contact with food is safe. Based on this information the agency has also concluded that the additives will have their intended technical effect, and, therefore, that § 177.2600 should be amended in paragraph (c)(4) as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m, Monday through Friday.

V. Objections

Any person who will be adversely affected by this regulation may at any time on or before February 27, 1992 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Carr, G. M., "Carcinogen Testing Programs," in "Food Safety: Where are We?," Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, p. 59, July 1979.

2. Kokoski, C. J., "Regulatory Food Additive Toxicology," *Chemical Safety Regulation and Compliance*, edited by Homburger F., J. K. Marquis, and S. Karger, New York, NY, pp. 24–33, 1985.

3. Memorandum dated February 2, 1990, from the Food and Color Additives Review Section (HFF–415) to the Indirect Additives Branch (HFF–335), FAP OB4182—Dow DuPont, and B. F. Goodrich—Exposure to methylenedianiline.

4. Carcinogenesis bioassay of 4,4'-methylenedianiline dihydrochloride (CAS Reg. No. 1355–44–8) in F344/N Rats an $B6C3F_1$, Mice, National Toxicology Program Technical Report Series, No. NTP TR248, 1983.

5. Memorandum dated April 1, 1991, from the Quantitative Risk Assessment Committee; Upper-Bound Lifetime Risk for Methylenedianiline (MDA) in Polyurethane Resins Used as Rubber Articles, FAP OB4182 (Dow, DuPont, and B. F. Goodrich).

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 177.2600 is amended in paragraph (c)(4)(i) by alphabetically adding a new entry to read as follows:

§ 177.2600 Rubber articles intended for repeated use.

* * * * *

(c) * * *

(4) * * *

(i) * * *

Polyurethane resins (CAS Reg. Nos. 37383–28–1 or 9018–04–6) derived from the reaction of diphenylmethane diisocyanate with 1,4-butanediol and polytetramethylene ether glycol.

* * * * *

Dated: January 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–1986 Filed 1–27–92; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 720

[Docket No. 89P–0180]

Modification in Voluntary Filing of Cosmetic Product Ingredient and Cosmetic Raw Material Composition Statements

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is modifying the program it maintains for cosmetic companies to voluntarily file cosmetic product formulations and raw material compositions. FDA is eliminating the reporting of semiquantitative ingredient information, integrating information on raw materials into cosmetic product formulation statements, and discontinuing the forms for reporting raw material compositions. This action responds to a citizen petition filed by the Cosmetic, Toiletry and Fragrance Association (CTFA). The changes that are being made in the regulations are expected to facilitate participation in the cosmetic filing program.

EFFECTIVE DATE: Effective January 28, 1992.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Center for Food Safety and Applied Nutrition (HFF–444), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–245–1707.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 25, 1990 (55 FR 42993), FDA proposed to modify the program for voluntary filing of cosmetic product formulations and raw material compositions by eliminating the reporting of semiquantitative ingredient information (Forms FDA 2512 and 2512a), integrating raw material composition disclosures into cosmetic product formulation statements and discontinuing the forms for reporting raw material compositions (Forms FDA 2513 and 2513a). The proposal was in response to a citizen petition filed by the CTFA. FDA also proposed clarifying changes to update and to remove references from its regulations that would be obsolete if the proposal became final. Interested persons were given until December 24, 1990, to comment on the proposal.

FDA received one comment in response to the proposal. That comment was from a trade association in support of the proposal. Accordingly, FDA is amending the voluntary filing of cosmetic product ingredient regulation (21 CFR part 720) to eliminate the reporting of semiquantitative ingredient information, to integrate raw material composition disclosures into cosmetic product formulation statements, and to discontinue the forms for reporting raw material compositions. FDA also is correcting the inadvertent omission in the proposal of the word "Product" in the heading for part 720.

Environmental Impact

The agency has determined under 21 CFR 25.24(a)(11) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

In accordance with Executive Order 12291, FDA has previously analyzed the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as defined by the Order. The agency has not received any new information or comments that would alter its previous determination.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

Paperwork Reduction Act of 1980

Sections 720.4 and 720.6 of this final rule contain information collection requirements that were submitted for review and approval to the Director of the Office of Management and Budget (OMB), as required by section 3504(h) of the Paperwork Reduction Act of 1980. The requirements were approved and assigned OMB control number 0910–0030.

List of Subjects in 21 CFR Part 720

Confidential business information, Cosmetics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 720 is amended as follows:

1. The heading for part 720 is revised to read as follows:

PART 720—VOLUNTARY FILING OF COSMETIC PRODUCT INGREDIENT STATEMENTS

2. The authority citation for 21 CFR part 720 continues to read as follows:

Authority: Secs. 201, 301, 601, 602, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 361, 362, 371, 374).

3. Sections 720.1, 720.2, and 720.3 are revised to read as follows:

§ 720.1 Who should file.

Either the manufacturer, packer, or distributor of a cosmetic product is requested to file Form FDA 2512 ("Cosmetic Product Ingredient Statement"), whether or not the cosmetic product enters interstate commerce. This request extends to any foreign manufacturer, packer, or distributor of a cosmetic product exported for sale in any State as defined in section 201(a)(1) of the Federal Food, Drug, and Cosmetic Act. No filing fee is required.

§ 720.2 Times for filing.

Within 180 days after forms are made available to the industry, Form FDA 2512 should be filed for each cosmetic product being commercially distributed as of the effective date of this part. Form FDA 2512 should be filed within 60 days after the beginning of commercial distribution of any product not covered within the 180-day period.

§ 720.3 How and where to file.

Forms FDA 2512 and FDA 2514 ("Discontinuance of Commercial Distribution of Cosmetic Product Formulation") are obtainable on request from the Food and Drug Administration, Department of Health and Human Services, Washington, DC 20204, or at any Food and Drug Administration district office. The completed form should be mailed or delivered to: Cosmetic Product Statement, Food and Drug Administration, Department of Health and Human Services, Washington, DC 20204, according to the instructions provided with the forms.

4. Section 720.4 is amended in the introductory texts of paragraphs (a) and (b) by removing "FD–2512" and replacing it with "FDA 2512"; by removing paragraph (b)(5); by revising paragraphs (c)(12)(iii) through (c)(12)(v), (c)(12)(ix), and (c)(12)(x); by removing paragraphs (c)(12)(xi) and (c)(12)(xii); by revising the paragraph heading in the introductory text of paragraph (c)(13); by revising paragraph (d); by removing in paragraph (e) "FD–2512" in the first and second sentences and replacing it with "FDA 2512"; and by adding a parenthetical statement at the end of the section to read as follows:

§ 720.4 Information requested about cosmetic products.

* * * * *

(c) * * *

(12) * * *

(iii) Face and neck (excluding shaving preparations).

(iv) Body and hand (excluding shaving preparations).

(v) Foot powders and sprays.

* * * * *

(ix) Skin fresheners.

(x) Other skin care preparations.

(13) *Suntan preparations.* * * *

* * * * *

(d) Ingredients in the product should be listed as follows:

(1) A list of each ingredient of the cosmetic product in descending order of predominance by weight (except that the fragrance and/or flavor may be designated as such without naming each individual ingredient when the manufacturer or supplier of the fragrance and/or flavor refuses to disclose ingredient data).

(2) An ingredient should be listed by the name adopted by the Food and Drug Administration (FDA) for the ingredient pursuant to § 701.3(c) of this chapter.

(3) In the absence of a name adopted by FDA pursuant to § 701.3(c) of this chapter, its common or usual name, if it has one, or its chemical or technical name should be listed.

(4) If an ingredient is a mixture, each ingredient of the mixture should be listed in accordance with paragraphs (d)(2) and (d)(3) of this section, unless such mixture is a formulation voluntarily registered on Form FDA 2512, in which case such mixture should be identified as "fragrance," "flavor," "fragrance and flavor" or "base formulation," as appropriate, and by stating its FDA-assigned cosmetic product ingredient statement number.

(5) When the manufacturer or supplier of a fragrance and/or flavor refuses to disclose ingredient data, the fragrance and/or flavor should be listed as such. The nonconfidential listing of the product name and/or trade name or name of the manufacturer or supplier of each proprietary fragrance and/or flavor mixture is optional.

* * * * *

(Information collection requirements in this section were approved by the Office of Management and Budget (OMB) and assigned OMB control number 0910–0030)

§ 720.5 [Removed]

5. Section 720.5 *Information requested about cosmetic raw materials* is removed and reserved.

6. Sections 720.6 and 720.7 are revised to read as follows:

§ 720.6 Amendments to statement.

Changes in the information requested under §§ 720.4 (a)(3) and (a)(5) on the ingredients or brand name of a cosmetic product should be submitted by filing an amended Form FDA 2512 within 60 days after the product is entered into commercial distribution. Other changes do not justify immediate amendment, but should be shown by filing an amended Form FDA 2512 within a year after such changes. Notice of discontinuance of commercial distribution of a cosmetic product formulation should be submitted by Form FDA 2514 within 180 days after discontinuance of commercial distribution becomes known to the person filing.

(Information collection requirements in this section were approved by the Office of Management and Budget (OMB) and assigned OMB control number 0910–0030)

§ 720.7 Notification of person submitting cosmetic product ingredient statement.

When Form FDA 2512 is received, FDA will either assign a permanent cosmetic product ingredient statement number or a Food and Drug Administration (FDA) reference number in those cases where a permanent number cannot be assigned. Receipt of the form will be acknowledged by sending the individual signing the statement an appropriate notice bearing either the FDA reference number or the permanent cosmetic product ingredient statement number. If the person submitting Form FDA 2512 has not complied with §§ 720.4 (b)(1) and (b)(2), the person will be notified as to the manner in which the statement is incomplete.

7. Section 720.8 is amended by revising the first sentence in paragraph (a) to read as follows:

§ 720.8 Confidentiality of statements.

(a) Data and information contained in, attached to, or included with Forms FDA 2512 and FDA 2514, and amendments thereto are submitted voluntarily to the Food and Drug Administration (FDA). * * *

* * * * *

8. Section 720.9 is revised to read as follows:

§ 720.9 Misbranding by reference to filing or to statement number.

The filing of Form FDA 2512 or assignment of a number to the statement does not in any way denote approval by the Food and Drug Administration of the firm or the product. Any representation in labeling or advertising that creates an impression of official approval because of such filing or such number will be considered misleading.

Dated: January 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–1989 Filed 1–27–92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8390]

RIN 1545–AP37

Tax Treatment of Salvage and Reinsurance

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the treatment of salvage and reinsurance in computing the deduction for losses incurred of insurance companies other than life insurance companies. Changes to the applicable law were made by the Revenue Reconciliation Act of 1990. The regulations are necessary to provide these insurance companies with guidance needed to comply with these changes.

EFFECTIVE DATE: The regulations apply to taxable years beginning after December 31, 1989.

FOR FURTHER INFORMATION CONTACT: Katherine A. Hossofsky (202) 566–4336 (not a toll-free call) or Michael J. Douglass (202) 566–3603 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this final regulation has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1545–1227. The estimated average burden per respondent is 2 hours.

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

Comments regarding the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

This document sets forth final income tax regulations relating to the treatment of salvage and reinsurance under section 832(b)(5)(A) of the Internal Revenue Code. Section 832(b)(5)(A) was amended by section 11305 of the Revenue Reconciliation Act of 1990, 104 Stat. 1388 ("the 1990 Act"). Proposed regulations under section 832(b)(5)(A) were published in the **Federal Register** on March 15, 1991 (56 FR 11127) [FI–104–90]. Written comments were received from the public. No public hearing was held because there were no requests for a hearing. After consideration of all the written comments received, the proposed regulations under section 832(b)(5)(A) are adopted as modified by this Treasury decision.

Guidance regarding certain implementation issues under section 832(b)(5)(A) also is provided in Rev. Proc. 91–48, 1991–34 I.R.B. 12.

Explanation of Provisions

In General

Section 832(b)(3) of the Code defines the "underwriting income" of an insurance company subject to tax under section 831 as premiums earned less losses incurred and expenses incurred. Under section 832(b)(5)(A), "losses incurred" are computed by taking into account paid losses, unpaid losses, and salvage and reinsurance. For taxable years beginning before January 1, 1990, salvage and reinsurance recoverable was taken into account as a reduction to paid losses. For those taxable years, the regulations required salvage recoverable to be taken into account only to the extent that the salvage recoverable could be treated as an asset for state statutory accounting purposes.

For taxable years beginning after December 31, 1989, the 1990 Act amended section 832(b)(5)(A) to require all estimated salvage recoverable (including that which cannot be treated as an asset for state statutory accounting purposes) to be taken into account in computing the deduction for losses incurred. Under section 832(b)(5)(A), paid losses are to be reduced by salvage and reinsurance recovered during the taxable year. This amount is adjusted to reflect changes in discounted unpaid losses on nonlife insurance contracts and in unpaid losses on life insurance contracts. An adjustment is then made to reflect any changes in discounted estimated salvage recoverable and in reinsurance recoverable.

The amendments to the regulations conform the regulations to the new treatment of estimated salvage recoverable required by the 1990 Act. The regulations clarify that estimated salvage recoverable includes estimates of salvage recoverable that may not be treated as assets for state statutory accounting purposes. See H.R. Conf. Rep. No. 964, 101st Cong., 2d Sess. 1071 (1990). The regulations also make clear that the term "salvage recoverable" includes anticipated recoveries on account of subrogation claims arising with respect to paid or unpaid losses.

Under section 846(b)(1), the starting point for determining discounted unpaid losses for Federal income tax purposes is the amount of unpaid losses reported to state regulatory authorities on the annual statement. This conformity of tax and annual statement amounts discourages companies from overstating unpaid losses for Federal tax purposes because the claiming of excess unpaid losses may have adverse consequences for state regulatory purposes.

Commentators noted that certain companies had taken estimated salvage recoverable into account in determining the unpaid losses on their annual statements. For these companies, the requirement in the proposed regulations that estimated salvage recoverable be taken into account separately in computing losses incurred may result in a double counting of salvage. In response to these comments, the final regulations permit a limited exception to the conformity requirement if there is adequate disclosure to state regulatory authorities to assure that the purposes of conformity are achieved. Under the final regulations, a company that has taken estimated salvage recoverable into account in determining the amount of unpaid losses reported on the annual statement may increase its unpaid losses for tax purposes by the amount of estimated salvage recoverable taken into account in determining those unpaid losses provided this amount is disclosed to the state regulatory authorities.

The final regulations provide rules for making the disclosure. Under the final regulations, a company is allowed, for any taxable year, to adjust the amount of unpaid losses shown on its annual statement by estimated salvage recoverable only if the company either (i) discloses on its annual statement, by line of business and accident year, the extent to which estimated salvage recoverable was taken into account in determining the amount of unpaid losses shown on the annual statement, or (ii) files a statement with the state regulatory authority of each state to which the company is required to submit an annual statement. The statement must disclose, by line of business and accident year, the extent to which estimated salvage recoverable was taken into account in computing the unpaid losses shown on the annual statement. Rules also are provided concerning the form of the statement and the time it must be filed.

Transitional Rules

By requiring insurance companies to take estimated salvage recoverable into account in computing losses incurred, the 1990 Act changed the method by which companies compute losses incurred. Section 11305(c)(2)(A) of the 1990 Act treats this change as a change in method of accounting. Section 11305(c)(2)(B) of the 1990 Act provides that an insurance company must take into account only 13 percent of the section 481 adjustment that would otherwise have been required as a result of the change in method of accounting.

Section 11305(c)(4) of the 1990 Act provides a rule for overestimates of the section 481 adjustment. Under this rule, an insurance company subject to tax under section 831 is required to include in gross income 87 percent of any amount (adjusted for discounting) by which the section 481 adjustment is overestimated. The rule is applied by comparing the amount of the section 481 adjustment (determined without regard to section 11305(c)(2) of the 1990 Act and any discounting) to the sum of the actual salvage recoveries and the remaining undiscounted estimated salvage recoverable that are attributable to losses incurred in accident years beginning before 1990. For any taxable year beginning after December 31, 1989, any excess of the section 481 adjustment over this sum is an overestimate for purposes of section 11305(c)(4) of the 1990 Act. To determine the amount to be included in income, it is necessary to discount this excess and multiply the resulting amount by 87 percent.

In the case of an insurance company subject to tax under section 831, section 11305(c)(3) of the 1990 Act allows the insurance company to deduct 87 percent of the discounted amount of estimated salvage recoverable that the company took into account under its method of accounting for the last taxable year beginning before January 1, 1990 ("special deduction"). In response to comments requesting clarification of the proposed regulations, the final regulations make clear that a company that claims the special deduction may not also claim the benefit of section 11305(c)(2)(B) of the 1990 Act.

The proposed regulations provide that an insurance company claiming the special deduction must be able to establish to the satisfaction of the district director that it took estimated salvage recoverable into account for the last taxable year before January 1, 1990. Under the proposed regulations, a company may not satisfy this requirement merely by stating that estimated salvage recoverable is reflected in the company's loss reserves, but may satisfy this requirement by disclosing to the relevant state regulatory authority the extent to which the company took into account estimated salvage recoverable in computing paid or unpaid losses (whichever is applicable) on its 1989 annual statement.

In response to comments concerning the scope of this disclosure provision, the final regulations clarify the circumstances under which disclosure to state regulatory authorities will satisfy this requirement. The final regulations provide that the amount of a special deduction will be deemed to have been established to the satisfaction of the district director if (i) by September 16, 1991, the company filed with its state regulatory authority a statement disclosing the extent to which losses incurred for each line of business shown on the 1989 annual statement were reduced by estimated salvage recoverable, and (ii) the company agreed, on a statement attached to its return for its first taxable year beginning after December 31, 1989, to apply the special rule for overestimates to the amount of estimated salvage recoverable for which it has taken the special deduction. If the company is a member of a consolidated group, each property and casualty insurance company that is a member of the consolidated group must join in the agreement to apply the special rule for overestimates.

The special deduction was designed to create parity between those taxpayers that took estimated salvage recoverable into account for the last taxable year beginning before January 1, 1990, and those taxpayers that did not take estimated salvage recoverable into account. If the inclusion of estimated salvage recoverable did not increase a company's taxable income, no special deduction is needed. Accordingly, the final regulations provide that an insurance company that claimed a "fresh start" benefit with respect to estimated salvage recoverable under section 1023(e) of the Tax Reform Act of 1986 may not claim the special deduction under section 11305(c)(3) of the 1990 Act to the extent the company has previously claimed the benefit of a fresh start.

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, a copy of the rules was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal authors of these proposed regulations are Katherine A. Hossofsky and Michael J. Douglass of the Office of the Assistant Chief Counsel (Financial Institutions and Products), Internal Revenue Service. However, other personnel from the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects

26 CFR 1.831-1 Through 1.832-7T

Income taxes, Insurance companies.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

For the reasons set out in the preamble, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for part 1 is amended by removing the citation for § 1.832–4T and by adding the following citation:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805 * * * Section 1.832–4 also issued under 26 U.S.C. 832(b)(5)(A).

§ 1.832–4T [Redesignated as § 1.832–4]

Par. 2. Section 1.832–4T is redesignated as § 1.832–4.

Par. 3. Newly redesignated § 1.832–4 is amended as follows:

1. The section heading is revised.

2. The last sentence of paragraph (a)(5) is removed.

3. Paragraphs (b) through (e) are revised.

4. Paragraphs (f) and (g) are added.

5. The revised and added provisions read as follows:

§ 1.832–4 Gross income.

* * * * *

(b) *Losses incurred.* Every insurance company to which this section applies must be prepared to establish to the satisfaction of the district director that the part of the deduction for "losses incurred" which represents unpaid losses at the close of the taxable year comprises only actual unpaid losses. See section 846 for rules relating to the determination of discounted unpaid losses. These losses must be stated in amounts which, based upon the facts in each case and the company's experience with similar cases, represent a fair and reasonable estimate of the amount the company will be required to pay. Amounts included in, or added to, the estimates of unpaid losses which, in the opinion of the district director, are in excess of a fair and reasonable estimate will be disallowed as a deduction. The district director may require any insurance company to submit such detailed information with respect to its actual experience as is deemed necessary to establish the reasonableness of the deduction for "losses incurred."

(c) *Losses incurred are reduced by salvage.* Under section 832(b)(5)(A), losses incurred are computed by taking into account losses paid reduced by salvage and reinsurance recovered, the change in discounted unpaid losses, and the change in estimated salvage and reinsurance recoverable. For purposes of section 832(b)(5)(A)(iii), estimated salvage recoverable includes all anticipated recoveries on account of salvage, whether or not the salvage is treated, or may be treated, as an asset for state statutory accounting purposes. Estimates of salvage recoverable must be based on the facts of each case and the company's experience with similar cases. Except as otherwise provided in guidance published by the Commissioner in the Internal Revenue Bulletin, estimated salvage recoverable must be discounted either—

(1) By using the applicable discount factors published by the Commissioner for estimated salvage recoverable; or

(2) By using the loss payment pattern for a line of business as the salvage recovery pattern for that line of business and by using the applicable interest rate for calculating unpaid losses under section 846(c). For purposes of section 832(b)(5)(A) and the regulations thereunder, the term "salvage recoverable" includes anticipated recoveries on account of subrogation claims arising with respect to paid or unpaid losses.

(d) *Increase in unpaid losses shown on annual statement in certain circumstances*—(1) *In general.* An insurance company that takes estimated salvage recoverable into account in determining the amount of its unpaid losses shown on its annual statement is allowed to increase its unpaid losses by the amount of estimated salvage recoverable taken into account if the company complies with the disclosure requirement of paragraph (d)(2) of this section. This adjustment shall not be used in determining under section 846(d) the loss payment pattern for a line of business.

(2) *Disclosure requirement.* (i) *In general.* A company described in paragraph (d)(1) of this section is allowed to increase the unpaid losses shown on its annual statement only if the company either—

(a) Discloses on its annual statement, by line of business and accident year, the extent to which estimated salvage recoverable is taken into account in computing the unpaid losses shown on the annual statement filed by the company for the calendar year ending with or within the taxable year of the company; or

(B) Files a statement on or before the due date of its Federal income tax return (determined without regard to extensions) with the appropriate state regulatory authority of each state to which the company is required to submit an annual statement. The statement must be contained in a separate document captioned "DISCLOSURE CONCERNING LOSS RESERVES" and must disclose, by line of business and accident year, the extent to which estimated salvage recoverable is taken into account in computing the unpaid losses shown on the annual statement filed by the company for the calendar year ending with or within the taxable year of the company.

(ii) *Transitional rule.* For a taxable year ending before December 31, 1991, a taxpayer is deemed to satisfy the disclosure requirement of paragraph (d)(2)(i)(B) of this section if the taxpayer files the statement described in paragraph (d)(2)(i)(B) of this section before March 17, 1992.

(3) *Failure to disclose in a subsequent year.* If a company that claims the increase permitted by paragraph (d)(1) of this section fails in a subsequent taxable year to make the disclosure described in paragraph (d)(2) of this section, the company cannot claim an increase under paragraph (d)(1) of this section in any subsequent taxable year without the consent of the Commissioner.

(e) *Treatment of estimated salvage recoverable*—(1) *In general.* An insurance company is required to take estimated salvage recoverable (including that which cannot be treated as an asset for state statutory accounting purposes) into account in computing the deduction for losses incurred. Except as provided in paragraph (e)(2)(iii) of this section, an insurance company must apply this method of accounting to estimated salvage recoverable for all lines of business and for all accident years.

(2) *Change in method of accounting*—(i) If an insurance company did not take estimated salvage recoverable into account as required by paragraph (c) of this section for its last taxable year beginning before January 1, 1990, taking estimated salvage recoverable into account as required by paragraph (c) of this section is a change in method of accounting.

(ii) If a company does not claim the deduction under section 11305(c)(3) of the 1990 Act, the company must take into account 13 percent of the adjustment that would otherwise be required under section 481 for pre-1990 accident years as a result of the change in accounting method. This paragraph (e)(2)(ii) applies only to an insurance company subject to tax under section 831.

(iii) If a company claims the deduction under section 11305(c)(3) of the 1990 Act and paragraph (f) of this section, the company must implement the change in method of accounting for estimated salvage recoverable for post-1989 taxable years pursuant to a "cut-off" method.

(3) *Rule for overestimates.* An insurance company is required under section 11305(c)(4) of the 1990 Act to include in gross income 87 percent of any amount (adjusted for discounting) by which the section 481 adjustment is overestimated. The rule is applied by comparing the amount of the section 481 adjustment (determined without regard to paragraph (e)(2)(ii) of this section and any discounting) to the sum of the actual salvage recoveries and remaining undiscounted estimated salvage recoverable that are attributable to losses incurred in accident years beginning before 1990. For any taxable year beginning after December 31, 1989, any excess of the section 481 adjustment over this sum (reduced by amounts treated as overestimates in prior taxable years pursuant to this paragraph (e)(3)) is an overestimate. To determine the amount to be included in income, it is necessary to discount this excess and multiply the resulting amount by 87 percent.

(f) *Special deduction*—(1) *In general.* Under section 11305(c)(3) of the 1990 Act, an insurance company may deduct an amount equal to 87 percent of the discounted amount of estimated salvage recoverable that the company took into account in determining the deduction for losses incurred under section 832(b)(5) in the last taxable year beginning before January 1, 1990. A company that claims the special deduction must establish to the satisfaction of the district director that the deduction represents only the discounted amount of estimated salvage recoverable that was actually taken into account by the company in computing losses incurred for that taxable year.

(2) *Safe harbor.* The requirements of paragraph (f)(1) of this section are deemed satisfied and the amount that the company reports as bona fide estimated salvage recoverable is not subject to adjustment by the district director, if—

(i) The company files with the insurance regulatory authority of the company's state of domicile, on or before September 16, 1991, a statement disclosing the extent to which losses incurred for each line of business reported on its 1989 annual statement were reduced by estimated salvage recoverable,

(ii) The company attaches a statement to its Federal income tax return filed for the first taxable year beginning after December 31, 1989, agreeing to apply the special rule for overestimates under section 11305(c)(4) of the 1990 Act to the amount of estimated salvage recoverable for which it has taken the special deduction, and

(iii) In the case of a company that is a member of a consolidated group, each insurance company subject to tax under section 831 that is included in the consolidated group complies with paragraph (f)(2)(ii) of this section with respect to its special deduction, if any.

(3) *Limitations on special deduction*—(i) The special deduction under section 11305(c)(3) of the 1990 Act is available only to an insurance company subject to tax under section 831.

(ii) An insurance company that claimed the benefit of the "fresh start" with respect to estimated salvage recoverable under section 1023(e) of the Tax Reform Act of 1986 may not claim the special deduction allowed by section 11305(c)(3) of the 1990 Act to the extent of the estimated salvage recoverable for which a fresh start benefit was previously claimed.

(iii) A company that claims the special deduction is precluded from also claiming the section 481 adjustment provided in paragraph (e)(2)(ii) of this section for pre-1990 accident years.

(g) *Effective date.* Paragraphs (b) through (f) of this section are effective for taxable years beginning after December 31, 1989.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPER REDUCTION ACT

§ 602.101 [Amended]

Par. 4. The table of OMB Control Numbers in § 602.101 is amended by revising the entry for § 1.832–4 as follows:

"§ 1.832–4 . . . . 1545–1227".

December 24, 1991.

Michael J. Murphy,

Acting Commissioner of Internal Revenue.

Approved: December 24, 1991.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 92–1942 Filed 1–27–92; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CC Docket No. 87-313, FCC 91-344]

Policy and Rules Concerning Rates for Dominant Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; dismissing petitions for further reconsideration as moot.

SUMMARY: On April 17, 1991, the Commission released the Price Cap Local Exchange Carrier Reconsideration Order in CC Docket No. 87–313, 56 FR 21612, which, *inter alia*, adopted new rules for evaluation of rates for new