1 or A–8 of this section and sections 871(h) and 881(c), interest paid to the holder of a regular interest in a REMIC is considered to be paid on or with respect to the regular interest in the REMIC and not on or with respect to any mortgage obligations held by the REMIC. The foregoing rule, however, applies only to payments made to the holder of the regular interest from the REMIC and does not apply to payments made to the REMIC. For purposes of A–1 or A–8 of this section and sections 871(h) and 881(c), interest paid to the holder of a residual interest in a REMIC is considered to be paid on or with respect to the obligations held by the REMIC, and not on or with respect to the residual interest. For purposes of A–1 and A–8 of this section and section 127 of the Tax Reform Act of 1984, a residual interest in a REMIC will be considered as issued after July 18, 1984, only to the extent that the obligations held by the REMIC are issued after July 18, 1984, but a regular interest in a REMIC will be considered as issued after July 18, 1984, if the regular interest was issued after July 18, 1984, without regard to the date on which the mortgage obligations held by the REMIC were issued.

PART 46—[AMENDED]

Par. 7. The authority for Part 46 continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * *

Par. 8. Section 46.4701–1 is amended by revising paragraph (b)(5) to read as follows:

§ 46.4701–1 Tax on issuer of registration-required obligation not in registered form.

* * * * *

(b) *Definitions* * * *

* * * * *

(5) *Issuer.* Except as provided in § 1.163–5T(d) (relating to pass-through certificates) and § 1.163–5T(e) (relating to REMICs), the "issuer" is the person whose interest deduction would be disallowed solely by reason of section 163(f)(1).

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 9. The authority for part 602 continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * *

§ 602.101 [Amended]

Par. 10. Section 602.101(c) is amended by revising the entry for § 1.163–5 in the table to read as follows: "§ 1.163–5 * * * 1545–1132.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Approved:

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 90–10860 Filed 5–9–90; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-90-20]

Special Local Regulations for Marine Events; North/South Challenge at Virginia Beach; Atlantic Ocean, Virginia Beach, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the North/South Challenge at Virginia Beach to be held in the Atlantic Ocean off Virginia Beach on May 12, 1990. These special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and participants.

EFFECTIVE DATES: The regulations are effective from 9 a.m. to 7 p.m., May 12, 1990. If inclement weather cause the postponement of the event, the regulations are effective from 9 a.m. to 7 p.m., May 13, 1990.

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 (804) 398-6204.

SUPPLEMENTARY INFORMATION: The Coast Guard published a notice of proposed rulemaking concerning these regulations in the **Federal Register** on March 29, 1990 (55 FR 11619). Interested persons were requested to submit comments and none were received.

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Fifth Coast Guard District, and Lieutenant Steven M. Fitten, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

The Offshore Power Boat Racing Association and the East Virginia Offshore Racing Association submitted an application to hold the North/South Challenge at Virginia Beach. The race will consist of approximately 50 powerboats, from 21 to 41 feet in length racing over a course off the beachfront at Virginia Beach, Virginia. Race headquarters will be located at the Comfort Inn at 21st Street and Altantic Avenue, Virginia Beach, Virginia.

Generally, the race course is cigar shaped, running parallel to the shoreline at Virginia Beach with a dogleg to the southeast at the southern end of the course to allow Rudee Inlet to be used during the event. Vessels outbound from Rudee Inlet will have to turn in a southerly direction to avoid the race area. Vessels inbound to Rudee Inlet will have to enter from the south to avoid the race area. Rudee Inlet will be closed for a short time when the racers depart for the race area and when they return after the race.

The Cape Henry Precautionary Area and the Dam Neck Danger Area are located to the north and south of the race course, respectively. While the race course does not encroach on either of those areas, the regulated area includes the southwest corner of the Cape Henry Precautionary Area and the northeast corner of the Dam Neck Danger Area. To provide for the safety of participants, spectators, and vessels transiting the area, the Coast Guard will restrict vessel movement in the regulated area and has established a temporary spectator anchorage for what is expected to be a large spectator fleet. Coast Guard patrol vessels will be positioned at Rudee Inlet to direct vessels to the temporary spectator anchorage and to instruct transiting vessels on how to proceed safely around the race course. The sponsor will provide approximately 40 vessels, including 6 medical boats with paramedics on board to assist the Coast Guard and local government agencies in patrolling this event. All vessels will display Offical Regatta Patrol signs and identity numbers.

A short hovercraft demonstration by the U.S. Army from Fort Story will be held in the vicinity of the start/finish line off 24th Street prior to the beginning of the race.

In order to publicize these regulations, the Coast Guard will publish details in the Local Notice to Mariners and the **Federal Register**. Representatives of the sponsors and members of the Coast Guard will be present in the vicinity of the race site to inform vessel operators of these regulations and other applicable laws.

Economic Assessment and Certification

These regulations are not considered either major under Executive Order 12291 on Federal Regulation or significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Impact

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and has been placed in the rulemaking docket.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations: In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35-0520 is added to read as follows:

§ 100.35-0520 Atlantic Ocean, Rudee Inlet, Virginia Beach, Virginia.

(a) *Definitions.*—(1) *Regulated area.* The waters of the Atlantic Ocean including Rudee Inlet commencing at a point on the shoreline at latitude 36°54'32.0" North, longitude 75°59'29.0" West; thence east northeast to latitude 36°54'47" North, longitude 75°58'10" West; thence south southeast parallel to the Virginia Beach shoreline to latitude 36°49'23" North, longitude 75°56'09" West; thence southwest to the shoreline at latitude 36°48'44" North, longitude 75°57'56" West.

(2) *Spectator Anchorage Area.* The waters off the Virginia seacoast bounded by a line connecting the following points:

Latitude	Longitude
36°51'53.0" N	75°57'42.0" W
36°51'56.0" N	75°57'25.0" W
36°50'57.0" N	75°57'08.0" W

Latitude	Longitude
36°50'54.0" N	75°57'26.0" W

(3) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer who has been designated by the Commander, Coast Guard Group Baltimore.

(b) *Special Local Regulations.* (1) Except for participants in the North/South Challenge at Virginia Beach and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area without the permission of the Patrol Commander.

(2) The operator of any vessel in the immediate vicinity of this area shall:

(i) Stop the vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign.

(3) Spectator vessels may anchor in the spectator anchorage areas specified in paragraphs (a)(4)(i) and (a)(4)(ii) of these regulations.

(4) The Coast Guard Patrol Commander may allow vessels to transit the regulated area whenever a race heat is not being run.

(5) Vessel operators are advised to remain clear of the advisory area during the effective periods of these regulations.

(c) *Effective periods:* The regulations are effective from 9 a.m. to 7 p.m., May 12, 1990. If inclement weather causes the postponement of the event, the regulations are effective from 9 a.m. to 7 p.m., May 13, 1990.

Dated: May 1, 1990.

P. A. Welling,

Rear Admiral, U.S. Coast Guard Commander. Fifth Coast Guard District.

[FR Doc. 90-10889 Filed 5-9-90; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6780

[UT-942-00-4214-10; U-010063]

Partial Revocation of Public Land Order 2354, Dated April 27, 1961; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order insofar as it affects 65 acres of public land withdrawn for the U.S. Forest Service for the Pahvant Administrative Site. The land is no longer needed for administrative site purposes. This action will open 65 acres to uses that may be made of National Forest System lands and to the United States mining laws. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: June 11, 1990.

FOR FURTHER INFORMATION CONTACT: Michael L. Barnes, Utah State Office, 324 South State Street, Suite 301, Salt Lake City, Utah 84111, 801-539-4119.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order 2354 dated April 27, 1961, is hereby revoked insofar as it affects the following described land:

Salt Lake Meridian

Pahvant Administrative Site

T. 25 S., R. 5 W.,
Sec. 2, S½SE¼SW¼, W½SW¼SW¼SE¼;
Sec. 11, NE¼NW¼.

The area described contains 65 acres in Sevier County.

2. At 8 a.m. on June 11, 1990, the land described in paragraph 1 will be opened to such forms of disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws. Appropriation of land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: May 1, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-10922 Filed 5-9-90; 8:45 am]

BILLING CODE 4310-DQ-M

43 CFR Public Land Order 6781

[CA-940-00-4214-10; CACA 26107]

Partial Revocation of Public Land Order No. 725; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes Public Land Order No. 725 insofar as it affects approximately 4 acres of public lands withdrawn for the U.S. Forest Service Panther Flat Recreation Area. The lands are no longer needed for the purpose for which they were withdrawn. This action will open approximately 4 acres to surface entry and mining. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: June 11, 1990.

FOR FURTHER INFORMATION CONTACT: Joan Mangold, BLM California State Office, room E-2845, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, 916-978-4820.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 725 is hereby revoked as it affects the following described land:

Humboldt Meridian

Six Rivers National Forest

T. 17 N., R. 2 E.,
Sec. 22, that portion of S½SE¼SE¼ overlapping tract 38;
Sec. 27, that portion of NW¼NE¼ overlapping tract 38.

The areas described aggregate approximately 4 acres in Del Norte County.

2. At 10 a.m. on June 11, 1990, the land described in paragraph 1 shall be opened to such forms of disposition as may by law be made of National Forest System lands, subject to valid existing rights, the provisions of existing withdrawals, any segregations of record, and the requirements of applicable law, including location and entry under the United States mining laws. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law.

The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: May 1, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-10921 Filed 5-9-90; 8:45 am]

BILLING CODE 4310-40-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 85-15; Notice 8]

RIN 2127-AC53

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

CFR Correction

In title 49 of the Code of Federal Regulations, parts 400 to 999, revised as of October 1, 1989, in the revision to § 571.108 (Paragraphs S1 through S8) published at 54 FR 20071, May 9, 1989, four figures, which existed in the 1988 volume, were omitted from the above text.

On page 228, figures 1a and 1b should be added after paragraph S5.1.1.11, Figure 1c should be added after paragraph S5.1.1.12, and Figure 2 should be added after paragraph S5.1.1.18. The Figures are set out below:

* * * * *

FIGURE 1a—REQUIRED PERCENTAGES OF MINIMUM CANDLEPOWER OF FIGURE 1b.

Test points (deg)		Turn signal	Stop	Parking	Tail
10U, 10D	5L, 5R	20	20	20	20
5U, 5D	20L, 20R	12.5	12.5	10	15
	10L, 10R	37.5	37.5	20	40
	V	87.5	87.5	70	90
H	10L, 10R	50	50	35	40
	5L, 5R	100	100	90	100
	V	100	100	100	100

Note.—Minimum design candlepower requirements are determined by multiplying the percentages given in this Figure by the minimum allowable candlepower values in Figure 1b. The resulting values shall be truncated after one digit to the right of the decimal point.

* * * * *

FIGURE 1b—MINIMUM AND MAXIMUM ALLOWABLE CANDLEPOWER VALUES

Lamp	Lighted sections		
	1	2	3
Stop	80/300	95/360	110/420
Tail [1]	2/18	3.5/20	5.0/25
Parking [2]	4.0/125		
Red turn signal	80/300	95/360	110/420
Yellow turn signal rear	130/750	150/900	175/1050
Yellow turn signal front	200/-	240/-	275/-
Yellow turn signal front [3]	500/-	600/-	685/-

[1] Maximum at H or above.

[2] The maximum candlepower value of 125 applies to all test points at H or above. The maximum allowable candlepower value below H is 250.

[3] Values apply when the optical axis (filament center) of the front turn signal is at a spacing less than 4 in. (10 cm.) from the lighted edge of the headlamp unit providing the lower beam, or from the lighted edge of any additional lamp installed as original equipment and which supplements the lower beam.

* * * * *

FIGURE 1c—Sum of the Percentages of Grouped Minimum Candlepower

Group and test points	Turn signal	Stop	Parking	Tail
1 10U-5L, 5U-20L, 5D-20L, 10D-5L	65	65	60	70
2 5U-10L, H-10L, 5D-10L	125	125	75	120
3 H-5L, 5U-V, H-V, 5D-V, H-5R	475	475	420	480
4 5U-10R, H-10R, 5D-10R	125	125	75	120
5 10U-5R, 5U-20R, 5D-20R, 10D-5R	65	65	60	70

* * * * *

FIGURE 2—MINIMUM LUMINOUS INTENSITY REQUIREMENTS FOR BACKUP LAMPS

Group	Test point, degrees	Total for group, candela (see note 1)
1 [1]	45L-5U, 45L-H, 45L-5D	45
2 [1]	30L-H, 30L-5D	50
3	10L-10U, 10L-5U, V-10U, V-5U, 10R-10U, 10R-5U	100
4	10L-H, 10L-5D, V-H, V-5D, 10R-H, 10R-5D	360
5 [1]	30R-H, 30R-5D	50
6 [1]	45R-5U, 45R-H, 45R-5D	45

[1] When 2 lamps of the same or symmetrically opposite design are used, the reading along the vertical axis and the averages of the readings for the same angles left and right of vertical for 1 lamp shall be used to determine compliance with the requirements. If 2 lamps of differing designs are used, they shall be tested individually and the values added to determine that the combined units meet twice the candela requirements.

When only 1 backup lamp is used on the vehicle, it shall be tested to twice the candela requirements.

* * * * *

BILLING CODE 1505-01-D

Proposed Rules

Federal Register
Vol. 55, No. 91
Thursday, May 10, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV-90-159]

Irish Potatoes Grown in Colorado; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 948 for the 1990–91 fiscal period. Authorization of this budget would permit the Colorado Potato Administrative Committee, Northern Colorado Office (Area 3) (committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

DATES: Comments must be received by May 21, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC, 20090–6456, telephone 202–447–2020.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities action on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 30 handlers and approximately 80 producers of potatoes in Colorado Area 3. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of potato producers and handlers may be classified as small entities.

The committee unanimously voted at its April 12, 1990, meeting to recommend its 1990–91 budget and assessment rate to the Secretary of Agriculture for consideration.

The committee, the agency responsible for local administration of the order, consists of producers and handlers of Colorado Area 3 potatoes. These producers and handlers are familiar with the committee's needs and with the costs of goods and services in their local area and are in a position to formulate an appropriate budget. The budget was formulated and discussed at a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The recommended assessment rate was derived by dividing anticipated expenses by expected shipments of fresh Colorado Area 3 potatoes. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the committee's expenses. A recommended budget and rate of assessment is usually acted upon before the season starts, and expenses are incurred on a continuous basis.

The recommended budget for the 1990–91 fiscal year of $4,312 is $694 more than the previous year due to several increases, including the manager's salary and travel expenses for compliance audits. In Colorado, both a State and Federal marketing order operate simultaneously. The State order authorizes promotion, including paid advertisting, which the Federal order does not. Administrative expenses that are shared are divided so that 85 percent is paid under the State and 15 percent under the Federal order. All promotion and advertising expenses are financed under the State order.

The 1990–91 recommended assessment rate of $0.005 per hundredweight of potatoes is the same as last year. This rate, when applied to anticipated fresh market shipments of 711,000 hundredweight, would yield $3,555 in assessment revenue. Additional money to be received from the Federal-State Inspection Service for rent ($360) and interest ($450) would result in total revenues of $4,365 which would be adequate to cover budgeted expenses. The projected reserve for the end of the 1990–91 fiscal period is $5,000 which would be carried over into the next fiscal year. This amount is within the maximum permitted by the order of two fiscal years' expenses.

While this action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the order. Therefore, the Administrator of the AMS has determined that this proposed action would not have a significant economic impact on a substantial number of small entities.

This action should be expedited because the committee needs to have sufficient funds to pay its expenses. The 1990–91 fiscal period for the program begins on July 1, 1990, and the marketing order requires that the rate of

assessment for the fiscal period apply to all assessable Colorado Area 3 potatoes handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committee at a public meeting. Therefore, it is found and determined that a comment period of 10 days is appropriate because the budget and assessment rate approval for this program needs to be expedited. The committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis.

Interested persons may file comments with respect to this proposal until May 21, 1990. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 948 be amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 948.204 is added to read as follows:

§ 948.204 Expenses and assessment rate.

Expenses of $4,312 by the Colorado Administrative Potato Committee, Northern Colorado Office (Area 3) are authorized, and an assessment rate of $0.005 per hundredweight of assessable potatoes is established for the fiscal period ending June 30, 1991. Unexpended funds may be carried over as a reserve.

Dated: May 7, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–10929 Filed 5–9–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 982

[FV–90–158]

Filberts/Hazelnuts Grown in Oregon and Washington

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate under Marketing Order No. 982 for the 1990–91 marketing year established under the filbert/hazelnut marketing order. Funds to administer this program are derived from assessments on handlers.

DATES: Comments must be received by May 21, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, F&V, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2524–S, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 982 (7 CFR part 982), both as amended, regulating the handling of filberts/hazelnuts grown in Oregon and Washington. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 27 handlers of filberts/hazelnuts grown in Oregon and Washington subject to regulation under the filbert/hazelnut marketing order, and 1,063 producers of filberts/hazelnuts in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts for the last three years of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of filbert/hazelnut producers and handlers may be classified as small entities.

The filbert/hazelnut marketing order requires that the assessment rate for a particular fiscal year shall apply to all assessable filberts/hazelnuts handled from the beginning of such year. An annual budget of expenses is prepared by the Filbert/Hazelnut Marketing Board (Board) and submitted to the U.S. Department of Agriculture for approval. The members of the Board are handlers and producers of filberts/hazelnuts. They are familiar with the Board's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget.

The assessment rate recommended by the Board is derived by dividing anticipated expenses by expected shipments of the commodity. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Board's expected expenses. The recommended budget and assessment rate are usually acted upon by the Board shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approvals must be expedited so that the Board will have funds to pay its expenses.

The Board conducted a telephone vote on April 6, 1990, and unanimously recommended 1990–91 marketing order expenditures of $380,791 and an assessment rate of $14.00 per ton of filberts/hazelnuts. In comparison, 1989–90 marketing year budgeted expenditures were $426,060 and the assessment rate was $14.00 per ton. Major expenditure categories in the 1990–91 budget are $70,791 for administration, $200,000 for promotion, and $100,000 for the emergency reserve fund. Assessment income for 1990–91 is expected to total $280,000 based on a crop estimate of 20,000 tons of filberts/hazelnuts. Interest and incidental income is estimated at $15,000. Reserve funds are adequate to meet the anticipated $85,791 deficit in assessment and other income.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by

the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the budget and assessment rate approval for the program needs to be expedited. The Board needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that a new § 982.335 be added as follows:

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 982 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 982.335 is added to read as follows:

§ 982.335 Expenses and assessment rate.

Expenses of $380,791 by the Filbert/Hazelnut Marketing Board are authorized and an assessment rate payable by each handler in accordance with § 982.61 is fixed at $14.00 per ton of assessable filberts/hazelnuts for the 1990–91 marketing year ending June 30, 1991. Unexpended funds may be carried over as a reserve.

Dated: May 7, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–10930 Filed 5–9–90; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Issuance of Quarterly Report on the Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Regulatory Agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued the NRC Regulatory Agenda for the first quarter, January through March, of 1990. The agenda is issued to provide the public with information about NRC's rulemaking activities. Each issue of the agenda includes information for one quarter of the calendar year. The agenda briefly describes and gives the status for each rule that the NRC is considering, has proposed, or has published with an effective date. It also describes and gives the status of each petition for rulemaking that the NRC is considering.

ADDRESSES: A copy of this report, designated NRC Regulatory Agenda (NUREG–0936) Vol. 9, No. 1, is available for inspection, and copying for a fee, at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

In addition, the U.S. Government Printing Office (GPO) sells the NRC Regulatory Agenda. To purchase it, a customer may call (202) 275–2060 or (202) 275–2171 or write to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–7758, toll-free number (800) 368–5642.

Dated at Bethesda, Maryland, this 25th day of April 1990.

For the Nuclear Regulatory Commission.

John D. Philips,

Deputy Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 90–10942 Filed 5–9–90; 8:45 am]

BILLING CODE 7590–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 125

Breakout Procurement Center Representative Program

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Small Business Administration (SBA) proposes to issue regulations governing the Breakout Procurement Center Representative Program at Federal Government procurement centers. These regulations would implement the passage of the Small Business and Federal Procurement Competition Enhancement Act of 1984, which authorized the placement of SBA Breakout Procurement Center Representatives at major procurement centers and the Small Business Administration Reauthorization and Amendment Act of 1988, which further expanded the authority of such personnel. The purpose of these proposed regulations is to advise Government personnel of the division of responsibilities that must be performed to implement the law.

DATES: Submit written comments by June 11, 1990.

ADDRESSES: Comments may be addressed to Roy Rodgers, Director, Office of Prime Contracts, Small Business Administration, 1441 L Street, NW., Room 630, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Roy Rodgers, Director, Office of Prime Contracts, (202) 653–6938.

SUPPLEMENTARY INFORMATION: The Small Business Act, as amended by section 403 of Public Law 98–577, authorized the Breakout Procurement Center Representative Program. The program was established in response to growing concerns regarding the expense to the Government of sole source contracts, particularly Defense contracts. Section 110 of Public Law 100–590 further amended the Small Business Act and provided for greater participation in the Federal procurement process by breakout procurement center representatives (Breakout PCRs).

The Small Business Administration (SBA) was previously authorized to assign Breakout PCRs to a procurement center of the Department of Defense (DOD) that awarded contracts for noncommercial items totaling at least $150 million in the preceding fiscal year. Although Public Law 98–577 included "* * * other procurement centers as designated by the Administrator," only DOD installations were designated. Public Law 100–590 now amends the definition of "major procurement center" and allows the assignment of Breakout PCRs at any procurement center that, in the opinion of the SBA Administrator, purchases substantial dollar amounts of other than commercial items and which has the potential to incur significant savings as the result of the placement of a Breakout PCR. The SBA is required to assign a Breakout PCR together with two technical advisors to each such major procurement center. These SBA employees are fully qualified, technically trained and familiar with the supplies and services procured by the center to which they are assigned. Each Breakout PCR and at least one technical advisor at each center are accredited engineers.