procedures set forth in 12 U.S.C. 1831r–1(a) and (b) (branch closings).

■ 18.Add new § 28.25 to read as follows:

§ 28.25 Change in control.

(a) *After-the-fact notice.* In cases in which no other filing is required under subpart B of this part, a foreign bank that operates a Federal branch or agency shall inform the OCC in writing of the direct or indirect acquisition of control of the foreign bank by any person or entity, or group of persons or entities acting in concert, within 14 calendar days after the foreign bank becomes aware of a change in control.

(b) *Additional information.* The foreign bank shall furnish the OCC with any additional information the OCC may require in connection with the acquisition of control.

■ 19. Add a new § 28.26 to read as follows:

§ 28.26 Loan production offices.

A Federal branch may establish lending offices, make credit decisions, and engage in other representational activities at a site other than a Federal branch office, subject to the same rights, privileges, requirements and limitations that apply to national banks under 12 CFR 7.1003, 7.1004, and 7.1005.

Dated: December 15, 2003.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 03–31342 Filed 12–18–03; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Flunixin Meglumine Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Norbrook Laboratories, Ltd. The ANADA provides for the veterinary prescription use of flunixin meglumine injectable solution for the control of inflammation in horses, beef cattle, and nonlactating dairy cattle.

DATES: This rule is effective December 19, 2003.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV 104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lluther@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: Norbrook Laboratories, Ltd., Station Works, Newry BT35 6JP, Northern Ireland, filed ANADA 200–308 for the use of Flunixin Injection by veterinary prescription for the control of inflammation in horses, beef cattle, and nonlactating dairy cattle. Norbrook Laboratories' Flunixin Injection is approved as a generic copy of Schering-Plough Animal Health's BANAMINE (flunixin) Solution, approved under NADA 101–479. The ANADA is approved as of November 17, 2003, and the regulations in § 522.970 (21 CFR 522.970) are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) 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.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subject in 21 CFR Part 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.970 [Amended]

■ 2. Section 522.970 *Flunixin meglumine solution* is amended in paragraph (b)(1) by removing ''000061 and 059130'' and by adding in its place ''000061, 055529, and 059130''.

Dated: December 9, 2003.

Linda Tollefson,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 03–31294 Filed 12–18–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301 and 602

[TD 9100]

RIN 1545–BC62

Guidance Necessary To Facilitate Business Electronic Filing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains regulations designed to eliminate regulatory impediments to the electronic filing of certain income tax returns and other forms. These regulations affect business taxpayers who file income tax returns electronically. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective December 19, 2003.

Applicability Date: These regulations apply with respect to taxable years beginning after December 31, 2002. The applicability of §§ 1.170A–11T, 1.556–2T. 1.565–1T, 1.936–7T, 1.1017–1T, 1.1368–1T, 1.1377–1T, 1.1502–21T, 1.1502–75T, 1.1503–2T, 1.6038B–1T, and 301.7701–3T will expire on or before December 18, 2006.

FOR FURTHER INFORMATION CONTACT: Nathan Rosen, (202) 622–4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and pending receipt and evaluation of

public comments, approved by the Office of Management and Budget under control number 1545–1868. Responses to this collection of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) and the Procedure and Administration Regulations (26 CFR part 301) designed to eliminate regulatory impediments to the electronic submission of tax returns and other forms filed by corporations, partnerships and other businesses.

In 1998, Congress enacted the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 1998), Public Law 105–206 (112 Stat. 685) (1998). In relevant part, RRA 1998 states that the policy of Congress is to promote the paperless filing of Federal tax returns. Section 2001(a) of RRA 1998 sets a long-range goal for the IRS to have at least 80 percent of all Federal tax returns filed electronically by 2007. Section 2001(b) of RRA 1998 requires the IRS to establish a 10-year strategic plan to eliminate barriers to electronic filing. On January 30, 2003, the IRS published final regulations (TD 9040) eliminating a number of regulatory impediments to the electronic filing of Form 1040, ''U.S. Individual Income Tax Return.''

The IRS has identified a number of regulatory provisions that impede the ability of business entities to file returns electronically. Some of these regulations, for example, impede electronic filing by requiring taxpayers to include third-party signatures on their tax returns or by requiring taxpayers to attach documents or statements generated by a third party. Others require a taxpayer to sign an IRS form and file it as an attachment to the taxpayer's income tax return. These regulations eliminate the impediments for taxable years beginning after December 31, 2002. The regulations generally affect taxpayers who must file any of the following forms: Form 926, ''Return by a U.S. Transferor of Property to a Foreign Corporation''; Form 972, ''Consent of Shareholder To Include Specific Amount in Gross Income''; Form 973, ''Corporation Claim for Deduction for Consent Dividends''; Form 982, ''Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)''; Form 1120, ''U.S. Corporation Income Tax Return''; Form 1120S, ''U.S. Income Tax Return for an S Corporation''; Form 1122, ''Authorization and Consent of Subsidiary Corporation To Be Included in a Consolidated Income Tax Return''; Form 5471, ''Information Return of U.S. Persons With Respect To Certain Foreign Corporations''; Form 5712–A, ''Election and Verification of the Cost Sharing or Profit Split Method Under Section 936(h)(5)''; and Form 8832, ''Entity Classification Election.''

Explanation of Provisions

1. Form 926: Return by a U.S. Transferor of Property to a Foreign Corporation

Section 6038B provides that transferors of property to foreign corporations must, in certain circumstances, file information returns with the Secretary regarding such transactions. Section 1.6038B–1(b)(1)(i) requires the transferor to file the return on Form 926 as an attachment to its income tax return. Under § 1.6038B–1(b)(1)(i) and (ii), filers of Form 926 must sign the form and attachments to the form are subject to the declaration under penalties of perjury that the information submitted is true, correct, and complete. The signature requirement impedes electronic filing of the transferor's income tax return because Form 926 cannot yet be signed electronically. These regulations eliminate the obligation to sign Form 926 and provide, instead, that Form 926 and any attachments to the form are verified by signing the income tax return with which the form and attachments are filed.

2. Form 972: Consent of Shareholder To Include Specific Amount in Gross Income

Section 565 allows a corporation and its shareholders to treat certain hypothetical corporate distributions as actual dividends. Section 1.565–1(b)(1) requires shareholders to use Form 972 to elect such treatment and requires each consenting shareholder (or an authorized agent) to sign the form. Section 1.565–1(b)(3) requires the corporation to attach the signed Form 972 to its income tax return for the taxable year in which it claims the dividends paid deduction for the hypothetical dividends. Requiring corporations to attach a signed Form 972 impedes electronic filing of their income tax returns because third-party signatures cannot be incorporated into an electronic return. These regulations provide that an unsigned copy of Form 972 may be submitted with the corporation's income tax return if the corporation retains the signed original in its records.

3. Form 973: Corporation Claim for Deduction for Consent Dividends

A corporation uses Form 973 to claim the dividend treatment permitted by section 565. Section 1.565–1(b)(3) requires the corporation to sign Form 973 under penalties of perjury and submit the form with its tax return. This signature requirement impedes electronic filing of a corporation's income tax return because Form 973 cannot yet be signed electronically. These regulations eliminate the obligation to sign Form 973 and provide, instead, that Form 973 is verified by signing the income tax return with which the form is filed.

4. Form 982: Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)

Section 1017 provides for basis reductions when income from discharge of indebtedness is excluded from gross income. If a partnership has income from discharge of indebtedness, § 1.1017(g) permits its partners to request that the partnership reduce the basis of partnership depreciable property with respect to the partners. Section 1.1017–1(g)(2)(iii)(A) requires a partnership that consents to this basis reduction to prepare a statement describing, among other things, the amount of the reduction. Section 1.1017–1(g)(2)(iii)(B) requires the affected partners to attach a copy of that statement to their income tax returns.

Requiring partners to attach the partnership consent statement impedes the electronic filing of their income tax returns because the partnership statement cannot yet be incorporated into all electronic returns. To remedy this impediment, these regulations eliminate the obligation to attach the partnership consent statement and provide, instead, that taxpayers must

retain the consent statement in their records.

5. Form 1120: U.S. Corporation Income Tax Return

Section 1503 prescribes certain rules for computing tax for corporations filing consolidated returns. Section 1.1503–2(g) permits dual consolidated losses of dual resident corporations to offset the income of domestic affiliates under specified circumstances, including entry into an agreement described in § 1.1503–2(g)(2)(i). The corporation entering into the agreement must attach the agreement to its timely filed U.S. income tax return for the taxable year in which the loss is incurred. The agreement must be signed under penalties of perjury by the person who signs the income tax return. Section 1.1503–2(g)(2)(iv)(B)(3)(iii) also requires a successor corporation to file an agreement described in § 1.1503–2(g)(2)(i) to prevent recapture of the dual consolidated loss in certain circumstances. The new agreement must be signed under penalties of perjury by the person who signs the income tax return. Section 1.1503–2(g)(2)(vi)(B) requires corporations to file annual certifications with respect to dual consolidated losses. The annual certification must be signed under penalties of perjury by the person who signs the corporation's income tax return. The signature requirements in § 1.1503–2(g)(2)(i), (g)(2)(iv)(B)(3)(iii), and (g)(2)(vi)(B) impede electronic filing of the corporation's income tax return because neither the agreement nor the annual certification can be signed electronically. These regulations eliminate the obligations under § 1.1503–2(g)(2)(i) and (iv)(B)(3)(iii) to attach a signed agreement and provide, instead, that an unsigned copy of the agreement may be submitted with the corporation's income tax return if the corporation retains the signed original in its records. These regulations also eliminate the obligation under § 1.1503–2(g)(2) (vi)(B) to sign the annual certification and provide, instead, that the annual certification is verified by signing the income tax return with which the certification is filed.

Section 170 addresses the tax deductibility of charitable contributions and gifts. Section 1.170A–11(b)(1) provides that, under certain conditions, corporations may treat a charitable contribution as paid during a taxable year even if the contribution occurs in the following taxable year. A corporation claiming a charitable deduction for a taxable year under this provision must attach a copy of the resolution of the board of directors authorizing the contribution to its return for the year. In addition, the corporation must attach a declaration, signed under penalties of perjury, that the resolution was adopted during the taxable year. *See* § 1.170A–11(b)(2). Requiring taxpayers to attach a signed declaration impedes electronic filing of Form 1120 because the declaration cannot be signed electronically. The regulations eliminate the requirement of a signed declaration and provide, instead, that the declaration is verified by signing the return. The regulations also slightly expand the content of the declaration by requiring that it state the date on which the board of directors authorized the contribution. Requiring taxpayers to attach a copy of the resolution authorizing the contribution may also impede electronic filing of Form 1120 because including the resolution increases the size of the electronic return file in a potentially burdensome manner. The regulations eliminate this requirement and provide, instead, that the resolution must be retained in the taxpayer's records.

Section 1.1502–21(b)(3)(i) provides that a consolidated group of corporations may elect to relinquish carryback treatment with respect to a consolidated net operating loss for any consolidated return year. The consolidated group elects this treatment by attaching a statement to the group's income tax return for the relevant year. The regulations require the statement to be signed by the common parent. This signature requirement impedes electronic filing of Form 1120 because the statement cannot be signed electronically. These regulations eliminate the signature requirement and permit the election to be made in an unsigned statement.

Section 1.1502–21(b)(3)(ii)(B) provides that a group of corporations acquiring a new member may elect to relinquish part of the carryback period with respect to certain net operating losses of the new member. The election is made in a statement attached to the group's income tax return. The statement must be signed by the common parent, the new member, and any other corporation joining the group with the new member. This signature requirement impedes electronic filing of Form 1120 because third-party signatures cannot be incorporated into an electronic return. These regulations eliminate the signature requirement and permit the election to be made in an unsigned statement.

6. Form 1120S: U.S. Income Tax Return for an S Corporation

Section 1377 provides that under certain circumstances an S Corporation may elect to treat a taxable year as if it consisted of two separate taxable years. Section 1.1377–1(b)(5) provides that an S Corporation elects this treatment by attaching a signed statement to its income tax return. This signature requirement impedes electronic filing of Form 1120S because the statement described in § 1.1377–1(b)(5) cannot be signed electronically. These regulations eliminate the signature requirement and permit the election to be made in an unsigned statement that is verified by signing the return.

Section 1.1368–1(g)(2)(i) provides a similar election for purposes of determining the treatment of distributions by an S Corporation in the event of certain ownership changes. Section 1.1368–1(g)(2)(iii) provides that an S Corporation makes this election by attaching a statement, signed by an officer of the corporation, to its income tax return for the relevant taxable year. This signature requirement impedes electronic filing of Form 1120S because the statement described in § 1.1368–1(g)(2)(iii) cannot be signed electronically. These regulations eliminate the signature requirement and permit the election to be made in an unsigned statement that is verified by signing the return.

Section 1.1368–1(f) allows an S corporation to make certain elections relating to the source of its distributions. Section 1.1368–1(f)(5)(iii) provides that an S corporation makes these elections by attaching a statement containing specified information to its income tax return. An officer of the corporation must sign the statement under penalties of perjury. This signature requirement impedes electronic filing of Form 1120S because the statement described in § 1.1368–1(f)(5)(iii) cannot be signed electronically. These regulations eliminate the signature requirement and permit the election to be made in an unsigned statement that is verified by signing the return.

7. Form 1122: Authorization and Consent of Subsidiary Corporation To Be Included in a Consolidated Income Tax Return

Section 1.1502–75(h)(2) provides that, when an affiliated group of corporations files a consolidated return for the first time, each subsidiary must consent to the filing by signing Form 1122 and the signed consent forms must be attached to the consolidated return. Requiring the group to file signed consent forms

impedes electronic filing of consolidated returns because Form 1122 cannot yet be signed electronically. These regulations retain the requirement that each subsidiary consent to filing a consolidated return but eliminate the impediment to electronic filing by permitting the group to submit unsigned copies of the consents with its return if it retains the signed originals in its records.

8. Form 5471: Information Return of U.S. Persons With Respect to Certain Foreign Corporations

Section 1.556–2(e)(2) provides that certain U.S. shareholders of a foreign personal holding company must attach a number of items to their income tax returns relating to property the company owns or operates. In particular, § 1.556–2(e)(2)(vii) requires certain shareholders to attach a copy of the contract, lease or rental agreement covering the property. A shareholder attaches these items to Form 5471, and in turn attaches that form to its return. Requiring shareholders to attach a copy of these documents to an income tax return impedes electronic filing because the documents cannot yet be incorporated into all electronic returns. These regulations eliminate this requirement and provide, instead, that a copy of the contract, lease or rental agreement must be retained in the shareholder's records.

9. Form 5712–A: Election and Verification of the Cost Sharing or Profit Split Method Under Section 936(h)(5)

Section 1.936–7(a), Q&A 1 provides that a possessions corporation makes the election under section 936(h)(5) to use the cost sharing or profit split method by filing a signed Form 5712–A that includes a declaration that all affiliated group members have consented to the election. The electing corporation attaches the Form 5712–A to Form 5735, ''Possessions Corporation Tax Credit,'' which in turn must be attached to the corporation's income tax return. Requiring taxpayers to sign Form 5712–A impedes electronic filing of corporate income tax returns because Form 5712–A cannot yet be signed electronically. These regulations eliminate the signature requirement and permit the election to be made using an unsigned Form 5712–A that is verified by signing the return.

10. Form 8832: Entity Classification Election

An eligible business entity may file Form 8832 to specify the way in which it is to be classified for federal tax purposes. The form must be signed under penalties of perjury. Section 301.7701–3(c)(1)(ii) provides that in certain circumstances the entity must attach a copy of Form 8832 to its tax or information returns. The requirement to attach a copy of Form 8832 impedes electronic filing of tax and information returns because a copy of the signed form cannot yet be incorporated into all electronic returns. These regulations provide that the requirement to attach a copy of Form 8832 to a return may be satisfied with an unsigned copy.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these temporary and final regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Nathan Rosen, Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1, 301 and 602 are amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

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

■ **Par. 2.** Section 1.170A–11 is amended by revising paragraph (b)(2) to read as follows:

§ 1.170A–11 Limitation on, and carryover of, contributions by corporations.

* * * * *

(b) * * *

(2) [Reserved]. For further guidance *see* § 1.170A–11T(b)(2).

* * * * *

■ **Par. 3.** Section 1.170A–11T is added to read as follows:

§ 1.170A–11T Limitation on, and carryover of, contributions by corporations (temporary).

(a) [Reserved]. For further guidance, *see* § 1.170A–11(a).

(b) Election by corporations on an accrual method—(1) [Reserved]. For further guidance, *see* § 1.170A–11(b)(1).

(2) The election must be made at the time the return for the taxable year is filed, by reporting the contribution on the return. There shall be attached to the return when filed a written declaration stating that the resolution authorizing the contribution was adopted by the board of directors during the taxable year. For taxable years beginning before January 1, 2003, the declaration shall be verified by a statement signed by an officer authorized to sign the return that it is made under penalties of perjury, and there shall also be attached to the return when filed a copy of the resolution of the board of directors authorizing the contribution. For taxable years beginning after December 31, 2002, the declaration must also include the date of the resolution, the declaration shall be verified by signing the return, and a copy of the resolution of the board of directors authorizing the contribution is a record that the taxpayer must retain and keep available for inspection in the manner required by § 1.6001–1(e).

(c) through (d) [Reserved]. For further guidance, *see* § 1.170A–11(c) through (d).

■ **Par. 4.** Section 1.556–2 is amended by revising paragraph (e)(2)(vii) and adding paragraph (e)(3) to read as follows:

§ 1.556–2 Adjustments to taxable income.

* * * * *

(e) * * *

(2) * * *

(vii) [Reserved]. For further guidance, *see* § 1.556–2T(e)(2)(vii) and (3).

* * * * *

(3) [Reserved]. For further guidance, *see* § 1.556–2T(e)(3).

* * * * *

■ **Par. 5.** Section 1.556–2T is added to read as follows:

§ 1.556–2T Adjustments to taxable income (temporary).

(a) through (e)(2)(vi) [Reserved]. For further guidance, *see* § 1.556–2(a) through (e)(2)(vi).

(e)(2)(vii) In the case of a return for a taxable year beginning before January 1, 2003, a copy of the contract, lease, or rental agreement;

(e)(2)(viii) through (xi) [Reserved]. For further guidance *see* § 1.556–2(e)(2)(viii) through (xi).

(3) If the statement described in § 1.556–2(e)(2) is attached to a taxpayer's income tax return for a taxable year beginning after December 31, 2002, a copy of the applicable contract, lease or rental agreement is not required to be submitted with the return, but must be retained by the taxpayer and kept available for inspection in the manner required by § 1.6001–1(e).

(f) [Reserved]. For further guidance, *see* § 1.556–2(f).

■ **Par. 6.** Section 1.565–1 is amended by revising paragraph (b)(3) to read as follows:

§ 1.565–1 General rule.

* * * * *

(b) * * *

(3) [Reserved]. For further guidance, *see* § 1.565–1T(b)(3).

* * * * *

■ **Par. 7.** Section 1.565–1T is added to read as follows:

§ 1.565–1T General rule (temporary).

(a) through (b)(2) [Reserved]. For further guidance, *see* § 1.565–1(a) through (b)(2).

(b)(3) A consent may be filed at any time not later than the due date of the corporation's income tax return for the taxable year for which the dividends paid deduction is claimed. With such return, and not later than the due date thereof, the corporation must file Forms 972 for each consenting shareholder, and a return on Form 973 showing by classes the stock outstanding on the first and last days of the taxable year, the dividend rights of such stock, distributions made during the taxable year to shareholders, and giving all the other information required by the form. For taxable years beginning before January 1, 2003, the Form 973 filed with the corporation's income tax return shall contain or be verified by a written declaration that is made under the penalties of perjury and the Forms 972 filed with the return must be duly executed by the consenting shareholders. For taxable years beginning after December 31, 2002, the Form 973 filed with the corporation's income tax return shall be verified by signing the return and the Forms 972 filed with the return must be duly executed by the consenting shareholders or, if unsigned, must contain the same information as the duly executed originals. If the corporation submits unsigned Forms 972 with its return for a taxable year beginning after December 31, 2002, the duly executed originals are records that the corporation must retain and keep available for inspection in the manner required by § 1.6001–1(e).

(c) [Reserved]. For further guidance, *see* § 1.565–1(c).

■ **Par. 8.** Section 1.936–7 is amended by:

■ 1. Designating the undesignated introductory text as paragraph (a).

■ 2. Redesignating paragraphs (a) through (c) as paragraphs (b) through (d), respectively.

■ 3. Revising newly designated paragraph (b), Q. & A.1.

■ The revision reads as follows:

§ 1.936–7 Manner of making election under section 936(h)(5); special election for export sales; revocation of election under section 936(a).

* * * * *

(b) * * *

Q. 1. [Reserved]. For further guidance, *see* § 1.936–7T(b) Q. 1.

A. 1. [Reserved]. For further guidance, *see* § 1.936–7T(b) A. 1.

* * * * *

■ **Par. 9.** Section 1.936–7T is added to read as follows:

§ 1.936–7T Manner of making election under section 936(h)(5); special election for export sales; revocation of election under section 936(a) (temporary).

(a) [Reserved]. For further guidance, *see* § 1.936–7 (a).

(b) *Manner of making election.*

Q. 1: How does a possessions corporation make an election to use the cost sharing method or profit split method?

A.1: A possessions corporation makes an election to use the cost sharing or profit split method by filing Form 5712–A (''Election and Verification of the Cost Sharing or Profit Split Method Under Section 936(h)(5)'') and attaching it to its tax return. Form 5712–A must be filed on or before the due date (including extensions) of the tax return of the possessions corporation for its first taxable year beginning after December 31, 1982. The electing corporation must set forth on the form the name and the taxpayer identification number or address of all members of the affiliated group (including foreign affiliates not required to file a U.S. tax return). All members of the affiliated group must consent to the election. For elections filed with respect to taxable years beginning before January 1, 2003, an authorized officer of the electing corporation must sign the statement of election and must declare that he has received a signed statement of consent from an authorized officer, director, or other appropriate official of each member of the affiliated group. Elections filed for taxable years beginning after December 31, 2002, will incorporate a declaration by the electing corporation that it has received a signed consent from an authorized officer, director, or other appropriate official of each member of the affiliated group and will be verified by signing the return. The election is not valid for a taxable year unless all affiliates consent. A failure to obtain an affiliate's written consent will not invalidate the election out if the possessions corporation made a good faith effort to obtain all the necessary consents or the failure to obtain the missing consent was inadvertent. Subsequently created or acquired affiliates are bound by the election. If an election out is revoked under section 936(h)(5)(F)(iii), a new election out with respect to that product area cannot be made without the consent of the Commissioner. The possessions corporation shall file an amended Form 5712–A with its timely filed income tax return to reflect any changes in the names or number of the members of the affiliated group for any taxable year after the first taxable year to which the election out applies. By consenting to the election out, all affiliates agree to provide information necessary to compute the cost sharing payment under the cost sharing method or combined taxable income under the profit split method, and failure to provide such information shall be treated as a request to revoke the election out under section 936(h)(5)(F)(iii).

Q. & A. 2 through 8 [Reserved]. For further guidance, *see* § 1.936–7(b), Q. & A. 2 through 8.

(c) and (d) [Reserved]. For further guidance, *see* § 1.936–7(c) and (d).

■ **Par. 10.** Section 1.1017–1 is amended by revising paragraph (g)(2)(iii)(B) to read as follows:

§ 1.1017–1 Basis reductions following a discharge of indebtedness.

* * * * *

(g) * * *

(2) * * *

(iii) * * *

(B) [Reserved] For further guidance, *see* § 1.1017–1T(g)(2)(iii)(B).

* * * * *

■ **Par. 11.** Section 1.1017–1T is amended by revising paragraphs (c) through (i) to read as follows:

§ 1.1017–1T Basis reductions following a discharge of indebtedness (temporary).

* * * * *

(c) through (g)(2)(iii)(A) [Reserved]. For further guidance, see § 1.1017–1(c) through (g)(2)(iii)(A).

(g)(2)(iii)(B) *Taxpayer's requirement.* For taxable years beginning before January 1, 2003, statements described in § 1.1017–1(g)(2)(iii)(A) must be attached to a taxpayer's timely filed (including extensions) Federal income tax return for the taxable year in which the taxpayer has COD income that is excluded from gross income under section 108(a). For taxable years beginning after December 31, 2002, taxpayers must retain the statements and keep them available for inspection in the manner required by § 1.6001–1(e), but are not required to attach the statements to their returns.

(g)(2)(iv) through (i) [Reserved]. For further guidance, *see* § 1.1017–1(g)(2)(iv) through (i).

■ **Par. 12.** Section 1.1368–1 is amended by revising paragraphs (f)(5)(iii) and (g)(2)(iii) to read as follows:

§ 1.1368–1 Distributions by S corporations.

* * * * *

(f) * * *

(5) * * *

(iii) [Reserved]. For further guidance, *see* § 1.1368–1T(f)(5)(iii).

* * * * *

(g) * * *

(2) * * *

(iii) [Reserved]. For further guidance, *see* § 1.1368–1T(g)(2)(iii).

* * * * *

■ **Par. 13.** Section 1.1368–1T is added to read as follows:

§ 1.1368–1T Distributions by S corporations (temporary).

(a) through (f)(5)(ii) [Reserved]. For further guidance, *see* § 1.1368–1(a) through (f)(5)(ii).

(f)(5)(iii) *Corporate statement regarding elections.* A corporation makes an election for a taxable year under § 1.1368–1(f) by attaching a statement to a timely filed original or amended return required to be filed under section 6037 for that taxable year. In the statement, the corporation must identify the election it is making under § 1.1368–1(f) and must state that each shareholder consents to the election. In the case of elections for taxable years beginning before January 1, 2003, an officer of the corporation must sign under penalties of perjury the statement on behalf of the corporation. In the case of elections for taxable years beginning after December 31, 2002, the statement described in this paragraph (f)(5)(iii) shall be verified by signing the return. A statement of election to make a deemed dividend under § 1.1368–1(f) must include the amount of the deemed dividend that is distributed to each shareholder.

(f)(5)(iv) through (g)(2)(ii) [Reserved]. For further guidance, *see* § 1.1368–1(f)(5)(iv) through (g)(2)(ii).

(g)(2)(iii) *Time and manner of making election.* A corporation makes an election under § 1.1368–1(g)(2)(i) for a taxable year by attaching a statement to a timely filed original or amended return required to be filed under section 6037 for a taxable year (without regard to the election under § 1.1368–1(g)(2)(i)). In the statement, the corporation must state that it is electing for the taxable year under § 1.1368–1(g)(2)(i) to treat the taxable year as if it consisted of separate taxable years. The corporation also must set forth facts in the statement relating to the qualifying disposition (*e.g.,* sale, gift, stock issuance, or redemption), and state that each shareholder who held stock in the corporation during the taxable year (without regard to the election under § 1.1368–1(g)(2)(i)) consents to this election. For purposes of this election, a shareholder of the corporation for the taxable year is a shareholder as described in section 1362(a)(2). A single election statement may be filed for all elections made under § 1.1368–1(g)(2)(i) for the taxable year. An election made under § 1.1368–1(g)(2)(i) of this section is irrevocable. In the case of elections for taxable years beginning before January 1, 2003, the statement through which a corporation makes an election under § 1.1368–1(g)(2)(i) must be signed by an officer of the corporation under penalties of perjury. In the case of elections for taxable years beginning after December 31, 2002, the statement described in the preceding sentence shall be verified by signing the return.

(g)(2)(iv) [Reserved]. For further guidance, *see* § 1.1368–1(g)(2)(iv).

■ **Par. 14.** Section 1.1377–1 is amended by revising paragraph (b)(5)(i)(C) to read as follows:

§ 1.1377–1 Pro rata share.

* * * * *

(b) * * *

(5) * * *

(i) * * *

(C) [Reserved]. For further guidance, *see* § 1.1377–1T(b)(5)(i)(C).

* * * * *

■ **Par. 15.** Section 1.1377–1T is added to read as follows:

§ 1.1377–1T Pro rata share (temporary).

(a) through (b)(5)(i)(B) [Reserved]. For further guidance, *see* § 1.1377–1(a) through (b)(5)(i)(B).

(b)(5)(i)(C) The signature on behalf of the S corporation of an authorized officer of the corporation under penalties of perjury, except that for taxable years beginning after December 31, 2002, the election statement described in § 1.1377–1(b)(5)(i) shall be verified, and the requirement of this paragraph (b)(5)(i)(C) is satisfied, by the signature on the Form 1120S filed by the S corporation.

(b)(5)(i)(D) through (c) [Reserved]. For further guidance, *see* § 1.1377–1 (b)(5)(i)(D) through (c).

■ **Par. 16.** Section 1.1502–21 is amended by revising paragraphs (b)(2)(iii), (b)(3)(i) and (b)(3)(ii)(B) to read as follows:

§ 1.1502–21 Net operating losses.

* * * * *

(b) * * *

(2) * * *

(iii) [Reserved]. For further guidance, *see* § 1.1502–21T(b)(2)(iii).

* * * * *

(3) * * * (i) [Reserved]. For further guidance, *see* § 1.1502–21T(b)(3)(i).

(ii) * * * (A) * * *

(b)(3)(ii)(B) [Reserved]. For further guidance, *see* § 1.1502–21T(b)(3)(ii)(B).

* * * * *

■ **Par. 17.** Section 1.1502–21T is amended by revising paragraphs (b)(2)(iii) and (b)(3) through (b)(3)(ii)(B) to read as follows:

§ 1.1502–21T Net operating losses (temporary).

* * * * *

(b)(2)(iii) [Reserved]. For further guidance, *see* § 1.1502–21(b)(2)(iii).

* * * * *

(b)(3) *Special rules*—(i) *Election to relinquish carryback.* A group may make an irrevocable election under section 172(b)(3) to relinquish the entire carryback period with respect to a CNOL for any consolidated return year. Except as provided in paragraph (b)(3)(ii)(B) of this section, the election may not be made separately for any member (whether or not it remains a member), and must be made in a

separate statement entitled ''THIS IS AN ELECTION UNDER § 1.1502–21(b)(3)(i) TO WAIVE THE ENTIRE CARRYBACK PERIOD PURSUANT TO SECTION 172(b)(3) FOR THE [insert consolidated return year] CNOLs OF THE CONSOLIDATED GROUP OF WHICH [insert name and employer identification number of common parent] IS THE COMMON PARENT''. The statement must be filed with the group's income tax return for the consolidated return year in which the loss arises. If the consolidated return year in which the loss arises begins before January 1, 2003, the statement making the election must be signed by the common parent. If the consolidated return year in which the loss arises begins after December 31, 2002, the election may be made in an unsigned statement.

(b)(3)(ii) through (b)(3)(ii)(A) [Reserved]. For further guidance, *see* § 1.1502–21 (b)(3)(ii) through (b)(3)(ii)(A).

(B) *Acquisition of member from another consolidated group.* If one or more members of a consolidated group becomes a member of another consolidated group, the acquiring group may make an irrevocable election to relinquish, with respect to all consolidated net operating losses attributable to the member, the portion of the carryback period for which the corporation was a member of another group, provided that any other corporation joining the acquiring group that was affiliated with the member immediately before it joined the acquiring group is also included in the waiver. This election is not a yearly election and applies to all losses that would otherwise be subject to a carryback to a former group under section 172. The election must be made in a separate statement entitled ''THIS IS AN ELECTION UNDER § 1.1502–21(b)(3)(ii)(B)(2) TO WAIVE THE PRE-[insert first taxable year for which the member (or members) was not a member of another group] CARRYBACK PERIOD FOR THE CNOLs attributable to [insert names and employer identification number of members].'' The statement must be filed with the acquiring consolidated group's original income tax return for the year the corporation (or corporations) became a member. If the year in which the corporation (or corporations) became a member begins before January 1, 2003, the statement must be signed by the common parent and each of the members to which it applies. If the year in which the corporation (or corporations) became a member begins after December 31, 2002, the election may be made in an unsigned statement.

* * * * *

■ **Par. 18.** Section 1.1502–75 is amended by revising paragraph (h)(2) to read as follows:

§ 1.1502–75 Filing of consolidated returns.

* * * * *

(h) * * *

(2) [Reserved]. For further guidance, *see* § 1.1502–75T(h)(2).

* * * * *

■ **Par. 19.** Section 1.1502–75T is added to read as follows:

§ 1.1502–75T Filing of consolidated returns (temporary).

(a) through (h)(1) [Reserved]. For further guidance, *see* § 1.1502–75(a) through (h)(1).

(2) *Filing of Form 1122 for first year.* If, under the provisions of § 1.1502–75 (a)(1) , a group wishes to file a consolidated return for a taxable year, then a Form 1122 (''Authorization and Consent of Subsidiary Corporation To Be Included in a Consolidated Income Tax Return'') must be executed by each subsidiary. For taxable years beginning before January 1, 2003, the executed Forms 1122 must be attached to the consolidated return for the taxable year. For taxable years beginning after December 31, 2002, the group must attach either executed Forms 1122 or unsigned copies of the completed Forms 1122 to the consolidated return. If the group submits unsigned Forms 1122 with its return, it must retain the signed originals in its records in the manner required by § 1.6001–1(e). Form 1122 is not required for a taxable year if a consolidated return was filed (or was required to be filed) by the group for the immediately preceding taxable year.

(h)(3) through (k) [Reserved]. For further guidance, *see* § 1.1502–75(h)(3) through (k).

■ **Par. 20.** Section 1.1503–2 is amended by revising paragraphs (g)(2)(i), (g)(2)(iv)(B)(3)(iii) and (g)(2)(vi)(B) to read as follows:

§ 1.1503–2 Dual consolidated loss.

* * * * *

(g) * * *

(2) * * *

(i) [Reserved]. For further guidance, *see* § 1.1503–2T(g)(2)(i).

* * * * *

(iv) * * *

(B) * * *

(3) * * *

(iii) [Reserved]. For further guidance, *see* § 1.1503–2T(g)(2)(iv)(B)(*3*)(*iii*)

* * * * *

(vi) * * *

(B) [Reserved]. For further guidance, *see* § 1.1503–2T(g)(2)(vi)(B).

* * * * *

■ **Par. 21.** Section 1.1503–2T is added to read as follows:

§ 1.1503–2T Dual consolidated loss (temporary).

(a) through (g)(1) [Reserved]. For further guidance, *see* § 1.1503–2(a) through (g)(1).

(2) *Elective relief provision*—(i) *In general.* Paragraph (b) of this section shall not apply to a dual consolidated loss if the consolidated group, unaffiliated dual resident corporation, or unaffiliated domestic owner elects to be bound by the provisions of § 1.1503–2(g)(2) and this paragraph (g)(2). In order to elect relief under § 1.1503–2(g)(2) and this paragraph (g)(2), the consolidated group, unaffiliated dual resident corporation, or unaffiliated domestic owner must attach to its timely filed U.S. income tax return for the taxable year in which the dual consolidated loss is incurred an agreement described in paragraph (g)(2)(i)(A) of this section. The agreement must be signed under penalties of perjury by the person who signs the return. For taxable years beginning after December 31, 2002, the agreement attached to the income tax return of the consolidated group, unaffiliated dual resident corporation or unaffiliated domestic owner pursuant to the preceding sentence may be an unsigned copy. If an unsigned copy is attached to the return, the consolidated group, unaffiliated dual resident corporation, or unaffiliated domestic owner must retain the original in its records in the manner specified by § 1.6001–1(e). The agreement must include the following items, in paragraphs labeled to correspond with the items set forth in paragraphs (g)(2)(i)(A) through (F) of this section:

(A) A statement that the document submitted is an election and an agreement under the provisions of § 1.1503–2(g)(2) of the Income Tax Regulations.

(B) The name, address, identifying number, and place and date of incorporation of the dual resident corporation, and the country or countries that tax the dual resident corporation on its worldwide income or on a residence basis, or, in the case of a separate unit, identification of the separate unit, including the name under which it conducts business, its principal activity, and the country in which its principal place of business is located.

(C) An agreement by the consolidated group, unaffiliated dual resident

corporation, or unaffiliated domestic owner to comply with all of the provisions of paragraphs (g)(2)(iii) through (vii) of § 1.1503–2 and this section.

(D) A statement of the amount of the dual consolidated loss covered by the agreement.

(E) A certification that no portion of the dual resident corporation's or separate unit's losses, expenses, or deductions taken into account in computing the dual consolidated loss has been, or will be, used to offset the income of any other person under the income tax laws of a foreign country.

(F) A certification that arrangements have been made to ensure that no portion of the dual consolidated loss will be used to offset the income of another person under the laws of a foreign country and that the consolidated group, unaffiliated dual resident corporation, or unaffiliated domestic owner will be informed of any such foreign use of any portion of the dual consolidated loss.

(g)(2)(ii) through (iv)(B)(*3*)(*ii*) [Reserved] For further guidance, *see* § 1.1503–2(g)(2)(ii) through (iv)(B)(3)(ii).

(g)(2)(iv)(B)(*3*)(*iii*) The unaffiliated domestic corporation or new consolidated group must file, with its timely filed income tax return for the taxable year in which the event described in § 1.1503–2(g)(2)(iv)(B)(*1*) or (*2*) occurs, an agreement described in paragraph (g)(2)(i) of this section (new (g)(2)(i) agreement), whereby it assumes the same obligations with respect to the dual consolidated loss as the corporation or consolidated group that filed the original (g)(2)(i) agreement with respect to that loss. The new (g)(2)(i) agreement must be signed under penalties of perjury by the person who signs the return and must include a reference to § 1.1503–2(g)(2)(iv)(B)(*3*)(*iii*) or this paragraph (g)(2)(iv)(B)(*3*)(*iii*). For taxable years beginning after December 31, 2002, the agreement attached to the return pursuant to the preceding sentence may be an unsigned copy. If an unsigned copy is attached to the return, the corporation or consolidated group must retain the original in its records in the manner specified by § 1.6001–1(e).

(g)(2)(iv)(C) through (vi)(A) [Reserved]. For further guidance, *see* § 1.1503–2(g)(2)(iv)(C) through (vi)(A).

(B) *Annual certification.* Except as provided in § 1.1503–2(g)(2)(vi)(C), until and unless Form 1120 or the Schedules thereto contain questions pertaining to dual consolidated losses, the consolidated group, unaffiliated dual resident corporation, or unaffiliated domestic owner must file with its income tax return for each of the 15 taxable years following the taxable year in which the dual consolidated loss is incurred a certification that the losses, expenses, or deductions that make up the dual consolidated loss have not been used to offset the income of another person under the tax laws of a foreign country. For taxable years beginning before January 1, 2003, the annual certification must be signed under penalties of perjury by a person authorized to sign the agreement described in paragraph (g)(2)(i) of this section. For taxable years beginning after December 31, 2002, the certification is verified by signing the return with which the certification is filed. The certification for a taxable year must identify the dual consolidated loss to which it pertains by setting forth the taxpayer's year in which the loss was incurred and the amount of such loss. In addition, the certification must warrant that arrangements have been made to ensure that the loss will not be used to offset the income of another person under the laws of a foreign country and that the taxpayer will be informed of any such foreign use of any portion of the loss. If dual consolidated losses of more than one taxable year are subject to the rules of this paragraph (g)(2)(vi)(B), the certifications for those years may be combined in a single document but each dual consolidated loss must be separately identified.

(g)(2)(vii) through (h) [Reserved]. For further guidance, *see* § 1.1503–2(g)(2)(vi) through (h).

■ **Par. 22.** Section 1.6038B–1 is amended by revising paragraphs (b)(1)(i) and (b)(1)(ii) to read as follows:

§ 1.6038B–1 Reporting of certain transfers to foreign corporations.

* * * * *

(b)(1)(i) and (ii) [Reserved]. For further guidance, *see* § 1.6038B–1T(b)(1)(i) and (ii).

* * * * *

■ **Par. 23.** Section 1.6038B–1T is amended by revising paragraphs (a) through (b)(3) to read as follows:

§ 1.6038B–1T Reporting of certain transactions to foreign corporations (temporary).

(a) [Reserved]. For further guidance, *see* § 1.6038B–1(a).

(b) *Time and manner of reporting*—(1) *Ingeneral*—(i) *Reporting procedure.* Except for stock or securities qualifying under the special reporting rule of § 1.6038B–1(b)(2) , and certain exchanges described in section 354 (listed below), any U.S. person that makes a transfer described in section 6038B(a)(1)(A), 367(d) or (e), is required to report pursuant to section 6038B and the rules of § 1.6038B–1 and this section and must attach the required information to Form 926, ''Return by Transferor of Property to a Foreign Corporation.'' For special rules regarding cash transfers made in tax years beginning after February 5, 1999, see § 1.6038B–1(b)(3) and (g) . For purposes of determining a U.S. transferor that is subject to section 6038B, the rules of § 1.367(a)–1T(c) and § 1.367(a)–3(d) shall apply with respect to a transfer described in section 367(a), and the rules of § 1.367(a)–1T(c) shall apply with respect to a transfer described in section 367(d). Additionally, if in an exchange described in section 354, a U.S. person exchanges stock of a foreign corporation in a reorganization described in section 368(a)(1)(E), or a U.S. person exchanges stock of a domestic or foreign corporation for stock of a foreign corporation pursuant to an asset reorganization described in section 368(a)(1)(C), (D), or (F), that is not treated as an indirect stock transfer under section 367(a), then the U.S. person exchanging stock is not required to report under section 6038B. Notwithstanding any statement to the contrary on Form 926, the form and attachments must be attached to, and filed by the due date (including extensions) of the transferor's income tax return for the taxable year that includes the date of the transfer (as defined in § 1.6038B–1T(b)(4)). For taxable years beginning before January 1, 2003, any attachment to Form 926 required under the rules of this section is filed subject to the transferor's declaration under penalties of perjury on Form 926 that the information submitted is true, correct and complete to the best of the transferor's knowledge and belief. For taxable years beginning after December 31, 2002, Form 926 and any attachments shall be verified by signing the income tax return with which the form and attachments are filed.

(ii) *Reporting by corporate transferor.* For transfers by corporations in taxable years beginning before January 1, 2003, Form 926 must be signed by an authorized officer of the corporation if the transferor is not a member of an affiliated group under section 1504(a)(1) that files a consolidated Federal income tax return and by an authorized officer of the common parent corporation if the transferor is a member of such an affiliated group. For transfers by corporations in taxable years beginning after December 31, 2002, Form 926 shall be verified by signing the income tax return to which the form is attached.

(b)(2) through (b)(3) [Reserved]. For further guidance, *see* § 1.6038B–1(b)(2) through (b)(3).

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 24.** The authority citation for part 301 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 25.** Section 301.7701–3 is amended by revising paragraph (c)(1)(ii) to read as follows:

§ 301.7701–3 Classification of certain business entities.

* * * * *

(c) * * * (1) * * *

(ii) [Reserved]. For further guidance, *see* § 301.7701–3T(c)(1)(ii).

* * * * *

■ **Par. 26.** Section 301.7701–3T is added to read as follows:

§ 301.7701–3T Classification of certain business entities (temporary).

(a) through (c)(1)(i) [Reserved]. For further guidance, *see* § 301.7701–3(a) through (c)(1)(i).

(ii) *Further notification of elections.* An eligible entity required to file a federal tax or information return for the taxable year for which an election is made under § 301.7701–3(c)(1)(i) must attach a copy of its Form 8832 to its federal tax or information return for that year. If the entity is not required to file a return for that year, a copy of its Form 8832 (''Entity Classification Election'') must be attached to the federal income tax or information return of any direct or indirect owner of the entity for the taxable year of the owner that includes the date on which the election was effective. An indirect owner of the entity does not have to attach a copy of the Form 8832 to its return if an entity in which it has an interest is already filing a copy of the Form 8832 with its return. If an entity, or one of its direct or indirect owners, fails to attach a copy of a Form 8832 to its return as directed in this section, an otherwise valid election under § 301.7701–3(c)(1)(i) will not be invalidated, but the non-filing party may be subject to penalties, including any applicable penalties if the federal tax or information returns are inconsistent with the entity's election under § 301.7701–3(c)(1)(i). In the case of returns for taxable years beginning after December 31, 2002, the copy of Form 8832 attached to a return pursuant to this paragraph (c)(1)(ii) is not required to be a signed copy.

(c)(1)(iii) through (h) [Reserved]. For further guidance, *see* § 301.7701–3(c)(1)(iii) through (h).

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 27.** The authority citation for part 602 continues to read in part as follows:

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

■ **Par. 28.** In § 602.101, paragraph (b) is amended by adding the following entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.170A–11T	1545–1868
* * * * *	

Robert E. Wenzel,

Deputy Commission for Services and Enforcement.

Approved: December 2, 2003.

Gregory Jenner,

Deputy Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 03–31238 Filed 12–18–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the United States and District of Columbia Codes

AGENCY: United States Parole Commission, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule is designed to provide a fair and expeditious means of handling the case of an accused parole violator who is found to be mentally incompetent to proceed with a scheduled parole revocation hearing. Under the Commission's present rule, such a parolee is sent to the Bureau of Prisons for a mental health examination, with a report every six months, until the parolee regains sufficient competence to participate in a revocation hearing. This rule can result in the indefinite detention of the mentally incompetent parolee, without any provision for bringing the revocation matter to resolution. The interim rule authorizes the Commission to conduct a revocation hearing notwithstanding the parolee's lack of mental competency, so long as the Commission obtains a current mental health report, ensures that the parolee has counsel to present a defense, and takes the parolee's mental condition into account in its determination.

DATES: *Effective date:* January 20, 2004. Comments must be received by February 17, 2004.

ADDRESSES: Send comments to Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492–5959. Questions about this publication are welcome, but inquiries concerning individual cases cannot be answered over the telephone.

SUPPLEMENTARY INFORMATION: A recent case in the District of Columbia has illustrated the problems that can arise when the Commission finds that a parolee who is charged with parole violations is not mentally competent to participate a revocation hearing, and successive efforts to hold a revocation hearing are frustrated by the parolee's inability to regain competency. Other pending revocation cases potentially raise similar difficulties. Under the Commission's present regulation, 28 CFR 2.8, such a parolee must be kept in prison with a report as to his mental competency submitted every six months. A revocation hearing is attempted only when the mental health report indicates that the parolee may be competent to proceed. The regulation can result in indefinite delays in holding the revocation hearing, because the rule lacks any provision for resolving the parolee's situation.

The rule at § 2.8 is grounded, in part, on the policy judgment that the Commission cannot responsibly return accused parole violators to parole supervision solely by reason of their mental incompetency. This result would be incompatible with a primary purpose of parole, *i.e.*, to promote the reintegration of criminal offenders into society as law-abiding citizens through closely supervising their activities in the community and facilitating their rehabilitation. Effective supervision can only be carried out when parolees