

nor an environmental impact statement is required.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 101 is amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: Secs. 4, 5, 6 of the Fair Packaging and Labeling Act (15 U.S.C. 1453, 1454, 1455); secs. 201, 301, 402, 403, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 371).

§ 101.11 [Removed]

2. Section 101.11 *Saccharin and its salts; retail establishment notice* is removed from subpart A.

Dated: January 17, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97-1853 Filed 1-24-97; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8713]

RIN 1545-AU93

Section 42(d)(5) Federal Grants

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations with respect to the low-income housing tax credit relating to the application of section 42(d)(5) to certain rental assistance programs under section 42(g)(2)(B)(i). The regulations clarify that certain types of federal rental assistance payments do not result in a reduction in the eligible basis of a low-income housing building. The text of these regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the Federal Register.

EFFECTIVE DATE: These regulations are effective January 27, 1997.

FOR FURTHER INFORMATION CONTACT: Christopher J. Wilson (202) 622-3040 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Under section 42(d)(1), the eligible basis used to compute the low-income housing tax credit of a new low-income building is the adjusted basis of the building as of the close of the first taxable year of the credit period. Section 42(d)(5) provides that if, during a taxable year in the compliance period (as defined in section 42(i)(1)), a federal grant is made with respect to a low-income building or the operation thereof, the eligible basis of the building for the taxable year and all succeeding taxable years is reduced to the extent of the federal grant. Questions have arisen whether rental assistance payments under section 8 of the United States Housing Act of 1937 (Act) (42 U.S.C. § 1437f) and certain rental assistance payments under section 9 of the Act (42 U.S.C. 1437g) are federal grants requiring a reduction in eligible basis.

The legislative history of section 42 indicates that section 42(d)(5) was enacted to prevent a taxpayer from "double-dipping" in federal benefits. S. Rep. No. 313, 99th Cong., 2d Sess. II-767 (1986), 1986-3 (Vol 3) C.B. 767. This would occur, for example, if the owner of a building received both the low-income housing credit and a federal-interest subsidy or federal grant with respect to the building. The legislative history further indicates, however, that Congress did not intend to treat federal rental assistance payments as grants for this purpose. Thus, the legislative history indicates that no basis reduction is required for rental assistance payments provided by the Department of Housing and Urban Development (HUD) under section 8 of the Act. (In contrast to this treatment of section 8 rental assistance payments, section 42(c)(2) generally denies the low-income housing tax credit to buildings that receive "moderate rehabilitation assistance" under section 8(e)(2) of the Act).

HUD recently was granted the authority to assist mixed-finance projects under section 9 of the Act. Under this new initiative, public housing authorities receiving HUD assistance are permitted to disburse that assistance to private owners as reimbursement for the operating expenses of units the owner has agreed to maintain for public-housing tenants. This section 9 assistance for operating

expenses functions in a manner similar to rental assistance payments under section 8 of the Act. The section 8 rental assistance payments are designed to compensate the unit owner for all or part of the difference between the rent a low-income tenant is able to pay and a fair market rent standard as set by HUD. Similarly, the section 9 payments are designed to cover an allocable share of operating costs of the units rented to low-income tenants, thus, in effect, supplementing the rents that these tenants are required to pay.

Explanation of Provisions

These temporary regulations provide that certain federal rental assistance payments made to the owner of a building on behalf of low-income tenants are not federal grants with respect to a building or its operation that require a reduction in the building's eligible basis under section 42(d)(5). These payments include rental assistance payments made under section 8 of the Act, certain payments made under section 9 of the Act, and payments made under such other programs or methods of rental assistance as may be designated in the Federal Register or the Internal Revenue Bulletin.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 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 these regulations do not impose on small entities a collection of information requirement, 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 Internal Revenue Code, this temporary regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Christopher J. Wilson, Office of Assistant Chief Counsel (Passthroughs and Special Industries). 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.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
Section 1.42–16T also issued under 26 U.S.C. 42(n); * * *

Par. 2. Section 1.42–16T is added to read as follows:

§ 1.42–16T Eligible basis reduced by federal grants (temporary).

(a) *In general.* If, during any taxable year of the compliance period (described in section 42(i)(1)), a grant is made with respect to any building or the operation thereof and any portion of the grant is funded with federal funds (whether or not includible in gross income), the eligible basis of the building for the taxable year and all succeeding taxable years is reduced by the portion of the grant that is so funded.

(b) *Grants do not include certain rental assistance payments.* A federal rental assistance payment made to a building owner on behalf or in respect of a tenant is not a grant made with respect to a building or its operation if the payment is made pursuant to—

(1) Section 8 of the United States Housing Act of 1937;

(2) A qualifying program of rental assistance administered under section 9 of the United States Housing Act of 1937; or

(3) A program or method of rental assistance as the Secretary may designate through the Federal Register or in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter).

(c) *Qualifying rental assistance program.* For purposes of paragraph (b)(2) of this section, payments are made pursuant to a qualifying rental assistance program administered under section 9 of the United States Housing Act of 1937 to the extent that the payments—

(1) Are made to a building owner pursuant to a contract with a public housing authority with respect to units the owner has agreed to maintain as public housing units (PH-units) in the building;

(2) Are made with respect to units occupied by public housing tenants, provided that, for this purpose, units may be considered occupied during periods of short term vacancy (not to exceed 60 days); and

(3) Do not exceed the difference between the rents received from a building's PH-unit tenants and a pro rata portion of the building's actual operating costs that are reasonably allocable to the PH-units (based on square footage, number of bedrooms, or similar objective criteria), and provided that, for this purpose, operating costs do not include any development costs of a building (including developer's fees) or the principal or interest of any debt incurred with respect to any part of the building.

(d) *Effective date.* This section is effective January 27, 1997.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: January 8, 1997.
Donald C. Lubick,
Acting Assistant Secretary of the Treasury.
[FR Doc. 97-1790 Filed 1-24-97; 8:45 am]
BILLING CODE 4830-01-U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010-AB50

Hydrogen Sulfide Requirements for Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule revises requirements for preventing hydrogen sulfide (H₂S) releases, detecting and monitoring H₂S and sulphur dioxide (SO₂), protecting personnel, providing visual and audible warnings, and training personnel. The rule also establishes requirements for H₂S flaring. The revisions are necessary to keep up with current practices and technologies, and to enhance personnel safety and environmental protection.

EFFECTIVE DATE: March 28, 1997.

FOR FURTHER INFORMATION CONTACT: E.P. Danenberger at (703) 787-1598 or John Mirabella at (703) 787-1600.

SUPPLEMENTARY INFORMATION: On May 11, 1995, we published in the Federal Register (60 FR 25178) a repropoed rule, which incorporated comments to a previous proposed rule which we published on August 15, 1990 (55 FR 33326). The repropoed rule incorporated the latest editions of two documents:

- American National Standard Institute (ANSI), American National Standard for Respiratory Protection (ANSI Z88.2-1992), and

- The National Association of Corrosion Engineers' (NACE) Standard (MR-01-92), Recommended Practice (RP), Sulfide Stress Cracking Resistant Metallic Materials for Oil Field Equipment.

We received a total of three responses: one from the National Institute of Safety and Health (NIOSH) and two from industry. We have addressed their comments below and have rewritten the rule in a clearer and more user-oriented style. We have subdivided some sections. As a result, some sections have been renumbered.

Discussion of Comments

Comment: NIOSH referred to recommendations it had given to the Occupational Safety and Health Administration with respect to "bearded workers" and "wearing contact lenses," and recommended that the pressure-demand-type respirator required should be certified by NIOSH.

Response: We have incorporated by reference the ANSI Z88.2 standard that addresses the topics of "bearded workers" and "wearing of contact lenses." We believe our rule is consistent with regulations promulgated by other Federal agencies but do not agree that certification by other agencies is needed.

Comment: There is a critical need for a system that would continuously monitor and detect any emissions the instant they occur at wellheads and manifolds.

Response: We consider the sensors that detect the presence of H₂S in air to be part of a continuous monitoring system. Sensor locations take into consideration design factors such as type of decking, location of fire walls, ventilation, or area confinement. Alternative monitoring systems may be desirable for production systems that have components which are prone to erosion and leaks. MMS encourages lessees to use new or alternative monitoring systems that enhance leak detection capabilities.

Comment: Delete the requirements concerning SO₂-detection and monitoring equipment. The commenter stated that a properly designed flare system, coupled with general requirements allowing operators to establish personnel exposure limits, should be adequate for personnel protection on a facility.

Response: We agree that operators should be permitted to propose alternatives to the use of portable of fixed SO₂ monitors to monitor air quality while burning gas containing H₂S. We added a provision to allow the District Supervisor to consider and