Control Number: 31056

Item Number: 939

Addendum StartPage: 0

PUC DOCKET NO. 31056

APPLICATION OF	§	
AEP TEXAS CENTRAL COMPANY	§	**BEFORE THE**
AND CPL RETAIL ENERGY, LP TO	§	
DETERMINE TRUE-UP BALANCES	§	
PURSUANT TO PURA § 39.262 AND	§	**PUBLIC UTILITY COMMISSION**
PETITION TO DETERMINE	§	
AMOUNT OF EXCESS	§	
MITIGATION CREDITS TO BE	§	**OF TEXAS**
REFUNDED AND RECOVERED	§	

2006 MAR -9 PM 2:30

AEP TEXAS CENTRAL COMPANY'S MOTION FOR OFFICIAL NOTICE OF PROPOSED INTERNAL REVENUE SERVICE REGULATIONS

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

NOW COMES AEP Texas Central Company ("TCC"), pursuant to P.U.C Procedural Rule 22.222, TEX. GOV'T CODE ANN. §2001.090 and 44 USC §1507, and files its motion for the Commission to take official notice of the proposed Internal Revenue Service regulations concerning application of normalization rules to EDFIT and ADITC balances ("Proposed Regulations") that are published in the *Federal Register* and attached hereto as Attachment A.

I.

For the reasons discussed in TCC's March 8, 2006 Motion for Rehearing, the Proposed Regulations, issued after the hearing, close of the evidence and briefing, are highly relevant to the Commission's resolution of issues relating to the Company's excess deferred federal income taxes ("EDFIT") and accumulated deferred investment tax credits ("ADITC") in this proceeding. In fact, the Commission's February 16, 2006 Order, which flows certain EDFIT and ADITC benefits through to ratepayers, does so in reliance on previous proposed IRS regulations that were withdrawn by the new Proposed Regulations that are the subject of this request for official notice. The Proposed Regulations not only withdraw the previous proposed regulations on

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which the Commission's Order relies, but also reverse course and indicate that the treatment of EDFIT and ADITC contained in that Order would cause a normalization violation.

II.

The Proposed Regulations are appropriate for official notice under P.U.C Procedural Rule 22.222, TEX. GOV'T CODE ANN. §2001.090 and 44 U.S.C. §1507. Procedural Rule 22.222 provides for official notice of judicially cognizable facts not subject to reasonable dispute in that they are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. TEX. GOV'T CODE ANN. §2001.090 similarly provides for official notice of all facts judicially cognizable. A federal statute, 44 U.S.C. §1507, provides that the contents of the *Federal Register* shall be judicially noticed. Because the Proposed Regulations are published in the *Federal Register*, the contents of which are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, they are appropriate for official notice by the Commission.

Pursuant to P.U.C. Procedural Rule 22.226(d), good cause exists to take official notice of the Proposed Regulations at this time since the Proposed Regulations were not released by the IRS until after the close of the hearing and directly bear on the proper treatment of EDFIT and ADITC in this case.

For the reasons detailed above, TCC respectfully requests that the Commission take official notice of the proposed Internal Revenue Service regulations attached hereto as Attachment A and that TCC be granted any other relief to which it may be justly entitled.

Respectfully submitted,

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By: /Kerry McGrath
Kerry McGrath
State Bar No. 24009121

ATTORNEYS FOR AEP
TEXAS CENTRAL COMPANY

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served on all parties of record on this the 9th day of March, 2006 by electronic mail, hand-delivery, overnight delivery, first class mail, or facsimile transmission.

Kerry McGrath

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–104385–01]

RIN 1545–AY75

Application of Normalization Accounting Rules to Balances of Excess Deferred Income Taxes and Accumulated Deferred Investment Tax Credits of Public Utilities Whose Assets Cease To Be Public Utility Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking, notice of public hearing, and withdrawal of previous proposed regulations.

SUMMARY: This document contains proposed regulations that provide guidance on the normalization requirements applicable to public utilities that benefit (or have benefited) from accelerated depreciation methods or from the investment tax credit permitted under pre-1991 law. The proposed regulations permit a utility whose assets cease to be public utility property to return to its ratepayers the normalization reserve for excess deferred income taxes (EDFIT) with respect to those assets and, in certain circumstances, also permit the return of part or all of the reserve for accumulated deferred investment tax credits (ADITC) with respect to those assets. This document also provides notice of a public hearing on these proposed regulations and a withdrawal of proposed regulations [REG–104385–01] published March 4, 2003, at 68 FR 10190.

DATES: Written or electronic comments must be received by March 21, 2006. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for April 5, 2006, at 10 a.m. must be received by March 15, 2006.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–104385–01), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–104385–01), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS Internet site at *http://www.irs.gov/regs* or via the Federal eRulemaking Portal at *http://www.regulations.gov* (indicate IRS and REG–104385–01). The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, David Selig, at (202) 622–3040; concerning submissions of comments, the hearing, or to be placed on the building access list to attend the hearing, Treena Garrett, at (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) relating to the normalization requirements of sections 168(f)(2) and 168(i)(9) of the Internal Revenue Code (Code), section 203(e) of the Tax Reform Act of 1986, Public Law 99–514 (100 Stat. 2146), and former section 46(f) of the Code. Proposed regulations relating to the normalization requirements applicable to electric utilities that benefit (or have benefited) from accelerated depreciation methods or from the investment tax credit permitted under pre-1991 law [REG–104385–01] were published in the **Federal Register** on March 4, 2003 (the 2003 proposed regulations). The 2003 proposed regulations would have provided rules under which electric utilities whose electricity generation assets cease to be public utility property, whether by disposition, deregulation, or otherwise, could continue to flow through certain reserves associated with those assets without violating the normalization requirements. In response to public comments and after further analysis, the 2003 proposed regulations are withdrawn, and new regulations are proposed in this document.

Normalization Method of Accounting

Section 168 of the Code permits the use of accelerated depreciation methods. Section 168(f)(2) provides, however, that accelerated depreciation is permitted with respect to public utility property only if the taxpayer uses a normalization method of accounting for ratemaking purposes.

Under a normalization method of accounting, a utility calculates its ratemaking tax expense using depreciation that is no more accelerated than its ratemaking depreciation (typically straight-line). In the early years of an asset's life, this results in ratemaking tax expense that is greater than actual tax expense. The difference between the ratemaking tax expense and the actual tax expense is added to a reserve (the accumulated deferred federal income tax reserve, or ADFIT). The difference between ratemaking tax expense and actual tax expense is not permanent and reverses in the later years of the asset's life when the ratemaking depreciation method provides larger depreciation deductions and lower tax expense than the accelerated method used in computing actual tax expense.

This accounting treatment prevents the immediate flow-through to utility ratepayers of the reduction in current taxes resulting from the use of accelerated depreciation. Instead, the reduction is treated as a deferred tax expense that is collected from current ratepayers through utility rates, and thus is available to utilities as investment capital. When the accelerated method provides lower depreciation deductions in later years, only the ratemaking tax expense is collected from ratepayers and the difference between actual tax expense and ratemaking tax expense is charged to ADFIT.

Excess Deferred Income Tax

The Tax Reform Act of 1986 (the 1986 Act) reduced the highest corporate tax rate from 46 percent to 34 percent. The excess deferred federal income tax (EDFIT) reserve is the balance of the deferred tax reserve immediately before the rate reduction over the balance that would have been held in the reserve if the 34 percent rate had been in effect for prior periods. The EDFIT reserves were amounts that utilities had collected from ratepayers to pay future taxes that, as a result of the 1986 Act reduction in corporate tax rates, would not be imposed.

Section 203(e) of the 1986 Act specifies the manner in which the EDFIT reserve must be flowed through to ratepayers under a normalization method of accounting. It provides that the EDFIT reserve may be reduced, with a corresponding reduction in the cost of service the utility collects from ratepayers, no more rapidly than the EDFIT reserve would be reduced under the average rate assumption method (ARAM). For taxpayers that did not have adequate data to apply the average rate assumption method, subsequent guidance permitted use of the reverse South Georgia method as an alternative. In general, both the average rate assumption method and the reverse South Georgia method spread the flow-through of the EDFIT reserve over the remaining lives of the property that gave rise to the excess.

Accumulated Deferred Investment Tax Credits (ADITC)

Former section 46 of the Code similarly addressed the flow-through to ratepayers of the investment tax credit determined under that section. Under former section 46(f)(1), the rate base (the amount on which the utility is permitted to collect a return from ratepayers) could be reduced by reason of the credit if the reduction in the rate base was restored not less rapidly than ratably. If the rate base is reduced, the credit may not also be used to reduce the utility's cost of service. Under former section 46(f)(2), an electing utility could flow through the investment credit not more rapidly than ratably (that is, could reduce the cost of service collected from ratepayers by no more than a ratable portion of the credit) over the investment's regulatory life. The balance of the credit remaining to be flowed through to ratepayers would be held in a reserve for accumulated deferred investment tax credits (ADITC). If the utility elected ratable flow-through of the credit, the rate base could not be reduced by reason of any portion of the credit.

Private Letter Rulings

The IRS has issued a number of private letter rulings holding that flow-through of the EDFIT and ADITC reserves associated with an asset is not permitted after the asset's deregulation, whether by disposition or otherwise. These rulings were based on the principle that flow-through is permitted only over the asset's regulatory life and when that life is terminated by deregulation no further flow-through is permitted. After further consideration, the IRS and Treasury have concluded that former section 46(f) does not, in all cases, prohibit flowthrough of ADITC reserves after deregulation and that section 203(e) of the Tax Reform Act does not preclude flowthrough of the EDFIT reserve with respect to deregulated property.

Explanation of Provisions

The 2003 proposed regulations provided that utilities whose generation assets cease to be public utility property, whether by disposition, deregulation, or otherwise (deregulated public utility property), may continue to flow through EDFIT reserves associated with those assets without violating the normalization requirements. The rate of flowthrough was limited to the rate that would have been permitted under a normalization method of accounting if the assets had remained public utility property. But for section 203(e) of the 1986 Act, the entire EDFIT reserve would have been flowed through to ratepayers when the reduction in rates became effective, whether the assets to which the EDFIT reserve was attributable remained public utility property for their entire useful life or were subsequently deregulated or sold. As noted in the preamble of the 2003 proposed regulations, the IRS and Treasury have concluded that section 203 of the 1986 Act provides a schedule for flowing through the EDFIT reserve but that nothing in that section suggests that something less than the entire reserve should ultimately be flowed through to ratepayers. Accordingly, these proposed regulations retain the rule of the 2003 proposed regulations, with the effective date changes described below, for generation assets and extend the application of the rule to all other public utility property.

The 2003 proposed regulations also provided similar rules under which utilities could continue to flow through ADITC reserves associated with deregulated generation assets without violating the normalization requirements. The proposed regulations did not address the treatment of deregulated assets under former section 46(f)(1) (relating to the use of the investment credit to reduce the taxpayer's rate base). After further consideration, the IRS and Treasury have concluded that flowthrough of the ADITC reserve should not continue after deregulation except to the extent the utility is permitted to recover stranded costs after deregulation.

If an asset qualifying for the investment tax credit is purchased by a utility, the allowance of the credit, without flowthrough, lowers the utility's actual tax expense but does not result in higher tax expense for ratepayers than would have been the case if the asset had not been purchased. Thus, in the absence of flowthrough, the investment tax credit is a subsidy from the Federal government for the purchase of the asset rather than a transfer from ratepayers to the utility. The underlying policy of former section 46(f) is to share this subsidy between ratepayers and utilities in proportion to their respective contributions to the purchase price. In general, former section 46(f) treats ratepayers as contributing to the purchase price when ratemaking depreciation expense with respect to the asset is included in the rates they pay, resulting in full flowthrough over the asset's regulatory life. In the case of a deregulated asset, the contribution of ratepayers can be appropriately measured by the ratemaking depreciation expense they are charged with respect to the asset and any additional stranded cost that the utility is permitted to recover with respect to the asset after its deregulation.

Accordingly, the proposed regulations permit flowthrough of the ADITC reserve with respect to public utility property to continue after its deregulation only to the extent the reduction in cost of service does not exceed, as a percentage of the ADITC with respect to the property at the time of deregulation, the percentage of the total stranded cost that the taxpayer is permitted to recover with respect to the property. In addition, the credit may not be flowed through more rapidly than the rate at which the taxpayer is permitted to recover the stranded cost with respect to the property.

As in the case of the EDFIT reserve, these proposed regulations extend the flowthrough rule for generation assets to all public utility property. In addition, these proposed regulations provide equivalent rules for property to which former section 46(f)(1) (relating to rate base restoration) applies.

Proposed Effective Date

The 2003 proposed regulations would have applied to public utility property deregulated after March 4, 2003. Utilities would have been permitted an election to apply the proposed rules to property that was deregulated on or before that date.

Comments suggested that deregulation agreements between utilities and their regulators entered into before the March 4, 2003 proposed effective date were based on the only guidance then available (*i.e.*, the private letter rulings issued by the IRS) and that the availability of a retroactive election could effectively change the terms of those agreements. Although private letter rulings are directed only to the taxpayers who requested them and may not be used or cited as precedent, the IRS and Treasury have concluded that the Secretary's authority under section 7805(b)(7) to provide for retroactive elections should not be exercised in a manner that impairs existing agreements between utilities and their regulators. Accordingly, these proposed regulations do not include a similar election to apply the regulations retroactively.

As noted above, these proposed regulations are broader in scope than the 2003 proposed regulations. Accordingly, these regulations are proposed to apply to public utility property that becomes deregulated public utility property after [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**]. For public utility property that becomes

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deregulated public utility property on or before [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], the IRS will follow the holdings set forth in the private letter rulings that prohibit flow-through of the EDFIT and ADITC reserves associated with an asset after the asset's disposition. Flowthrough will be permitted, however, if it is consistent with the 2003 proposed regulations, and occurs during the period March 5, 2003, through the earlier of the last date on which the utility's rates are determined under the rate order in effect on [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], or [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

Special Analyses

It has been determined that this notice of proposed rulemaking 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 and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted (in the manner described in the ADDRESSES caption) timely to the IRS. All comments will be available for public inspection and copying. Treasury and IRS specifically request comments on the clarity of the proposed regulations and how they may be made clearer and easier to understand.

A public hearing has been scheduled for April 5, 2006, at 10 a.m. in room 7218 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 30 minutes before the hearing starts. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit comments and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by March 15, 2006.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is David Selig, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Withdrawal of Proposed Regulations

Under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG–104385–01) published in the **Federal Register** on March 4, 2003 (68 FR 10190) is withdrawn.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be 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 1.46–6 is amended by adding paragraph (k) to read as follows:

§ 1.46–6 Limitation in case of certain regulated companies.

* * * * *

(k) Treatment of accumulated deferred investment tax credits upon the deregulation of public utility property—(1) *Scope.* This paragraph (k) provides rules for the application of former sections 46(f)(1) and 46(f)(2) of the Internal Revenue Code with respect to public utility property that ceases, whether by disposition, deregulation, or otherwise, to be public utility property (deregulated public utility property).

(2) *Ratable amount*—(i) *Restoration of rate base reduction.* A reduction in the taxpayer's rate base on account of the credit with respect to public utility property that becomes deregulated public utility property is restored ratably during the period after the property becomes deregulated public utility property if the amount of the reduction remaining to be restored does not, at any time during the period, exceed the restoration percentage of the recoverable stranded cost of the property at such time. For this purpose—

(A) The stranded cost of the property is the cost of the property reduced by the amount of such cost that the taxpayer has recovered through regulated depreciation expense during the period before the property becomes deregulated;

(B) The recoverable stranded cost of the property at any time is the stranded cost of the property that the taxpayer will be permitted to recover through rates after such time; and

(C) The restoration percentage for the property is determined by dividing the reduction in rate base remaining to be restored with respect to the property immediately before the property becomes deregulated public utility property by the stranded cost of the property.

(ii) *Cost of service reduction.* Reductions in the taxpayer's cost of service on account of the credit with respect to public utility property that becomes deregulated public utility property are ratable during the period after the property becomes deregulated public utility property if the cumulative amount of the reduction during such period does not, at any time during the period, exceed the flow-through percentage of the cumulative stranded cost recovery for the property at such time. For this purpose—

(A) The stranded cost of the property is the cost of the property reduced by the amount of such cost that the taxpayer has recovered through regulated depreciation expense during the period before the property becomes deregulated;

(B) The cumulative stranded cost recovery for the property at any time is the stranded cost of the property that the taxpayer has been permitted to recover through rates on or before such time; and

(C) The flow-through percentage for the property is determined by dividing the amount of credit with respect to the property remaining to be used to reduce cost of service immediately before the property becomes deregulated public utility property by the stranded cost of the property.

(3) *Cross reference.* See § 1.168(i)–(3) for rules relating to the treatment of balances of excess deferred income

taxes when public utility property becomes deregulated public utility property.

(4) *Effective dates*—(i) *In general.* This paragraph (k) applies to public utility property that becomes deregulated public utility property after [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

(ii) *Application of regulation project REG–104385–01 to pre-effective date reductions in cost of service.* A reduction in the taxpayer's cost of service will be treated as ratable if it is consistent with the proposed rules in regulation project REG–104385–01 (2003–1 C.B. 634) and occurs during the period March 5, 2003, through the earlier of the last date on which the utility's rates are determined under the rate order in effect on [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], or [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

Par. 3. Section 1.168(i)–3 is added to read as follows:

§ 1.168(i)–(3) Treatment of excess deferred income tax reserve upon disposition of deregulated public utility property.

(a) *Scope.* This section provides rules for the application of section 203(e) of the Tax Reform Act of 1986, Public Law 99–514 (100 Stat. 2146) with respect to public utility property (within the meaning of section 168(i)(10)) that ceases, whether by disposition, deregulation, or otherwise, to be public utility property (deregulated public utility property).

(b) *Amount of reduction.* If public utility property of a taxpayer becomes deregulated public utility property to which this section applies, the reduction in the taxpayer(s excess tax reserve permitted under section 203(e) of the Tax Reform Act of 1986 is equal to the amount by which the reserve could be reduced under that provision if all such property had remained public utility property of the taxpayer and the taxpayer had continued use of its normalization method of accounting with respect to such property.

(c) *Cross reference.* See § 1.46–6(k) for rules relating to the treatment of accumulated deferred investment tax credits when utilities dispose of regulated public utility property.

(d) *Effective dates*—(1) *In general.* This section applies to public utility property that becomes deregulated public utility property after [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

(2) *Application of regulation project REG–104385–01 to pre-effective date reductions of excess deferred income tax reserve.* A reduction in the taxpayer's excess deferred income tax reserve will be treated as ratable if it is consistent with the proposed rules in regulation project REG–104385–01 (2003–1 C.B. 634) and occurs during the period March 5, 2003, through the earlier of the last date on which the utility's rates are determined under the rate order in effect on [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], or [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**].

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E5–7583 Filed 12–20–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05–05–131]

RIN 1625–AA09

Drawbridge Operation Regulations; New Jersey Intracoastal Waterway, Manasquan River, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations that govern the operation of the Route 35 Bridge, at New Jersey Intracoastal Waterway (NJICW) mile 1.1, across the Manasquan River, at Brielle, New Jersey. The proposal will allow the drawbridge to provide vessel openings upon four hours advance notice from December 1 to March 31. This proposal will reduce draw tender services during the non-peak boating season while still providing for the reasonable needs of navigation.

DATES: Comments and related material must reach the Coast Guard on or before February 6, 2006.

ADDRESSES: You may mail comments and related material to Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004. The Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander (obr), Fifth Coast Guard District between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Bill. H. Brazier, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6422.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–05–131), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8" by 11 inches, suitable for copying. If you would like a return receipt, please enclose a stamped, self-addressed postcard or envelope. We will consider all submittals received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (obr), Fifth Coast Guard District at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The New Jersey Department of Transportation (NJDOT) owns and operates the Route 35 Bridge, at NJICW mile 1.1., across the Manasquan River, at Brielle, New Jersey. The current operating regulations set out in 33 CFR 117.733(b) requires the drawbridge to open on signal except as follows: from May 15 through September 30, on Saturdays, Sundays and Federal holidays, from 8 a.m. to 10 p.m. the draw need only open 15 minutes before the hour and 15 minutes after the hour; on Mondays to Thursdays from 4 p.m. to 7 p.m., and on Fridays, except Federal holidays from 12 p.m. to 7 p.m. the draw need only open 15 minutes before the hour and 15 minutes after hour; and year-round from 11 p.m. to 8 a.m., the draw need only open if at least four hours notice is given.

The Route 35 Bridge, a bascule-type drawbridge, has a vertical clearance in the closed position to vessels of 30 feet, at mean high water.

The NJDOT has requested a change to the existing regulations for the Route 35

Engine model	Manufacturer	Aircraft model
	Sial Marchetti	S–205.
IO–360–A3B6	Mooney	201.
	Mod Works	Trophy 212 Conversion.
IO–360–A3B6D	Mooney	M20J–201.
IO–360–C1C6	Piper	PA–28R–201 Arrow.
	Ruschmeyer	MF–85.
IO–360–B1G6	American	Blimp.
IO–360–C1G6	Zeppelin	Blimp.
IO–360–C1E6	Piper	PA–34–200 Seneca I.
LO–360–A1G6D	Beech	76 Duchess.
LO–360–A1H6	Piper	PA–44–180 Seminole.
O–360–A1F6	Cessna	177 Cardinal.
O–360–A1F6D	Cessna	177 Cardinal.
O–360–A1G6D	Beech	76 Duchess.
O–360–A1H6	Piper	PA–44–180.
O–360–E1A6D	Piper	PA–44–180.
O–360–F1A6	Cessna	C–172RG Cutlass RG.
IO–360–C1D6	Sold as a spare engine.	
LIO–360–C1E6	Sold as a spare engine.	
LO–360–E1A6d	Sold as a spare engine.	
LIO–360–C1D6	Sold as a spare engine.	

Unsafe Condition

(d) This AD results from a crankshaft failure in a Lycoming LO–360–A1H6 reciprocating engine. We are issuing this AD to prevent failure of the crankshaft, which could result in total engine power loss, in-flight engine failure, and possible loss of the aircraft.

Compliance

(e) You are responsible for having the actions required by this AD performed within 50 hours time-in-service or 6 months after the effective date of this AD, whichever is earlier, unless the actions have already been done.

(f) If Lycoming Engines manufactured new, rebuilt, overhauled, or replaced the crankshaft in your engine before March 1, 1999, and you haven't had the crankshaft replaced, no further action is required.

(g) If Table 1 of Supplement No. 1 to Lycoming Mandatory Service Bulletin (MSB) No. 566, dated November 30, 2005, lists your engine serial number (SN), use Table 2 of Supplement No. 1 to verify if your crankshaft SN is listed.

(h) If Table 1 of Supplement No. 1 to Lycoming MSB No. 566, dated November 30, 2005, does not list your engine SN, use Table 2 of Supplement No. 1 to verify if your crankshaft SN is listed, if an affected crankshaft was installed as a replacement.

(i) If Table 2 of Supplement No. 1 to Lycoming Engines MSB No. 566, dated November 30, 2005, lists your crankshaft SN, replace the crankshaft with a crankshaft that is not listed in Table 2 of Supplement No. 1 to Lycoming MSB No. 566, dated July 11, 2005.

(j) The engine and crankshaft SNs listed in Table 1 and Table 2 of Supplement No.1 to Lycoming Engines MSB No. 566 are different from the engine and crankshaft SNs affected by Lycoming MSBs No. 552, No. 553 and No. 566; and ADs 2002–19–03 and 2005–19–11.

Prohibition Against Installing Certain Crankshafts

(k) After the effective date of this AD, do not install any crankshaft that has a SN listed in Table 2 of Supplement No. 1 to Lycoming MSB No. 566, dated November 30, 2005, into any engine.

Alternative Methods of Compliance

(l) The Manager, New York Aircraft Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(m) None.

Issued in Burlington, Massachusetts, on December 19, 2005.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E5–7815 Filed 12–23–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–104385–01]

RIN 1545–AY75

Application of Normalization Accounting Rules to Balances of Excess Deferred Income Taxes and Accumulated Deferred Investment Tax Credits of Public Utilities Whose Assets Cease To Be Public Utility Property; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a notice of proposed rulemaking and notice of public hearing that was published in the **Federal Register** on Wednesday, December 21, 2005 (70 FR 75762). These regulations provide guidance on the normalization requirements applicable to public utilities that benefit (or have benefited) from accelerated depreciation methods or from the investment tax credit permitted under pre-1991 law.

FOR FURTHER INFORMATION CONTACT: David Selig (202) 622–3040 (not toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking and notice of public hearing (REG–104385–01) that is the subject of these corrections is under section 168 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking and notice of public hearing (REG–104385–01) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG–104385–01), that was the subject of FR Doc. ES–7583, is corrected as follows:

1. On page 75762, column 2, in the preamble under the paragraph heading **FOR FURTHER INFORMATION CONTACT**, lines 7 and 8, the language, "hearing, Treena Garrett, at (202) 622–7190 (not toll-free numbers)." is corrected to read "hearing, Richard Hurst, at (202) 622–7180 (not toll-free numbers).".

2. On page 75763, column 3, in the preamble under the paragraph heading "Proposed Effective Date", third

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paragraph, lines 7 thru 9, the language, "public utility property after [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**]. For public" is corrected to read "public utility property after December 21, 2005. For public".

3. On page 75764, column 1, in the preamble, first paragraph of the column, lines 2 and 3, the language, "before [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**.]," is corrected to read "before December 21, 2005,".

4. On page 75764, column 1, in the preamble, first paragraph of the column, lines 15 thru 19, the language, "under the rate order in effect on [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], or [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**]. is corrected to read "under the rate order in effect on December 21, 2005, or December 21, 2007."

§ 1.46–6 [Corrected]

5. On page 75765, column 1, § 1.46–6(k)(4)(i), lines 4 thru 6, the language, "public utility property after [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**.]" is corrected to read "December 21, 2005."

6. On page 75765, column 1, § 1.46–6(k)(4)(ii), lines 12 thru 16, the language, "rate order in effect on [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], or [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**]." is corrected to read "rate order in effect on December 21, 2005, or December 21, 2007.".

§ 1.168(i)–(3) [Corrected]

7. On page 75765, column 1, § 1.168(i)–(3)(d)(1), lines 4 thru 6, the language, "public utility property after [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**]." is corrected to read "public utility property after December 21, 2005.".

8. On page 75765, column 2, § 1.168(i)–(3)(d)(2), lines 10 thru 14, the language, "rate order in effect on [DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], or [DATE 2 YEARS AFTER PUBLICATION OF FINAL RULE IN THE **Federal Register**]." is corrected to read "rate order in effect on December 21, 2005, or December 21, 2007.".

Guy R. Traynor,

Federal Register Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 05–24482 Filed 12–21–05; 2:14 pm]

BILLING CODE 4830–01–P

POSTAL SERVICE

39 CFR Part 111

New Marking Requirement for Bound Printed Matter Machinable Parcels

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes a new marking requirement for Bound Printed Matter machinable parcels consisting of multiple pieces secured with transparent shrinkwrap. Under our proposal, mailers must use a firm optional endorsement line or apply a pressure-sensitive firm bundle Label F. The new marking will enable our automated equipment to recognize that a Bound Printed Matter parcel is intended for a single address.

DATES: We must receive your comments on or before January 26, 2006. We propose to implement these changes on May 11, 2006.

ADDRESSES: Mail or deliver written comments to the Manager, Mailing Standards, U.S. Postal Service, 475 L'Enfant Plaza, SW., Room 3436, Washington DC 20260–3436. You may inspect and photocopy all written comments at USPS Headquarters Library, 475 L'Enfant Plaza, SW., 11th Floor N, Washington DC between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Joel Walker, 202–268–7266.

SUPPLEMENTARY INFORMATION: Our new Automated Package Processing System (APPS) simultaneously sorts parcels and bundles of mail. When APPS sees a Bound Printed Matter (BPM) machinable parcel that consists of multiple pieces, such as catalogs, shrinkwrapped together and destined for a single address, APPS is programmed to identify the parcel as a presort destination bundle. When APPS fails to find an optional endorsement line (OEL) or bundle label it diverts the parcel to a reject bin.

Our proposal would require mailers to place either a firm OEL or a firm bundle Label F on BPM machinable parcels that APPS otherwise might mistake as bundles. If using a firm OEL, mailers must place it and the 5-digit destination ZIP Code of the BPM parcel in the address block in the same location designated for all OELs.

The firm OEL or bundle Label F will indicate to APPS that the parcel is destined for a single address, allowing APPS to properly sort the parcel. This new marking requirement is for BPM machinable parcels only.

In addition to our proposal for the firm OEL or bundle Label F, mailers must make the delivery address information and the bundle Label F or OEL visible and readable by the naked eye. We published these readability standards in the **Federal Register** on October 20, 2005 (70 FR 61037).

We provide the new standards below. We propose to implement these changes on May 11, 2006.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 410 (a)), we invite comments on the following proposed revisions to Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR Part 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), as follows:

400 Discount Mail Parcels

* * * * *

402 Elements on the Face of a Mailpiece

* * * * *

2.0 Placement and Content of Markings

* * * * *

2.2 Parcel Post, Bound Printed Matter, Media Mail, and Library Mail Markings

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[Renumber 2.2.5 and 2.2.6 as 2.2.6 and 2.2.7 Add new 2.2.5, as follows:]

2.2.5 Address and Firm Designation on Bound Printed Matter Machinable Parcels

When a BPM machinable parcel consists of multiple copies for a single address secured with transparent shrinkwrap, the delivery address information and barcoded pressure-sensitive bundle label or optional endorsement line must be visible and readable by the naked eye. Mailers must label the parcel using one of the following options:

a. A firm optional endorsement line under 708.7.0, followed by the 5-digit destination ZIP Code of the parcel.

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