

2. Section 179.2010 is amended in the table in paragraph (b) for the entry "2,2'-Methylenebis(4-methyl-6-tert-butylphenol)monoacrylate" by numerically adding a new entry "3" under the heading "Limitations" to read as follows:

§ 179.2010 Antioxidants and/or stabilizers for polymers.

(b)

Substances	Limitations
2,2'-Methylenebis(4-methyl-6-tert-butylphenol)monoacrylate (CAS Reg. 61167-66-6)	For use only: 3. At levels not to exceed 1 percent by weight of adhesives complying with § 175.106 of this chapter and pressure sensitive adhesives complying with § 175.123 of this chapter.

Dated: October 2, 1992.
Douglas L. Archer,
Acting Director, Center for Food Safety and Applied Nutrition.
[FR Doc. 92-28173 Filed 10-29-92; 8:45 am].
GALINA COOK csm-01-e

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

(T.D. 6444)

REG 1645-AM81

Applicable Conventions Under the Accelerated Cost Recovery System

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

Summary: This document contains the final regulations relating to the applicable conventions under the accelerated cost recovery system. Changes to the applicable tax law were made by the Technical and Miscellaneous Revenue Act of 1988 and the Tax Reform Act of 1986. The regulations provide the public with guidance relating to the mid-quarter and half-year conventions under section 168(d).

DATES: These regulations are effective January 31, 1991, and apply to property placed in service in taxable years ending after January 30, 1991.

FOR FURTHER INFORMATION CONTACT: Mark Pitzer of the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, 202-622-3110 (not a toll-free number).

SUPPLEMENTARY INFORMATION:
Paperwork Reduction Act

The collection of information requirement 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 of 1980 (44 U.S.C. 3504(b)) under control number 1545-1146. The estimated annual burden per respondent varies from .05 to .15 hour, depending on individual circumstances, with an estimated average of .10 hour.

These estimates are an approximation of the average time expected to be necessary to collect required information. They are based on the information that is available to the Internal Revenue Service. Individual respondents 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 sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T.F.P., 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

Proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 168(d) of the Internal Revenue Code (the Code) were published in the Federal Register on December 31, 1990 (55 FR 53571). These amendments were proposed to reflect amendments made by section 1002(a) of the Technical and Miscellaneous Revenue Act of 1988 and section 201 of the Tax Reform Act of 1986. The amendments were issued under the authority contained in sections 168(d)(3) and 7805 of the Code.

Three written comments were received in response to the proposed regulations. No request for a public hearing was received and, therefore, none was held. All written comments have been considered. This document adopts the proposed regulations as final regulations with slight modifications.

Explanation of Provisions

In General

Section 168(d) of the Code prescribes the applicable conventions to be used in determining when depreciable property is placed in service or disposed of. Sections 168(d)(1) and 168(d)(4)(A) provide that, unless otherwise provided, the applicable convention is the half-year convention, which treats all property (other than certain real property) placed in service (or disposed of) during a taxable year as placed in service (or disposed of) on the mid-point of the taxable year.

Section 168(d)(3) of the Code provides that a mid-quarter convention applies, instead of the half-year convention, to depreciable property placed in service during a taxable year if the aggregate basis of property placed in service during the last three months of the taxable year exceeds 40 percent of the aggregate basis of property (with certain exceptions) placed in service during the taxable year ("the 40-percent test"). Section 168(d)(4)(C) defines a mid-quarter convention as one that treats all property placed in service (or disposed of) during any quarter of a taxable year as placed in service (or disposed of) on the mid-point of the quarter. Section 168(d) applies to both the general depreciation system under section 168(a) and the alternative depreciation system under section 168(g).

Changes to the Proposed Regulations

Section 1.168(d)-1(b)(3)(ii) of the proposed regulations provided a rule for applying the applicable convention to property placed in service and disposed of in the same taxable year. It provided that the applicable convention determined for the taxable year also is applied to property placed in service and disposed of in the same taxable year. Under this approach no depreciation deduction was allowed for property subject to the half-year convention because the property was deemed to have been acquired and disposed of on the same date. However, if the mid-quarter convention was applicable, a depreciation deduction was allowed for property placed in service and disposed of in different quarters.

One written comment questioned the practicality of requiring taxpayers to compute depreciation on assets placed in service and disposed of in the same taxable year. It was suggested that while the net tax impact of this approach would be a direct offset of income with expense, a significant administrative burden would have to be

borne by taxpayers complying with the provision. These additional depreciation computations would have to be maintained for regular tax purposes, alternative minimum tax purposes, and adjusted current earnings purposes. The final regulations provide that no depreciation is allowed in the case of property placed in service and disposed of in the same taxable year. This modification is consistent with the exclusion of property placed in service and disposed of in the same taxable year from the determination of whether the 40-percent test is satisfied and is also consistent with the policy of regulatory simplification and taxpayer burden reduction.

One commentator objected to § 1.168(d)-1(b)(5) of the proposed regulations, which provided that all members of a consolidated group are treated as one taxpayer in applying the 40-percent test and the mid-quarter convention. This provision was not modified in the final regulations because the Service believes that the provision discourages manipulation of the 40-percent test.

One commentator recommended that the scope of the proposed regulations be expanded to include the effect of the applicable conventions on property placed in service and disposed of for purposes of the investment tax credit recapture rules. The Service believes it would be inappropriate to expand the scope of these regulations to cover investment tax credit issues.

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 Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, a copy of these regulations was submitted to the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Richard Blumentreich of the Office of Assistant Chief Counsel (Pass-throughs and Special Industries), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.161-1 through 1.164-4

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

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

PART 1—(AMENDED)

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

Authority: 26 U.S.C. 7805. Section 1.168(d)-1 also issued under 26 U.S.C. 168(d)(3).

Par. 2. Sections 1.168(d)-0 and 1.168(d)-1 are added to read as follows:

§ 1.168(d)-0 Table of contents for the applicable convention rules.

This section lists the major paragraphs in § 1.168(d)-1.

§ 1.168(d)-1 Applicable conventions—Half-year and mid-quarter conventions.

- (a) In general.
- (b) Additional rules for determining whether the mid-quarter convention applies and for applying the applicable convention.
 - (1) Property described in section 168(f).
 - (2) Listed property.
 - (3) Property placed in service and disposed of in the same taxable year.
 - (4) Aggregate basis of property.
 - (5) Special rules for affiliated groups.
 - (6) Special rule for partnerships and S corporations.
 - (7) Certain nonrecognition transactions.
 - (c) Disposition of property subject to the half-year or mid-quarter convention.
 - (1) In general.
 - (2) Example.
 - (d) Effective date.

§ 1.168(d)-2 Applicable convention—Half-year and mid-quarter conventions.

(a) In general. Under section 168(d), the half-year convention applies to depreciable property (other than certain real property described in section 168(d)(2)) placed in service during a taxable year, unless the mid-quarter convention applies to the property. Under section 168(d)(3)(A), the mid-quarter convention applies to depreciable property (other than certain real property described in section 168(d)(2)) placed in service during a taxable year if the aggregate basis of property placed in service during the last three months of the taxable year exceeds 40 percent of the aggregate basis of property placed in service during the taxable year ("the 40-percent

test"). Thus, if the depreciable property is placed in service during a taxable year that consists of three months or less, the mid-quarter convention applies to the property. Under section 168(d)(3)(b)(i), the depreciable basis of nonresidential real property, residential rental property, and any railroad grading or tunnel bore is disregarded in applying the 40-percent test. For rules regarding property that is placed in service and disposed of in the same taxable year, see paragraph (b)(3) of this section. For the definition of "aggregate basis of property," see paragraph (b)(4) of this section.

(b) Additional rules for determining whether the mid-quarter convention applies and for applying the applicable convention—(1) Property described in section 168(f). In determining whether the 40-percent test is satisfied for a taxable year, the depreciable basis of property described in section 168(f) (property to which section 168 does not apply) is not taken into account.

(2) Listed property. The depreciable basis of listed property (as defined in section 260F(d)(4) and the regulations thereunder) placed in service during a taxable year is taken into account (unless otherwise excluded) in applying the 40-percent test.

(3) Property placed in service and disposed of in the same taxable year—(i) Under section 168(d)(3)(B)(ii), the depreciable basis of property placed in service and disposed of in the same taxable year is not taken into account in determining whether the 40-percent test is satisfied. However, the depreciable basis of property placed in service, disposed of, subsequently reacquired, and again placed in service in the same taxable year must be taken into account in applying the 40-percent test, but the basis of the property is only taken into account on the later of the dates that the property is placed in service during the taxable year.

(ii) The applicable convention, as determined under this section, applies to all depreciable property (except nonresidential real property, residential rental property, and any railroad grading or tunnel bore) placed in service during the taxable year, excluding property placed in service and disposed of in the same taxable year. No depreciation deduction is allowed for property placed in service and disposed of during the same taxable year.

(iii) The provisions of this paragraph (b)(3) are illustrated by the following examples.

Example 1. During 1990, A, a calendar-year taxpayer, purchases a light general purpose truck costing \$8,000, an office desk costing

\$600, a safe costing \$1,000, and a computer costing \$1,000. The truck is placed in service in January, the desk and safe in August, and the computer in November. These are the only items placed in service during 1980. In September, A sells the truck and the desk. Thus, the truck and the desk were placed in service and disposed of in the same taxable year. Therefore, the depreciable basis of the truck and the desk are not taken into account in determining whether the mid-quarter convention applies to depreciable property placed in service during 1980. Because the computer was placed in service during the last three months of the taxable year and its basis (\$1,000) exceeds 40 percent of the aggregate basis of depreciable property placed in service during the taxable year (safe and computer with an aggregate basis of \$4,000), the mid-quarter convention applies to the safe and the computer. No depreciation is allowed with respect to the truck and desk because they were placed in service and disposed of in the same taxable year.

Example 2. The facts are the same as in Example 1, except that, in December, A acquires the truck for \$7,000. Thus, the truck is considered placed in service in December and its basis is included in determining whether the mid-quarter convention applies. The mid-quarter convention is applicable, because the computer (\$1,000) and the truck (\$7,000) are placed in service during the last three months of the taxable year and their aggregate basis (\$8,000) exceeds 40 percent of the aggregate basis of property placed in service during the taxable year (safe, computer, and truck with an aggregate basis of \$11,000).

(4) **Aggregate basis of property.** For purposes of the 40-percent test, the term "aggregate basis of property" means the sum of the depreciable bases of all items of depreciable property that are taken into account in applying the 40-percent test. "Depreciable basis" means the basis of depreciable property for purposes of determining gain under sections 1011 through 1024. The depreciable basis for the taxable year the property is placed in service reflects the reduction in basis for—

(i) Any portion of the basis the taxpayer properly elects to treat as an expense under section 179;

(ii) Any adjustment to basis under section 48(q); and

(iii) The percentage of the taxpayer's use of the property for the taxable year other than in the taxpayer's trade or business (or for the production of income), but is determined before any reduction for depreciation under section 167(e) for that taxable year.

(5) **Special rules for affiliated groups.**—(i) In the case of a consolidated group (as defined in § 1.1502-1(h)), all members of the group that are included on the consolidated return are treated as one taxpayer for purposes of applying the 40-percent test. Thus, the depreciable bases of all property placed

in service by members of a consolidated group during a consolidated return year are taken into account (unless otherwise excluded) in applying the 40-percent test to determine whether the mid-quarter convention applies to property placed in service by the members during the consolidated return year. The 40-percent test is applied separately to the depreciable bases of property placed in service by any member of an affiliated group that is not included in a consolidated return of the taxable year in which the property is placed in service.

(ii) In the case of a corporation formed by a member or members of a consolidated group and that is itself a member of the consolidated group ("newly-formed subsidiary"), the depreciable bases of property placed in service by the newly-formed subsidiary in the consolidated return year in which it is formed is included with the depreciable bases of property placed in service during the consolidated return year by the other members of the consolidated group in applying the 40-percent test. If depreciable property is placed in service by a newly-formed subsidiary during the consolidated return year in which it was formed, the newly-formed subsidiary is considered as being in existence for the entire consolidated return year for purposes of applying the applicable convention to determine when the recovery period begins.

(iii) The provisions of paragraph (b)(5)(ii) of this section are illustrated by the following example.

Example. Assume a member of a consolidated group that files its return on a calendar-year basis forms a subsidiary on August 1. The subsidiary places depreciable property in service on August 5. If the mid-quarter convention applies to property placed in service by the members of the consolidated group (including the newly-formed subsidiary), the property placed in service by the subsidiary on August 5 is deemed placed in service on the mid-point of the third quarter of the consolidated return year (i.e., August 15). If the mid-quarter convention does not apply, the property is deemed placed in service on the mid-point of the consolidated return year (i.e., July 1).

(iv) In the case of a corporation that joins or leaves a consolidated group, the depreciable bases of property placed in service by the corporation joining or leaving the group during the portion of the consolidated return year that the corporation is a member of the consolidated group is included with the depreciable bases of property placed in service during the consolidated return year by the other members in applying the 40-percent test. The depreciable

bases of property placed in service by the joining or leaving member in the taxable year before it joins or after it leaves the consolidated group is not taken into account by the consolidated group in applying the 40-percent test for the consolidated return year. If a corporation leaves a consolidated group and joins another consolidated group, each consolidated group takes into account, in applying the 40-percent test, the depreciable bases of property placed in service by the corporation while a member of the group.

(v) The provisions of paragraph (b)(5)(iv) of this section are illustrated by the following example.

Example. Assume Corporations A and B file a consolidated return on a calendar-year basis. Corporation C, also a calendar-year taxpayer, enters the consolidated group on July 1 and is included on the consolidated return for that taxable year. The depreciable bases of property placed in service by C during the period of July 1 to December 31 is included with the depreciable bases of property placed in service by A and B during the entire consolidated return year in applying the 40-percent test. The depreciable bases of property placed in service by C from January 1 to June 30 is not taken into account by the consolidated group in applying the 40-percent test. If C was a member of another consolidated group during the period from January 1 to June 30, that consolidated group would include the depreciable bases of property placed in service by C during that period.

(vi) A corporation that joins or leaves a consolidated group during a consolidated year is considered as being a member of the consolidated group for the entire consolidated return year for purposes of applying the applicable convention to determine when the recovery period begins for depreciable property placed in service by the corporation during the portion of the consolidated return year that the corporation is a member of the group.

(vii) If depreciable property is placed in service by a corporation in the taxable year ending immediately before it joins a consolidated group or beginning immediately after it leaves a consolidated group, the applicable convention is applied to the property under either the full taxable year rule or the short taxable year rule, as applicable.

(viii) The provisions of paragraphs (d)(5)(vi) and (vi) of this section are illustrated by the following example.

Example. Assume that on July 1, C, a calendar-return corporation, joins a consolidated group that files a return on a calendar-year basis. The short taxable year rules apply to C for the period of January 1 to June 30. However, in applying the applicable

convention to determine when the recovery period begins for depreciable property placed in service for the period of July 1 to December 31, C is considered as being a member of the consolidated group for the entire consolidated return year. Thus, if the half-year convention applies to depreciable property placed in service by the consolidated group (taking into account the depreciable basis of property placed in service by C after June 30), the property is deemed placed in service on the mid-point of the consolidated return year (i.e., July 1, if the group did not have a short taxable year).

(ix) In the case of a transfer of depreciable property between members of a consolidated group, the following special rules apply for purposes of applying the 40-percent test. Property that is placed in service by one member of a consolidated group and transferred to another member of the same group is considered as placed in service on the date that it is placed in service by the transferor member, and the date it is placed in service by the transferee member is disregarded. In the case of multiple transfers of property between members of a consolidated group, the property is considered as placed in service on the date that the first member places the property in service, and the dates it is placed in service by other members are disregarded. The depreciable basis of the transferred property that is taken into account in applying the 40-percent test is the depreciable basis of the property in the hands of the transferor member (as determined under paragraph (b)(6) of this section), or, in the case of multiple transfers of property between members, the depreciable basis in the hands of the first member that placed the property in service.

(x) The provisions of paragraph (b)(6)(ix) of this section are illustrated by the following example.

Example. Assume the ABC consolidated group files its return on a calendar-year basis. A, a member of the consolidated group, purchases depreciable property costing \$50,000 and places the property in service on January 5, 1991. On December 1, 1991, the property is transferred for \$75,000 to B, another member of the consolidated group. In applying the 40-percent test to the members of the consolidated group for 1991, the property is considered as placed in service on January 5, the date that A placed the property in service, and the depreciable basis of the property that is taken into account is \$50,000.

(g) **Special rule for partnerships and S corporations.** In the case of property placed in service by a partnership or an S corporation, the 40-percent test is generally applied at the partnership or corporate level. However, if a partnership or an S corporation is formed or availed of for the principal

purpose of either avoiding the application of the mid-quarter convention or having the mid-quarter convention apply where it otherwise would not, the 40-percent test is applied at the partner, shareholder, or other appropriate level.

(7) **Certain nonrecognition transaction.**—(i) Except as provided in paragraph (b)(6) of this section, if depreciable property is transferred in a transaction described in section 168(i)(7)(B)(i) (other than in a transaction between members of a consolidated group) in the same taxable year that the property is placed in service by the transferor, the 40-percent test is applied by treating the transferred property as placed in service by the transferee on the date of transfer. Thus, if the aggregate basis of property (including the transferred property) placed in service by the transferee during the last three months of its taxable year exceeds 40 percent of the aggregate basis of property (including the transferred property) placed in service by the transferor during the taxable year, the mid-quarter convention applies to the transferee's depreciable property, including the transferred property. The depreciable basis of the transferred property is not taken into account by the transferor in applying the 40-percent test for the taxable year that the transferor placed the property in service.

(ii) In applying the applicable convention to determine when the recovery period for the transferred property begins, the date on which the transferor placed the property in service must be used. Thus, for example, if the mid-quarter convention applies, the recovery period for the transferred property begins on the mid-point of the quarter of the taxable year that the transferor placed the property in service. If the transferor placed the transferred property in service in a short taxable year, then for purposes of applying the applicable convention and allocating the depreciation deduction between the transferor and the transferee, the transferor is treated as having a full 12-month taxable year commencing on the first day of the short taxable year. The depreciation deduction for the transferor's taxable year in which the property was placed in service is allocated between the transferor and the transferee based on the number of months in the transferor's taxable year that each party held the property in service. For purposes of allocating the depreciation deduction, the transferor takes into account the month in which the property was placed in service but does not take into account the month in

which the property was transferred. The transferee is allocated the remaining portion of the depreciation deduction for the transferor's taxable year in which the property was transferred. For the remainder of the transferee's current taxable year (if the transferee has a different taxable year than the transferor) and for subsequent taxable years, the depreciation deduction for the transferee is calculated by allocating to the transferee's taxable year the depreciation attributable to each recovery year, or portion thereof, that falls within the transferor's taxable year.

(iii) If the applicable convention for the transferred property has not been determined by the time the transferor files its income tax return for the year of transfer because the transferor's taxable year has not ended, the transferor may use either the mid-quarter or the half-year convention in determining the depreciation deduction for the property. However, the transferor must specify on the depreciation form filed for the taxable year that the applicable convention has not been determined for the property. If the transferee determines that a different convention applies to the transferred property, the transferor should redetermine the depreciation deduction on the property, and, within the period of limitation, should file an amended income tax return for the taxable year and pay any additional tax due plus interest.

(iv) The provisions of the paragraph (b)(7) are illustrated by the following example.

Example. (i) During 1991, C, a calendar-year taxpayer, purchases satellite equipment costing \$100,000, and computer equipment costing \$15,000. The satellite equipment is placed in service in January, and the computer equipment in February. On October 1, C transfers the computer equipment to Z Partnership in a transaction described in section 721. During 1991, Z, a calendar-year partnership, purchases 30 office desks for a total of \$15,000. The desks are placed in service in June. These are the only items of depreciable property placed in service by C and Z during 1991.

(ii) In applying the 40-percent test, because C transferred the computer equipment in a transaction described in section 168(i)(7)(B)(i) in the same taxable year that C placed it in service, the computer equipment is treated as placed in service by the transferee, Z, on the date of transfer, October 1. The 40-percent test is satisfied with respect to Z, because the computer equipment is placed in service during the last three months of Z's taxable year and its basis (\$15,000) exceeds 40 percent of the aggregate basis of property placed in service by Z during the taxable year (desks and computer equipment with an aggregate basis of \$30,000).

(iii) In applying the mid-quarter convention to determine when the computer equipment is deemed to be placed in service, the date on which C placed the property in service is used. Accordingly, because C placed the computer equipment in service during the first quarter of its taxable year, the computer equipment is deemed placed in service on February 15, 1991, the mid-point of the first quarter of C's taxable year. The depreciation deduction allowable for C's 1991 taxable year, \$3,250 (\$13,000 × 40 percent × 20%), is allocated between C and Z based on the number of months in C's taxable year that C and Z held the property in service. Thus, because the property was in service for 11 months during C's 1991 taxable year and C held it for 8 of those 11 months, C is allocated \$1,818 (76% × \$3,250). Z is allocated \$1,432, the remaining 44% of the \$3,250 depreciation deduction for C's 1991 taxable year. For 1992, Z's depreciation deduction for the computer equipment is \$3,600, the sum of the remaining 15 months of depreciation deduction for the first recovery year and 10.5 months of depreciation deduction for the second recovery year ((\$11,000 × 40 percent × 1.75) + (\$9,000 × 40 percent × 10.75)).

(c) *Disposition of property subject to the half-year or mid-quarter convention—(1) In general.* If depreciable property is subject to the half-year (or mid-quarter) convention in the taxable year in which it is placed in service, it also is subject to the half-year (or mid-quarter) convention in the taxable year in which it is disposed of.

(2) *Example.* The provisions of paragraph (c)(1) of this section are illustrated by the following example.

Example. In October 1991, B, a calendar-year taxpayer, purchases and places in service a light general purpose truck costing \$10,000. B does not elect to expense any part of the cost of the truck, and this is the only item of depreciable property placed in service by B during 1991. The 40-percent test is satisfied and the mid-quarter convention applies, because the truck is placed in service during the last three months of the taxable year and no other assets are placed in service in that year. In April 1993 (prior to the end of the truck's recovery period), B sells the truck. The mid-quarter convention applies in determining the depreciation deduction for the truck in 1993, the year of disposition.

(d) *Effective date.* This section applies to depreciable property placed in service in taxable years ending after January 30, 1991. For depreciable property placed in service after December 31, 1988, in taxable years ending on or before January 30, 1991, a taxpayer may use a method other than the method provided in this section in applying the 40-percent test and the applicable convention, provided the method is reasonable and is consistently applied to the taxpayer's property.

PART 902—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 2. The authority citation for part 902 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 902.10 [Amended]

Par. 4. Section 902.10(c) is amended by adding the following entry in the table to read as follows: "1.100(d)-1 . . . 1345-1145".

Shirley D. Johnson,
Commissioner of Internal Revenue.

Approved: September 2, 1992.

Fred T. Goldberg, Jr.,
Assistant Secretary of the Treasury.
(FR Doc. 92-23029 Filed 10-28-92; 9:45 am)
BILLING CODE 4810-01-0

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Wyoming Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing approval, with exceptions and required amendments, of a proposed amendment to the Wyoming permanent regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment, submitted June 24, 1991, pertains to the definition of public building, elimination of the two acre exemption, definition of joint agency approval, fish and wildlife resource information outside the permit area, solid waste permitting for mines, information requirements and confidentiality—historic and archaeological resources, stability analysis waiver, cultural resources management plan, revegetation monitoring, livestock grazing, topsoil substitutes, conditions for removal of diversions, information on historic and archaeological resources for coal exploration permits, definition of self-bond, required bonding on historic resources for permit approval, wild and scenic river study corridors, coal mine permit renewal processing, time frame for permit revisions, and area of water rights reporting for in-situ mines. The amendment revises the Wyoming

program to be consistent with the corresponding Federal standards and to incorporate the additional flexibility afforded by the revised Federal rules.

EFFECTIVE DATE: October 28, 1992.

FOR FURTHER INFORMATION CONTACT:
Guy Y. Padgett, Telephone: (307) 281-5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 28, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Wyoming program can be found in the November 28, 1980, Federal Register (45 FR 79837). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.11, 950.12, 950.13 and 950.16.

II. Submission of Amendment

On June 24, 1991, Wyoming submitted a proposed amendment to its program pursuant to SMCRA (Administrative Record No. WY-16-1). Wyoming submitted the proposed amendment in response to the December 23, 1986; June 9, 1987; and November 7, 1988, notifications that OSM sent in accordance with the Federal regulations at 30 CFR 732.17(d) (Administrative Record Nos. WY-12-13, WY-12-14, and WY-16-10). Wyoming proposes to amend the following Department of Environmental Quality—Land Quality Division (DEQ/LQD) rules and regulations relating to coal exploration and coal mining and reclamation operations: Chapter I—Definition of Public Building, Elimination of the Two Acre Exemption, Definition of Joint Agency Approval; Chapter E—Fish and Wildlife Resource Information Outside the Permit Area, Solid Waste Permitting for Mines, Information Requirements and Confidentiality—Historic and Archaeological Resources, Stability Analysis Waiver, Cultural Resources Management Plan, Revegetation Monitoring, Livestock Grazing; Chapter V—Solid Waste Permitting for Mines, Topsoil Substitutes, Revegetation Monitoring, Conditions for Removal of Diversions; Chapter XI—Information on Historic and Archaeological Resources for Coal Exploration Permits; Chapter XII—Definition of Self-Bond; Chapter XIII—Required Bonding on Historic Resources for Permit Approval, Wild and Scenic River Study Corridors, Coal Mine Permit Renewal Processing; Chapter XIV—Time Frame for Permit