substance included in a final OTC drug monograph must be recognized in an official USP–NF drug monograph that sets forth its standards of identity, strength, quality, and purity. Sponsors must include an official or proposed compendial monograph as part of the safety and effectiveness data submission under item VII of the OTC Drug Review Information in § 330.10(a)(2).

Dated: September 10, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–32428 Filed 12–17–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–106012–98]

RIN 1545–AW17

Definition of Contribution in Aid of Construction Under Section 118(c)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations concerning the definition of a contribution in aid of construction under section 118(c) and the adjusted basis of any property acquired with a contribution in aid of construction. The proposed regulations affect a regulated public utility that provides water or sewerage services because a qualifying contribution in aid of construction is treated as a contribution to the capital of the utility and excluded from gross income. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written and electronic comments must be received by March 22, 2000.

Outlines of topics to be discussed at the public hearing scheduled for April 27, 2000, must be received by April 6, 2000.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–106012–98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–106012–98), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/tax__regs/regslist.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Paul Handleman, (202) 622–3040; concerning submissions, the hearing, and/or to be placed on the building access list to attend the hearing, LaNita Van Dyke, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224.

Comments on the collection of information should be received by February 18, 2000.

Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The requirement for the collection of information in this notice of proposed rulemaking is in § 1.118–2(e). The information is required by the IRS to establish that a taxpayer has notified the IRS of amounts to be treated as a contribution to capital under section 118(c). This information will be used to determine when the statutory period for the assessment of any deficiency attributable to any contribution to capital under section 118(c) expires. The collection of information is mandatory. The likely respondents are businesses and other for-profit organizations.

Estimated total annual reporting burden: 100 hours.

The estimated annual burden per respondent varies from .5 hours to 5 hours, depending on individual circumstances, with an estimated average of 1 hour.

Estimated number of respondents: 100.

Estimated annual frequency of responses: annually.

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 assigned by the Office of Management and Budget.

Books or 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 proposed amendments to the Income Tax Regulations (26 CFR part 1) to provide regulations under section 118(c) of the Internal Revenue Code of 1986. Section 118(c) was added to the Code by section 1613(a)(1)(B) of the Small Business Job Protection Act of 1996 (SBJPA of 1996), 1996–3 C.B. 155, 248–250. Under section 1613(a)(3) of the SBJPA of 1996, the amendments made by section 1613(a) apply to amounts received after June 12, 1996.

Explanation of Provisions

Contribution to Capital

Section 118(a) generally provides that, in the case of a corporation, gross income does not include any contribution to the capital of the taxpayer. Under section 118(b), a contribution in aid of construction generally is not a contribution to the capital of the taxpayer and is not excluded from gross income under section 118(a). However, for amounts received after June 12, 1996, section 118(c) provides an exception to this rule.

Under section 118(c)(1), the term ''contribution to the capital of the

taxpayer'' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility that provides water or sewerage disposal services if the amount is a contribution in aid of construction. In the case of a contribution of property other than water or sewerage disposal facilities, the amount must meet the requirements of the expenditure rule of section 118(c)(2) (which generally requires that the amount is expended to acquire or construct water or sewerage disposal facilities within the specified time period). Moreover, the amount (or any property acquired or constructed with the amount) cannot be included in the taxpayer's rate base for rate-making purposes.

Contribution in Aid of Construction

Section 118(c)(3)(A) provides that, for purposes of section 118(c), the term ''contribution in aid of construction'' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

Section 118(c) was added by the SBJPA of 1996 ''to restore the contribution in aid of construction provision that was repealed by the Tax Reform Act of 1986 (1986 Act) for regulated public utilities that provide water or sewerage disposal services.'' H.R. Conf. Rep. No. 737, 104th Cong., 2d Sess. 316 (1996), 1996–3 C.B. 741, 1056. Before the 1986 Act, former section 118(b) generally provided that a contribution in aid of construction received by a regulated public utility was treated as a contribution to the capital of the taxpayer and was excluded from gross income. However, former section 118(b)(3)(A) provided that the term ''contribution in aid of construction'' did not include amounts paid as customer connection fees (including amounts paid to connect the customer's line to an electric line, a gas main, a steam line, or a main water or sewer line and amounts paid as service charges for starting or stopping services). The legislative history of the SBJPA of 1996 also states that ''[p]rior to the enactment of the Tax Reform Act of 1986 * * * [a nontaxable] contribution in aid of construction did not include a connection fee.'' *Id.*

The nontaxable contribution in aid of construction provision in former section 118(b) is derived from a line of cases, including several Supreme Court cases, beginning with *Edwards* v. *Cuba R.R.,* 268 U.S. 628 (1925), IV–2 C.B. 122. In *Edwards,* the Supreme Court held that subsidy payments by the Republic of Cuba to a railroad company to induce the construction and operation of a railroad in Cuba were not included in the recipient corporation's gross income because the payments were not made for services rendered or to be rendered. In *Detroit Edison Co.* v. *Commissioner,* 319 U.S. 98 (1943), 1943 C.B. 1019, the Supreme Court looked at the contributors' motivation to determine whether payments by customers for extending electrical service lines were nonshareholder contributions to capital. Because the transferors received direct benefits in the form of services as a result of the contributions, the Court held that the payments were not contributions to capital, but the price for receiving service.

The Supreme Court elaborated on the contributor's motivation in *Brown Shoe Co.* v. *Commissioner,* 339 U.S. 583 (1950), 1950–1 C.B. 38, when it held that, if the transferor did not anticipate any direct benefit from the contribution, such as the receipt of services, but expected only that the transaction would benefit the community at large, the funds were contributions to capital. The lack of a direct benefit to the transferor was considered indicative of an intent to increase the transferee's capital. In *United States* v. *Chicago, Burlington & Quincy R.R.,* 412 U.S. 401 (1973), 1973–2 C.B. 428, the Supreme Court held that government payments received by a railroad company for improvements at grade crossing and intersections were not contributions to capital. In reaching its holding, the Court set forth five characteristics of a nonshareholder contribution to capital, including that the amounts received must not constitute payments for specific, quantifiable services provided for the transferor by the transferee.

Consistent with the above Supreme Court cases, a customer connection fee would not have qualified as a nonshareholder contribution to the capital of the utility under section 118(a) because the fee clearly is paid as a prerequisite for obtaining services. In addition, the IRS' position prior to the enactment of former section 118(b) as articulated in Rev. Rul. 75–557, 1975–2 C.B. 33, was that customer connection fees charged by a water utility were not excludable from income. In 1976, Congress enacted former section 118(b) to treat contributions in aid of construction to water or sewerage disposal facilities as excludable contributions to capital. This legislation specifically excluded customer connection fees from the definition of nontaxable contributions in aid of construction. As explained by the court in *Florida Progress Corp.* v. *United States,* M.D. Fla., No. 93–246–CIV-T–25A, 9/2/98, Congress enacted former section 118(b) in 1976 to codify the already existing case law with regard to contributions in aid of construction to water and sewerage disposal facilities. Thereafter, payments made to a utility to encourage the extension of facilities into new areas benefitting a large number of people would be given tax free status; however, as held by the Supreme Court in *Detroit Edison,* payments made to a utility as a prerequisite to receiving water or sewerage service would be treated as taxable income to the utility.

The proposed regulations define the term ''contribution in aid of construction,'' for purposes of section 118(c), as meaning any amount of money or other property contributed to a regulated public utility that provides water or sewerage disposal services to the extent that the purpose of the contribution is to provide for the expansion, improvement, or replacement of the utility's water or sewerage disposal facilities. However, to restore the contribution in aid of construction provision that existed before the 1986 Act for regulated public utilities providing water and sewerage disposal services as well as to be consistent with the Supreme Court cases discussed above, the proposed regulations exclude customer connection fees from the definition of contribution in aid of construction.

A customer connection fee is defined in the proposed regulations as any amount of money or property contributed to the utility representing the cost of installing a connection or service line (including the cost of meters and piping) from the utility's main water or sewer lines to the line owned by the customer or potential customer. However, money or property contributed for a connection or service line from the utility's main line to the customer 's or potential customers line is not a customer connection fee if the connection or service line does serve, or is designed to serve, more than one customer. The proposed regulations also define a customer connection fee as including any amount paid as a service charge for stopping or starting service.

The proposed regulations indicate that a contribution in aid of construction may include an amount of money or other property contributed to a regulated public utility for a water or sewerage disposal facility subject to a contingent obligation to repay, in whole or in part, the amount to the contributor (commonly referred to as an ''advance''). However, no inference is intended as to whether an amount subject to such a

repayment obligation is a contribution or loan. Whether an advance is a contribution or a loan is determined under general principles of federal tax law based on all the facts and circumstances.

Adjusted Basis

Section 118(c)(4) provides that notwithstanding any other provision of subtitle A, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which section 118(c) applies. The adjusted basis of any property acquired with a contribution in aid of construction to which section 118(c) applies shall be zero.

Consistent with section 118(c)(4), the proposed regulations provide rules for adjusting the basis of water or sewerage disposal facilities acquired as, or acquired or constructed with any money received as, a contribution in aid of construction.

Statute of Limitations

Section 118(d)(1) provides that if the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in section 118(c), then the statutory period for the assessment of any deficiency attributable to any part of the amount does not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the amount of the expenditure referred to in section 118(c)(2)(A), of the taxpayer's intention not to make the expenditures referred to in section 118(c)(2)(A), or of a failure to make the expenditure within the period described in section 118(c)(2)(B). Section 118(d)(2) provides that the deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent assessment. The proposed regulations provide the time and manner for taxpayers to notify the Secretary with respect to its contributions in aid of construction under section 118(d)(1).

Proposed Effective Date

The regulations are proposed to be applicable for any money or other property received by a regulated public utility that provides water or sewerage disposal services on or after the date final regulations are published 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 is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that any burden on taxpayers is minimal. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue 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 written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Thursday, April 27, 2000, at 10 a.m. in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

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 an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by April 6, 2000.

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 Paul F. Handleman, Office of the Assistant 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.

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 is amended by adding an entry in numerical order to read in part as follows:

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

Section 1.118–2 also issued under 26 U.S.C. 118(c)(3)(A); * * *

Par. 2. Section 1.118–2 is added to read as follows:

§ 1.118–2 Contribution in aid of construction.

(a) *Special rule for water and sewerage disposal utilities*—(1) *In general.* For purposes of section 118, the term ''contribution to the capital of the taxpayer'' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility that provides water or sewerage disposal services if—

(i) The amount is a contribution in aid of construction under paragraph (b) of this section;

(ii) In the case of a contribution of property other than water or sewerage disposal facilities, the amount satisfies the expenditure rule under paragraph (c) of this section; and

(iii) The amount (or any property acquired or constructed with the amount) is not included in the taxpayer's rate base for ratemaking purposes.

(2) *Definitions*—(i) *Regulated public utility* has the meaning given such term by section 7701(a)(33), except that such term does not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

(ii) *Water or sewerage disposal facility* is defined as tangible property described in section 1231(b) that is used predominately (i.e., 80% or more) in the trade or business of furnishing water or sewerage disposal services.

(b) *Contribution in aid of construction*—(1) *In general.* For

purposes of section 118(c) and this section, the term ''contribution in aid of construction'' means any amount of money or other property contributed to a regulated public utility that provides water or sewerage disposal services to the extent that the purpose of the contribution is to provide for the expansion, improvement, or replacement of the utility's water or sewerage disposal facilities.

(2) *Advances.* A contribution in aid of construction may include an amount of money or other property contributed to a regulated public utility for a water or sewerage disposal facility subject to a contingent obligation to repay the amount, in whole or in part, to the contributor (commonly referred to as an ''advance''). For example, an amount received by a utility from a developer to construct a water facility pursuant to an agreement under which the utility will pay the developer a percentage of the receipts from the facility over a fixed period may constitute a contribution in aid of construction. Whether an advance is a contribution or a loan is determined under general principles of federal tax law based on all the facts and circumstances. For the treatment of any amount of a contribution in aid of construction that is repaid by the utility to the contributor, see paragraphs (c)(2)(ii) and (d)(2) of this section.

(3) *Customer connection fee.* A customer connection fee is not a contribution in aid of construction under this paragraph (b) and is includible in income. The term ''customer connection fee'' includes any amount of money or other property transferred to the utility representing the cost of installing a connection or service line (including the cost of meters and piping) from the utility's main water or sewer lines to the line owned by the customer or potential customer. However, money or other property contributed for a connection or service line from the utility's main line to the customer's or potential customer's line is not a customer connection fee if the connection or service line does serve, or is designed to serve, more than one customer. A customer connection fee also includes any amount paid as a service charge for stopping or starting service.

(4) *Binding agreement to reimburse utility for a facility previously placed in service.* If a water or sewerage disposal facility is placed in service by the utility before an amount is contributed to the utility, the contribution is not a contribution in aid of construction under this paragraph (b) with respect to the cost of the facility unless, at the time the facility is placed in service by the utility, there is an agreement, binding under local law between the prospective contributor and the utility, that the utility is to receive the amount as reimbursement for the cost of acquiring or constructing the facility. If such an agreement exists, the basis of the facility must be reduced by the amount of the contribution at the time the facility is placed in service.

(5) *Classification by ratemaking authority.* The fact that the applicable ratemaking authority classifies any money or other property received by a utility as a contribution in aid of construction is not conclusive as to its treatment under this paragraph (b).

(c) *Expenditure rule*—(1) *In general.* An amount satisfies the expenditure rule of section 118(c)(2) if the amount is expended for the acquisition or construction of property described in section 118(c)(2)(A), the amount is paid or incurred before the end of the second taxable year after the taxable year in which the amount was received as required by section 118(c)(2)(B), and accurate records are kept of contributions and expenditures as provided in section 118(c)(2)(C).

(2) *Excess amount*—(i) *Includible in the utility's income.* An amount received by a utility as a contribution in aid of construction that is not expended for the acquisition or construction of water or sewerage disposal facilities as required by paragraph (c)(1) of this section (the excess amount) is not a contribution to the capital of the taxpayer under paragraph (a) of this section. Except as provided in paragraph (c)(2)(ii) of this section, such excess amount is includible in the utility's income in the taxable year in which the amount was received.

(ii) *Repayment of excess amount.* If the excess amount described in paragraph (c)(2)(i) of this section is repaid, in whole or in part, either—

(A) Before the end of the time period described in paragraph (c)(1) of this section, the repayment amount is not includible in the utility's income; or

(B) After the end of the time period described in paragraph (c)(1) of this section, the repayment amount may be deducted by the utility in the taxable year in which it is paid or incurred to the extent such amount was included in income.

(3) *Example.* The application of this paragraph (c) is illustrated by the following example:

Example. M, a calendar year regulated public utility that provides water services, received a $1,000,000 contribution in aid of construction in 1999 for the purpose of constructing a water facility. To the extent that the $1,000,000 exceeded the actual cost of the facility, the contribution was subject to being returned. In 2000, M built the facility at a cost of $700,000 and returned $200,000 to the contributor. As of the end of 2001, M had not returned the remaining $100,000. Assuming accurate records are kept, the requirement under section 118(c)(2) is satisfied for $700,000 of the contribution. Because $200,000 of the contribution was returned within the time period during which qualifying expenditures could be made, this amount is not includible in M's income. However, the remaining $100,000 is includible in M's income for its 1999 taxable year (the taxable year in which the amount was received) because the amount was neither spent nor repaid during the prescribed time period. To the extent M repays the remaining $100,000 after year 2001, M would be entitled to a deduction in the year such repayment is paid or incurred.

(d) *Adjusted basis*—(1) *Exclusion from basis.* Except for a repayment described in paragraph (d)(2) of this section, to the extent that a water or sewerage disposal facility is acquired or constructed with an amount received as a contribution to the capital of the taxpayer under paragraph (a) of this section, the basis of the facility is reduced by the amount of the contribution. To the extent the water or sewerage disposal facility is acquired as a contribution to the capital of the taxpayer under paragraph (a) of this section, the basis of the contributed facility is zero.

(2) *Repayment of contribution.* If a contribution to the capital of the taxpayer under paragraph (a) of this section is repaid to the contributor, either in whole or in part, then the repayment amount is a capital expenditure in the taxable year in which it is paid or incurred, resulting in an increase in the property's adjusted basis in such year.

(3) *Allocation of contributions.* An amount treated as a capital expenditure under this paragraph (d) is to be allocated proportionately to the adjusted basis of each property acquired or constructed with the contribution based on the relative cost of such property.

(4) *Example.* The application of this paragraph (d) is illustrated by the following example:

Example. A, a calendar year regulated public utility that provides water services, received a $1,000,000 contribution in aid of construction in 1999 as an advance from B, a developer, for the purpose of constructing a water facility. To the extent that the $1,000,000 exceeds the actual cost of the facility, the contribution is subject to being returned. Under the terms of the advance, A agrees to pay to B a percentage of the receipts from the facility over a fixed period, but limited to the cost of the facility. In 2000, A builds the facility at a cost of $700,000 and returns $300,000 to B. In 2001, A pays

$20,000 to B out of the receipts from the facility. Assuming accurate records are kept, the $700,000 advance is a contribution to the capital of A under paragraph (a) of this section and is excludable from A's income. The basis of the $700,000 facility constructed with this contribution to capital is zero. The $300,000 excess amount is not a contribution to the capital of A under paragraph (a) of this section because it does not meet the expenditure rule described in paragraph (c)(1) of this section. However, this excess amount is not includible in A's income pursuant to paragraph (c)(2)(ii) of this section since the amount is repaid to B within the required time period. The repayment of the $300,000 excess amount to B in 2000 is not treated as a capital expenditure by A. The $20,000 payment to B in 2001 is treated as a capital expenditure by A in 2001 resulting in an increase in the adjusted basis of the water facility from zero to $20,000.

(e) *Statute of limitations*—(1) *Extension of statute of limitations.* Under section 118(d)(1), the statutory period for assessment of any deficiency attributable to a contribution to capital under paragraph (a) of this section does not expire before the expiration of 3 years after the date the taxpayer notifies the Secretary in the time and manner prescribed in paragraph (e)(2) of this section.

(2) *Time and manner of notification.* Notification is made by attaching a statement to the taxpayer's federal income tax return for the taxable year in which any of the reportable items in paragraphs (e)(2)(i) through (iii) of this section occur. The statement must contain the taxpayer's name, address, employer identification number, taxable year and the following information with respect to contributions of property other than water or sewerage disposal facilities that are subject to the expenditure rule described in paragraph (c) of this section:

(i) The amount of contributions in aid of construction expended during the taxable year for property described in section 118(c)(2)(A) (qualified property) as required under paragraph (c)(1) of this section, identified by taxable year in which the contributions were received.

(ii) The amount of contributions in aid of construction that the taxpayer does not intend to expend for qualified property as required under paragraph (c)(1) of this section, identified by taxable year in which the contributions were received.

(iii) The amount of contributions in aid of construction that the taxpayer failed to expend for qualified property as required under paragraph (c)(1) of this section, identified by taxable year in which the contributions were received.

(f) *Effective date.* This section is applicable for any money or other property received by a regulated public utility that provides water or sewerage disposal services on or after the date final regulations are published in the **Federal Register**.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99–32693 Filed 12–17–99; 8:45 am]

BILLING CODE 4830–01–U

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 98–1A]

Satellite Carrier Statutory License; Definition of Unserved Household

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of termination.

SUMMARY: The Copyright Office of the Library of Congress is closing this rulemaking to determine whether local retransmissions are covered by the section 119 satellite statutory license because the matter has been resolved by passage of the Satellite Home Viewer Improvement Act of 1999.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or William J. Roberts, Senior Attorney for Compulsory Licenses, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Fax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: On January 26, 1998, by petition from EchoStar Communications Corporation (''EchoStar''), the Copyright Office opened this rulemaking proceeding to consider whether the section 19 satellite carrier statutory license was broad enough in scope to encompass satellite retransmission of television broadcast stations to subscribers who resided within the local markets of those stations. 63 FR 3685 (January 26, 1998). It was the second time in two years that the Copyright Office had been requested to consider whether section 119 covered local retransmissions.

The passage of the Satellite Home Viewer Improvement Act of 1999 (''SHVIA'') has rendered this rulemaking proceeding moot. Congress has clarified that local retransmissions are not covered by the section 119 license. Instead, they are covered by the new, royalty-free section 122 license that is expressly limited to local retransmissions of television broadcast stations by satellite carriers.

Because this rulemaking has been superseded by an Act of Congress, the Office is closing the above-captioned docket number and is terminating this proceeding.

Dated: December 15, 1999.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 99–37906 Filed 12–17–99; 8:45 am]

BILLING CODE 1410–31–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NM39–1–7416b; FRL–6504–8]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New Mexico; Approval Revised Maintenance Plan for Albuquerque/Bernalillo County; Albuquerque/Bernalillo County, NM; Carbon Monoxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The EPA is taking direct final action on a revision to the State Implementation Plan for New Mexico. This action revises the carbon monoxide maintenance plan, that was adopted by the City of Albuquerque during redesignation to attainment. Albuquerque requested approval of the revision to the CO maintenance plan under section 175A of the Act. In the final rules section of this **Federal Register**, we are approving the revision as a direct final rule without prior proposal, because we view this as a noncontroversial action and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to this rule. If we receive adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please see the direct final notice of this action located elsewhere in today's **Federal Register** for a detailed description of the New Mexico revision to the SIP.

In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving Albuquerque's SIP revision