

Aviation Administration withdraws the direct final rule published in the **Federal Register** February 11, 2008 (73 FR 7667).

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Issued in Fort Worth, TX, on March 5, 2008.

**Donald R. Smith,**

*Manager, System Support Group, ATO  
Central Service Center.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 522

#### Implantation or Injectable Dosage Form New Animal Drugs; Oxytetracycline Solution

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Norbrook Laboratories, Ltd. The supplemental NADA provides for changing scientific nomenclature for a bovine pathogen on labeling for 300 milligrams per milliliter (mg/mL) strength oxytetracycline injectable solution.

**DATES:** This rule is effective March 20, 2008.

**FOR FURTHER INFORMATION CONTACT:** Joan C. Gotthardt, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240-276-8342, e-mail: [joan.gotthardt@fda.hhs.gov](mailto:joan.gotthardt@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Norbrook Laboratories, Ltd., Station Works, Newry, BT35 6JP, Northern Ireland, filed a supplement to NADA 141-143 for TETRADURE 300 (oxytetracycline) Injection used for the treatment of various bacterial diseases of cattle and swine. The supplemental NADA provides for changing a bovine pathogen genus from *Haemophilus* to *Histophilus* on product labeling. The supplemental NADA is approved as of February 8, 2008, and the regulations are amended in 21 CFR 522.1660b to reflect the approval.

Approval of this supplemental NADA did not require review of additional safety or effectiveness data or

information. Therefore, a freedom of information summary is not required.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

#### List of Subjects in 21 CFR Part 522

Animal drugs.

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

#### PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. In § 522.1660, revise the section heading to read as follows:

#### § 522.1660 Oxytetracycline injectable dosage forms.

■ 3. In § 522.1660a, revise the section heading to read as follows:

#### § 522.1660a Oxytetracycline solution, 200 milligrams/milliliter.

#### § 522.1660b [Amended]

■ 4. In § 522.1660b, in the section heading, remove “injection, 300 milligram/milliliter” and in its place add “solution, 300 milligrams/milliliter”; in paragraph (e)(1)(i)(A), remove “*Haemophilus* spp.” and in its place add “*Histophilus* spp.”; and in the fourth sentence in paragraph (e)(1)(ii), remove “in cattle”.

Dated: March 6, 2008.

**Bernadette Dunham,**

*Director, Center for Veterinary Medicine.*

[FR Doc. E8-5598 Filed 3-19-08; 8:45 am]

**BILLING CODE 4160-01-S**

## DEPARTMENT OF STATE

### 22 CFR Parts 41 and 42

[Public Notice: 6135]

#### Visas: Documentation of Immigrants and Nonimmigrants —Visa Classification Symbols

**AGENCY:** State Department.

**ACTION:** Final rule.

**SUMMARY:** The Department is amending its regulations to add new classification symbols to the immigrant and nonimmigrant classification tables. The amendment is necessary to implement legislation that has created additional immigrant and nonimmigrant classifications as described herein. Additionally, the Department is removing immigrant classifications that have become obsolete as a result of either their deletion from the Immigration and Nationality Act “INA” or the expiration of legislative provisions that had temporarily authorized them. This rule also corrects typographical errors noted in the tables.

**DATES:** This rule is effective March 20, 2008.

**FOR FURTHER INFORMATION CONTACT:** Barbara J. Kennedy, Legislation and Regulations Division, Visa Services, U.S. Department of State, Washington, DC 20520-0106, phone (202) 663-1206.

#### SUPPLEMENTARY INFORMATION:

#### Which immigrant classifications are being added?

The new immigrant classification symbols listed are for children residing habitually in Hague Adoption Convention countries who have been or will be adopted by U.S. citizens who are habitually residents in the United States (IH3, IH4), and for two additional classes of special immigrants: certain nationals of Afghanistan and Iraq employed by the U.S. Government in Afghanistan or Iraq as translators or interpreters (SI1, SI2, SI3), and certain Iraqis employed by or on behalf of the U.S. Government in Iraq (SQ1, SQ2, SQ3).

#### Which nonimmigrant classifications are being added?

Added to the nonimmigrant classification tables are symbols for certain nationals of Australia in a specialty occupation (E3), spouses and children accompanying or following to join E3 principal aliens (E3D), E3 principal aliens who are applying for a new visa when there has been uninterrupted continuity of employment (E3R); treaty aliens from

Singapore and Chile in a specialty occupation (H1B1); unmarried siblings under age 18 of an alien under 21 years of age who has qualified for T1 classification as a victim of a "severe form of trafficking in persons" (T5); and unmarried siblings under age 18 of an alien under 21 years of age who has qualified for U1 classification as a victim of certain types of criminal activity helpful in the investigation or prosecution of such activity (U5).

**Which immigrant classifications are being removed?**

The Department of State is removing the immigrant classification symbol for one class of special immigrant: certain aliens employed at the United States Mission in Hong Kong (SEH) or members of their immediate families. The authority for special immigrant status for that class applied only to aliens who had filed applications for such status by January 1, 2002. Also being removed are two of the five symbols for special immigrants who were recruited outside the United States into the U.S. armed forces and have served or are enlisted in the U.S. armed forces for 12 years and their spouses and children. The deleted symbols pertain to those service members (SM4) and spouses and children (SM5) who became eligible as of the date of enactment (October 1, 1991). Also being deleted is the reference to the date of enactment from the class description for the SM1 classification symbol because the INA provision that was the reason for the additional symbols and the significance of that date was deleted from the INA. As amended, the regulation will provide three SM classification symbols that encompass such service members, spouses, and children without reference to the date they became eligible.

**What is the background for the new immigrant visa classifications (IH3 and IH4) for a child from a Hague Convention country?**

Section 302 of the Intercountry Adoption Act of 2000, Public Law 106–279, amended the INA by adding a new section 101(b)(1)(G), effective upon the entry into force for the United States of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption done at the Hague on May 29, 1993, to accord a classification of immediate relative under section 201(b) to a child who has been adopted in a foreign state, or a child who is emigrating from a foreign state to be adopted in the United States, when the foreign state is a party to the Convention. On December 12, 2007, the

United States deposited its instrument of ratification for the Convention. In accordance with the terms of the Convention, it will enter into force with respect to the United States on April 1, 2008.

**What is the background for the new immigrant visa classifications (SI1, SI2, SI3) for aliens employed by the U.S. Government in Iraq or Afghanistan as translators or interpreters, spouse of SI1, and child of SI1?**

Section 1059 of the National Defense Authorization Act for Fiscal Year 2006, Public Law 109–163, as amended by section 3812 of Public Law 110–28, created the new special immigrant classification for certain self-petitioning translators or interpreters of Iraqi or Afghani nationality who have worked directly with United States Armed Forces or under Chief of Mission authority for a period of at least 12 months. The alien must have obtained a favorable written recommendation from the Chief of Mission or a general or flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien and, before filing the petition, cleared a background check and screening, as determined by the Chief of Mission or such a general or flag officer. This class is subject to numerical limitations; however, aliens in this class who are granted special immigrant status shall not be counted against any numerical limitation under INA sections 201(d), 202(a), or 203(b)(4). If accompanying or following to join a principal alien, the spouse or child is entitled to derivative special immigrant status. If the principal alien dies after special immigrant status has been granted, the surviving spouse or child is entitled to such status.

**What is the background for the new immigrant visa classifications (SQ1, SQ2, SQ3) for certain Iraqis employed by or on behalf of the U.S. Government, spouse of SQ1, and child of SQ1?**

Section 1244 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110–181, created the new special immigrant classification under section 101(a)(27) of the INA for certain qualified self-petitioning Iraqi citizens or nationals. The alien must have been employed by or on behalf of the United States Government in Iraq on or after March 20, 2003, for not less than one year; have provided faithful and valuable service to the United States Government, which is documented in a positive recommendation or evaluation from the employee's senior supervisor or, if the employee's senior supervisor has left the employer or has left Iraq,

from the person currently occupying that position or a more senior person; and have experienced or be experiencing an ongoing serious threat as a consequence of the alien's employment by the United States Government. No petition may be approved for such an alien unless the supervisor's positive recommendation or evaluation is accompanied by approval from the Chief of Mission or the designee of the Chief of Mission, who shall conduct a risk assessment of the alien and an independent review of records maintained by the United States Government or the hiring organization or entity to confirm employment and faithful and valuable service to the United States Government. Further, the alien must be otherwise eligible to receive an immigrant visa; be otherwise admissible to the United States for permanent residence (excluding the grounds for inadmissibility specified in section 212(a)(4) of the INA) and have cleared a background check and appropriate screening, as determined by the Secretary of Homeland Security. This class is subject to numerical limitations; however, aliens in this class who are granted special immigrant status shall not be counted against any numerical limitation under INA sections 201(d), 202(a), or 203(b)(4). If accompanying or following to join a principal alien, the spouse or child is entitled to derivative special immigrant status. If the principal alien dies after special immigrant status has been granted, the surviving spouse or child is entitled to such status.

**What is the background for the new nonimmigrant classifications (E3, E3D, E3R) for Australian treaty aliens coming to the United States solely to perform services in a specialty occupation, spouse or child of an E3, and returning E3?**

Section 501 of Division B, Title V, of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, Public Law 109–13, amended INA 101(a)(15)(E) to add the new nonimmigrant visa classification for certain treaty aliens who are nationals of Australia coming to the United States solely to perform services in a specialty occupation as defined in section 214(i)(1) of the INA, provided the Secretary of Labor determines and certifies to the Secretary of Homeland Security that the intending employer has filed an attestation under section 212(t)(1) of the INA. Annual numerical limitations apply unless the alien is obtaining a new E3 visa after having already been in E3 status in the United

States and establishes that there has been uninterrupted continuity of employment for the same United States-based employer who submitted the original labor condition application and offer of employment. Section 101(a)(15)(E) provides that the spouse or child who is accompanying or following to join a principal alien who qualifies for classification under that section is also entitled to such classification.

**What is the background for the new nonimmigrant classification (H1B1) for a Chilean or Singaporean national to work in a specialty occupation?**

Sections 402(a)(1) of Public Law 108–77, the United States–Chile Free Trade Agreement Implementation Act, as amended, and Public Law 108–78, the United States–Singapore Free Trade Agreement Implementation Act, amended Sections 101(a)(15)(H)(i)(b1) and 214(g)(8)(A) of the INA, to provide for nonimmigrant classification for an alien who is entitled to enter the United States under and in pursuance of the provisions of either of those two free trade agreements, subject to annual numerical limitations established by the Secretary of Homeland Security. Both agreements entered into force on January 1, 2004.

**What is the background for the new nonimmigrant classification (T5) for an unmarried sibling under age 18 of a T1 under 21 years of age?**

Section 801(b)(2) of the Violence Against Women and Department of Justice Reauthorization Act of 2005, Public Law 109–162, amended section 101(a)(15)(T) of the INA, which provides for nonimmigrant classification of an alien who is determined by the Secretary of Homeland Security to be a victim of a “severe form of trafficking in persons,” provided he or she also meets additional requirements of that section, and for certain family members, if accompanying or following to join the principal alien. As amended, clause (ii) includes a provision for derivative nonimmigrant classification of an unmarried sibling under 18 years of age on the date the principal alien applies for status, if accompanying or following to join a principal alien under 21 years of age. This rule is adding the T5 classification for such a sibling to the classification table, which already lists the victim (T1), and the spouse (T2) and child (T3) of a T1 principal alien, as well as the parent of a T1 principal under the age of 21 (T4), if accompanying or following to join the principal alien.

**What is the background for the new nonimmigrant classification (U5) for an unmarried sibling under age 18 of a U1 under 21 years of age?**

Section 801(b)(2) of the Violence Against Women and Department of Justice Reauthorization Act of 2005, Public Law 109–162, amended section 101(a)(15)(U) of the INA, which provides for nonimmigrant classification of an alien who is determined by the Secretary of Homeland Security to have suffered physical or mental abuse as a result of having been a victim of certain criminal activity described in that section, provided he or she also meets additional requirements, and for certain family members, if accompanying or following to join the principal alien. As amended, clause (ii) includes a provision for derivative nonimmigrant classification of an unmarried sibling under age 18 as of the date the principal alien applies for status, if accompanying or following to join a principal alien under 21 years of age. This rule is adding the U5 classification to the classification table, which already lists the victim (U1), and the spouse (U2) and child (U3) of a U1 principal alien, as well as the parent of a U1 principal under the age of 21 (U4), if accompanying or following to join the principal alien.

**Why is the Department removing symbols for special immigrant status for certain aliens employed at the United States Mission in Hong Kong (SEH), and for certain aliens recruited outside the United States who have served or are enlisted in the U.S. armed forces for 12 years (eligible as of October 1, 1991) (SM4), and the spouse or child (SM5)?**

Section 152 of Public Law 101–649 established a class of immigrants with special immigrant status for certain aliens employed at the United States Mission in Hong Kong or their immediate families. The immigrant classification table has listed this class with the symbol SEH. Subsection (c) of section 152 of Public Law 101–649 stated that special immigrant status applied only to aliens who filed applications for such status under section 152 by not later than January 1, 2002. Because the authority for special immigrant status for this classification no longer exists, the Department is removing the SEH classification symbol.

Section 2(b) of the Armed Forces Immigration Adjustment Act of 1991, Public Law 102–110, amended section 203(b)(6) of the INA. As amended, section 203(b)(6) included a subparagraph (C), which distinguished

between those aliens who, as of the date of enactment, October 1, 1991, met the requirements in section 101(a)(27)(K) for special immigrant status, based on recruitment into the U.S. armed forces outside the United States and at least 12 years of service, and those who met the requirements subsequent to that date. The difference was that immigrants who met the requirements after October 1, 1991 were subject to annual numerical limitations, while those who already met the requirements as of October 1, 1991 were not. The Department assigned classification symbols SM1, SM2, and SM3, respectively, to those principal aliens who met the requirements of section 101(a)(27)(K) after October 1, 1991, their spouses and their children. The SM4 and SM5 classification symbols were assigned, respectively, to those principal aliens who met those requirements as of October 1, 1991 and their spouses and children. Section 212(b) of the Immigration and Nationality Technical Corrections Act of 1994, Public Law 103–416, amended section 203(b)(6) of the INA by deleting subparagraph (C). As a result, there is no longer a numerical limitation under section 203(b) for any aliens who qualify for special immigrant status under section 101(a)(27)(K). The Department is therefore removing the SM4 and SM5 classification symbols from the table, and deleting from the class description for SM1 the reference to becoming eligible after the date of enactment.

**Regulatory Findings**

**Administrative Procedure Act**

This regulation involves a foreign affairs function of the United States and, therefore, is not subject to the procedures required by 5 U.S.C. 553 and 554. It is exempt from review under Executive Order 12866 but has been reviewed internally by the Department to ensure consistency with the purposes thereof. This rule does not require analysis under the Regulatory Flexibility Act or the Unfunded Mandates Reform Act. It has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996. It will not have substantial direct effects on the States, the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this rule does not have sufficient federalism implications to warrant application of consultation provisions of Executive Orders 12372 and 13132. This rule does not impose

any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

#### **Regulatory Flexibility Act/Executive Order 13273: Small Business**

Because this final rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth at sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604). Nonetheless, consistent with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. This regulates individual aliens who seek consideration for immigrant and nonimmigrant visas and does not affect any small entities, as defined in 5 U.S.C. 601(6).

#### **The Unfunded Mandates Reform Act of 1995**

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, 109 Stat. 48, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

#### **The Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of

congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and import markets.

#### **Executive Order 12866**

The Department of State has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of the regulation justify its costs. The Department does not consider the rule to be an economically significant action within the scope of section 3(f)(1) of the Executive Order since it is not likely to have an annual effect on the economy of \$100 million or more or to adversely affect in a material way the economy, a sector of the economy, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.

#### **Executive Orders 12372 and 13132: Federalism**

This regulation will not have substantial direct effects on the States, on the relationship between the national Government and the States, or the distribution of power and responsibilities among the various levels of government. Nor will the rule

have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

#### **Executive Order 12988: Civil Justice Reform**

The Department has reviewed the regulations in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

#### **Paperwork Reduction Act**

This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

#### **List of Subjects in 22 CFR Parts 41 and 42**

Aliens, Foreign Officials, Immigration, Nonimmigrants, Passports and Visas, Students.

■ For the reasons stated in the preamble, the Department of State amends 22 CFR parts 41 and 42 to read as follows:

#### **PART 41—[AMENDED]**

■ 1. The authority citation for part 41 continues to read as follows:

**Authority:** 8 U.S.C. 1104; Pub. L. 105-277, 112 Stat. 2681-795 through 2681-801.

■ 2. Revise § 41.12 to read as follows:

#### **§ 41.12 Classification symbols.**

A visa issued to a nonimmigrant alien within one of the classes described in this section shall bear an appropriate visa symbol to show the classification of the alien. The symbol shall be inserted in the space provided on the visa. The following visa symbols shall be used:

#### **NONIMMIGRANTS**

Symbol	Class	Section of law
A1 .....	Ambassador, Public Minister, Career Diplomat or Consular Officer, or Immediate Family .....	101(a)(15)(A)(i).
A2 .....	Other Foreign Government Official or Employee, or Immediate Family .....	101(a)(15)(A)(ii).
A3 .....	Attendant, Servant, or Personal Employee of A1 or A2, or Immediate Family .....	101(a)(15)(A)(iii).
B1 .....	Temporary Visitor for Business .....	101(a)(15)(B).
B2 .....	Temporary Visitor for Pleasure .....	101(a)(15)(B).
B1/B2 .....	Temporary Visitor for Business & Pleasure .....	101(a)(15)(B).
C1 .....	Alien in Transit .....	101(a)(15)(C).
C1/D .....	Combined Transit and Crewmember Visa .....	101(a)(15)(C) and (D).
C2 .....	Alien in Transit to United Nations Headquarters District Under Sec. 11.(3), (4), or (5) of the Headquarters Agreement.	101(a)(15)(C).
C3 .....	Foreign Government Official, Immediate Family, Attendant, Servant or Personal Employee, in Transit.	212(d)(8).
D .....	Crewmember (Sea or Air) .....	101(a)(15)(D).
E1 .....	Treaty Trader, Spouse or Child .....	101(a)(15)(E)(i).
E2 .....	Treaty Investor, Spouse or Child .....	101(a)(15)(E)(ii).
E3 .....	Australian Treaty Alien Coming to the United States Solely to Perform Services in a Specialty Occupation.	101(a)(15)(E)(iii).
E3D .....	Spouse or Child of E3 .....	101(a)(15)(E)(iii).
E3R .....	Returning E3 .....	101(a)(15)(E)(iii).
F1 .....	Student in an academic or language training program .....	101(a)(15)(F)(i).
F2 .....	Spouse or Child of F1 .....	101(a)(15)(F)(ii).
F3 .....	Canadian or Mexican national commuter student in an academic or language training program	101(a)(15)(F)(iii).

## NONIMMIGRANTS—Continued

Symbol	Class	Section of law
G1 .....	Principal Resident Representative of Recognized Foreign Government to International Organization, Staff, or Immediate Family.	101(a)(15)(G)(i).
G2 .....	Other Representative of Recognized Foreign Member Government to International Organization, or Immediate Family.	101(a)(15)(G)(ii).
G3 .....	Representative of Nonrecognized or Nonmember Foreign Government to International Organization, or Immediate Family.	101(a)(15)(G)(iii).
G4 .....	International Organization Officer or Employee, or Immediate Family .....	101(a)(15)(G)(iv).
G5 .....	Attendant, Servant, or Personal Employee of G1 through G4, or Immediate Family .....	101(a)(15)(G)(v).
H1B .....	Alien in a Specialty Occupation (Profession) .....	101(a)(15)(H)(i)(b).
H1B1 .....	Chilean or Singaporean National to Work in a Specialty Occupation .....	101(a)(15)(H)(i)(b1).
H1C .....	Nurse in Health Professional Shortage Area .....	101(a)(15)(H)(i)(c).
H2A .....	Temporary Worker Performing Agricultural Services Unavailable in the United States .....	101(a)(15)(H)(ii)(a).
H2B .....	Temporary Worker Performing Other Services Unavailable in the United States .....	101(a)(15)(H)(ii)(b).
H3 .....	Trainee .....	101(a)(15)(H)(iii).
H4 .....	Spouse or Child of Alien Classified H1B/B1/C, H2A/B/R, or H-3 .....	101(a)(15)(H)(iv).
I .....	Representative of Foreign Information Media, Spouse and Child .....	101(a)(15)(I).
J1 .....	Exchange Visitor .....	101(a)(15)(J).
J2 .....	Spouse or Child of J1 .....	101(a)(15)(J).
K1 .....	Fiance(e) of United States Citizen .....	101(a)(15)(K)(i).
K2 .....	Child of Fiance(e) of U.S. Citizen .....	101(a)(15)(K)(iii).
K3 .....	Spouse of U.S. Citizen Awaiting Availability of Immigrant Visa .....	101(a)(15)(K)(ii).
K4 .....	Child of K3 .....	101(a)(15)(K)(iii).
L1 .....	Intracompany Transferee (Executive, Managerial, and Specialized Knowledge Personnel Continuing Employment with International Firm or Corporation).	101(a)(15)(L).
L2 .....	Spouse or Child of Intracompany Transferee .....	101(a)(15)(L).
M1 .....	Vocational Student or Other Nonacademic Student .....	101(a)(15)(M)(i).
M2 .....	Spouse or Child of M1 .....	101(a)(15)(M)(ii).
M3 .....	Canadian or Mexican National Commuter Student (Vocational Student or Other Nonacademic Student).	101(a)(15)(M)(iii).
N8 .....	Parent of an Alien Classified SK3 or SN3 .....	101(a)(15)(N)(i).
N9 .....	Child of N8 or of SK1, SK2, SK4, SN1, SN2 or SN4 .....	101(a)(15)(N)(ii).
NATO 1 .....	Principal Permanent Representative of Member State to NATO (including any of its Subsidiary Bodies) Resident in the U.S. and Resident Members of Official Staff; Secretary General, Assistant Secretaries General, and Executive Secretary of NATO; Other Permanent NATO Officials of Similar Rank, or Immediate Family.	Art. 12, 5 UST 1094; Art. 20, 5 UST 1098.
NATO 2 .....	Other Representative of Member State to NATO (including any of its Subsidiary Bodies) including Representatives, Advisers, and Technical Experts of Delegations, or Immediate Family; Dependents of Member of a Force Entering in Accordance with the Provisions of the NATO Status-of-Forces Agreement or in Accordance with the Provisions of the "Protocol on the Status of International Military Headquarters"; Members of Such a Force if Issued Visas.	Art. 13, 5 UST 1094; Art. 1, 4 UST 1794; Art. 3, 4 UST 1796.
NATO 3 .....	Official Clerical Staff Accompanying Representative of Member State to NATO (including any of its Subsidiary Bodies), or Immediate Family.	Art. 14, 5 UST 1096.
NATO 4 .....	Official of NATO (Other Than Those Classifiable as NATO1), or Immediate Family .....	Art. 18, 5 UST 1098.
NATO 5 .....	Experts, Other Than NATO Officials Classifiable Under NATO4, Employed in Missions on Behalf of NATO, and their Dependents.	Art. 21, 5 UST 1100.
NATO 6 .....	Member of a Civilian Component Accompanying a Force Entering in Accordance with the Provisions of the NATO Status-of-Forces Agreement; Member of a Civilian Component Attached to or Employed by an Allied Headquarters Under the "Protocol on the Status of International Military Headquarters" Set Up Pursuant to the North Atlantic Treaty; and their Dependents.	Art. 1, 4 UST 1794; Art. 3, 5 UST 877.
NATO 7 .....	Attendant, Servant, or Personal Employee of NATO1, NATO2, NATO3, NATO4, NATO5, and NATO6 Classes, or Immediate Family.	Arts. 12–20, 5 UST 1094–1098.
O1 .....	Alien with Extraordinary Ability in Sciences, Arts, Education, Business or Athletics .....	101(a)(15)(O)(i).
O2 .....	Alien Accompanying and Assisting in the Artistic or Athletic Performance by O1 .....	101(a)(15)(O)(ii).
O3 .....	Spouse or Child of O1 or O2 .....	101(a)(15)(O)(iii).
P1 .....	Internationally Recognized Athlete or Member of Internationally Recognized Entertainment Group.	101(a)(15)(P)(i).
P2 .....	Artist or Entertainer in a Reciprocal Exchange Program .....	101(a)(15)(P)(ii).
P3 .....	Artist or Entertainer in a Culturally Unique Program .....	101(a)(15)(P)(iii).
P4 .....	Spouse or Child of P1, P2, or P3 .....	101(a)(15)(P)(iv).
Q1 .....	Participant in an International Cultural Exchange Program .....	101(a)(15)(Q)(i).
Q2 .....	Irish Peace Process Program Participant .....	101(a)(15)(Q)(ii)(I).
Q3 .....	Spouse or Child of Q2 .....	101(a)(15)(Q)(ii)(II).
R1 .....	Alien in a Religious Occupation .....	101(a)(15)(R).
R2 .....	Spouse or Child of R1 .....	101(a)(15)(R).
S5 .....	Certain Aliens Supplying Critical Information Relating to a Criminal Organization or Enterprise .....	101(a)(15)(S)(i).
S6 .....	Certain Aliens Supplying Critical Information Relating to Terrorism .....	101(a)(15)(S)(ii).
S7 .....	Qualified Family Member of S5 or S6 .....	101(a)(15)(S).
T1 .....	Victim of a Severe Form of Trafficking in Persons .....	101(a)(15)(T)(i).
T2 .....	Spouse of T1 .....	101(a)(15)(T)(ii).
T3 .....	Child of T1 .....	101(a)(15)(T)(ii).

## NONIMMIGRANTS—Continued

Symbol	Class	Section of law
T4 .....	Parent of T1 Under 21 Years of Age .....	101(a)(15)(T)(ii).
T5 .....	Unmarried Sibling Under Age 18 of T1 Under 21 Years of Age .....	101(a)(15)(T)(ii).
TN .....	NAFTA Professional .....	214(e)(2).
TD .....	Spouse or Child of NAFTA Professional .....	214(e)(2).
U1 .....	Victim of Criminal Activity .....	101(a)(15)(U)(i).
U2 .....	Spouse of U1 .....	101(a)(15)(U)(ii).
U3 .....	Child of U1 .....	101(a)(15)(U)(ii).
U4 .....	Parent of U1 Under 21 Years of Age .....	101(a)(15)(U)(ii).
U5 .....	Unmarried Sibling Under Age 18 of U1 Under 21 Years of Age .....	101(a)(15)(U)(ii).
V1 .....	Spouse of a Lawful Permanent Resident Alien Awaiting Availability of Immigrant Visa .....	101(a)(15)(V)(i) or 101(a)(15)(V)(ii).
V2 .....	Child of a Lawful Permanent Resident Alien Awaiting Availability of Immigrant Visa .....	101(a)(15)(V)(i) or 101(a)(15)(V)(ii).
V3 .....	Child of a V1 or V2 .....	203(d) & 101(a)(15)(V)(i) or 101(a)(15)(V)(ii).

**PART 42—[AMENDED]**

**Authority:** 8 U.S.C. 1104; Pub. L. 107–56, sec. 421.

■ 1. The authority citation for part 42 continues to read as follows:

■ 2. Revise § 42.11 to read as follows:

**§ 42.11 Classification symbols.**

A visa issued to an immigrant alien within one of the classes described below shall bear an appropriate visa symbol to show the classification of the alien.

## IMMIGRANTS

Symbol	Class	Section of law
<b>Immediate Relatives</b>		
IR1 .....	Spouse of U.S. Citizen .....	201(b).
IR2 .....	Child of U.S. Citizen .....	201(b).
IR3 .....	Orphan Adopted Abroad by U.S. Citizen .....	201(b) & 101(b)(1)(F).
IH3 .....	Child from Hague Convention Country Adopted Abroad by U.S. Citizen .....	201(b) & 101(b)(1)(G).
IR4 .....	Orphan to be Adopted in U.S. by U.S. Citizen .....	201(b) & 101(b)(1)(F).
IH4 .....	Child from Hague Convention Country to be Adopted in U.S. by U.S. Citizen .....	201(b) & 101(b)(1)(G).
IR5 .....	Parent of U.S. Citizen at Least 21 Years of Age .....	201(b).
CR1 .....	Spouse of U.S. Citizen (Conditional Status) .....	201(b) & 216.
CR2 .....	Child of U.S. Citizen (Conditional Status) .....	201(b) & 216.
IW1 .....	Certain Spouses of Deceased U.S. Citizens .....	201(b).
IW2 .....	Child of IW1 .....	201(b).
IB1 .....	Self-petition Spouse of U.S. Citizen .....	204(a)(1)(A)(iii).
IB2 .....	Self-petition Child of U.S. Citizen .....	204(a)(1)(A)(iv).
IB3 .....	Child of IB1 .....	204(a)(1)(A)(iii).
VI5 .....	Parent of U.S. Citizen Who Acquired Permanent Resident Status Under the Virgin Islands Nonimmigrant Alien Adjustment Act.	201(b) & sec. 2 of the Virgin Islands Nonimmigrant Alien Adjustment Act, (Pub. L. 97–271).
<b>Vietnam Amerasian Immigrants</b>		
AM1 .....	Vietnam Amerasian Principal .....	584(b)(1)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Pub. L. 100–102) as amended.
AM2 .....	Spouse or Child of AM1 .....	584(b)(1)(A) and 584(b)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Pub. L. 100–102) as amended.
AM3 .....	Natural Mother of AM1 (and Spouse or Child of Such Mother) or Person Who has Acted in Effect as the Mother, Father, or Next-of-Kin of AM1 (and Spouse or Child of Such Person).	584(b)(1)(A) and 584(b)(1)(C) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Pub. L. 100–102) as amended.
<b>Special Immigrants</b>		
SB1 .....	Returning Resident .....	101(a)(27)(A).
SC1 .....	Person Who Lost U.S. Citizenship by Marriage .....	101(a)(27)(B) & 324(a).
SC2 .....	Person Who Lost U.S. Citizenship by Serving in Foreign Armed Forces .....	101(a)(27)(B) & 327.
SI1 .....	Certain Aliens Employed by the U.S. Government in Iraq or Afghanistan as Translators or Interpreters.	Section 1059 of Pub. L. 109–163 as amended by Pub. L. 110–36.
SI2 .....	Spouse of SI1 .....	Section 1059 of Pub. L. 109–163 as amended by Pub. L. 110–36.

## IMMIGRANTS—Continued

Symbol	Class	Section of law
SI3 .....	Child of SI1 .....	Section 1059 of Pub. L. 109–163 as amended by Pub. L. 110–36.
SM1 .....	Alien Recruited Outside the United States Who Has Served or is Enlisted to Serve in the U.S. Armed Forces for 12 Years.	101(a)(27)(K).
SM2 .....	Spouse of SM1 .....	101(a)(27)(K).
SM3 .....	Child of SM1 .....	101(a)(27)(K).
SQ1 .....	Certain Iraqis Employed by or on Behalf of the U.S. Government .....	Section 1244 of Public Law 110–181.
SQ2 .....	Spouse of SQ1 .....	Section 1244 of Public Law 110–181.
SQ3 .....	Child of SQ1 .....	Section 1244 of Public Law 110–181.

Family-Sponsored Preferences  
Family 1st Preference

F11 .....	Unmarried Son or Daughter of U.S. Citizen .....	203(a)(1).
F12 .....	Child of F11 .....	203(d) & 203(a)(1).
B11 .....	Self-petition Unmarried Son or Daughter of U.S. Citizen .....	204(a)(1)(A)(iv) & 203(a)(1).
B12 .....	Child of B11 .....	203(d), 204(a)(1)(A)(iv) & 203(a)(1).

## Family 2nd Preference (Subject to Country Limitations)

F21 .....	Spouse of Lawful Permanent Resident .....	203(a)(2)(A).
F22 .....	Child of Lawful Permanent Resident .....	203(a)(2)(A).
F23 .....	Child of F21 or F22 .....	203(d) & 203(a)(2)(A).
F24 .....	Unmarried Son or Daughter of Lawful Permanent Resident .....	203(a)(2)(B).
F25 .....	Child of F24 .....	203(d) & 203(a)(2)(B).
C21 .....	Spouse of Lawful Permanent Resident (Conditional) .....	203(a)(2)(A) & 216.
C22 .....	Child of Alien Resident (Conditional) .....	203(a)(2)(A) & 216.
C23 .....	Child of C21 or C22 (Conditional) .....	203(d) & 203(a)(2)(A) & 216.
C24 .....	Unmarried Son or Daughter of Lawful Permanent Resident (Conditional) .....	203(a)(2)(B) & 216.
C25 .....	Child of F24 (Conditional) .....	203(d) & 203(a)(2)(B) & 216.
B21 .....	Self-petition Spouse of Lawful Permanent Resident .....	204(a)(1)(B)(ii).
B22 .....	Self-petition Child of Lawful Permanent Resident .....	204(a)(1)(B)(iii).
B23 .....	Child of B21 or B22 .....	203(d) & 204(a)(1)(B)(ii).
B24 .....	Self-petition Unmarried Son or Daughter of Lawful Permanent Resident .....	204(a)(1)(B)(iii).
B25 .....	Child of B24 .....	203(d) & 204(a)(1)(B)(iii).

## Family 2nd Preference (Exempt from Country Limitations)

FX1 .....	Spouse of Lawful Permanent Resident .....	202(a)(4)(A) & 203(a)(2)(A).
FX2 .....	Child of Lawful Permanent Resident .....	202(a)(4)(A) & 203(a)(2)(A).
FX3 .....	Child of FX1 or FX2 .....	202(a)(4)(A) & 203(a)(2)(A) & 203(d).
CX1 .....	Spouse of Lawful Permanent Resident (Conditional) .....	202(a)(4)(A) & 203(a)(2)(A) & 216.
CX2 .....	Child of Lawful Permanent Resident (Conditional) .....	202(a)(4)(A) & 203(a)(2)(A) & 216.
CX3 .....	Child of CX1 or CX2 (Conditional) .....	202(a)(4)(A) & 203(a)(2)(A) & 203(d) & 216.
BX1 .....	Self-petition Spouse of Lawful Permanent Resident .....	204(a)(1)(B)(ii).
BX2 .....	Self-petition Child of Lawful Permanent Resident .....	204(a)(1)(B)(iii).
BX3 .....	Child of BX1 or BX2 .....	204(a)(1)(B)(ii) & 203(d).

## Family 3rd Preference

F31 .....	Married Son or Daughter of U.S. Citizen .....	203(a)(3).
F32 .....	Spouse of F31 .....	203(d) & 203(a)(3).
F33 .....	Child of F31 .....	203(d) & 203(a)(3).
C31 .....	Married Son or Daughter of U.S. Citizen (Conditional) .....	203(a)(3) & 216.
C32 .....	Spouse of C31 (Conditional) .....	203(d) & 203(a)(3) & 216.
C33 .....	Child of C31 (Conditional) .....	203(d) & 203(a)(3) & 216.
B31 .....	Self-petition Married Son or Daughter of U.S. Citizen .....	204(a)(1)(A)(iv) & 203(a)(3).
B32 .....	Spouse of B31 .....	203(d), 204(a)(1)(A)(iv) & 203(a)(3).
B33 .....	Child of B31 .....	203(d), 204(a)(1)(A)(iv) & 203(a)(3).

## Family 4th Preference

F41 .....	Brother or Sister of U.S. Citizen at Least 21 Years of Age .....	203(a)(4).
F42 .....	Spouse of F41 .....	203(d) & 203(a)(4).
F43 .....	Child of F41 .....	203(d) & 203(a)(4).

Employment-Based Preferences  
Employment 1st Preference (Priority Workers)

E11 .....	Alien with Extraordinary Ability .....	203(b)(1)(A).
E12 .....	Outstanding Professor or Researcher .....	203(b)(1)(B).
E13 .....	Multinational Executive or Manager .....	203(b)(1)(C).
E14 .....	Spouse of E11, E12, or E13 .....	203(d) & 203(b)(1)(A) & 203(b)(1)(B) & 203(b)(1)(C).

## IMMIGRANTS—Continued

Symbol	Class	Section of law
E15 .....	Child of E11, E12, or E13 .....	203(d) & 203(b)(1)(A) & 203(b)(1)(B) & 203(b)(1)(C).
<b>Employment 2nd Preference (Professionals Holding Advanced Degrees or Persons of Exceptional Ability)</b>		
E21 .....	Professional Holding Advanced Degree or Alien of Exceptional Ability .....	203(b)(2).
E22 .....	Spouse of E21 .....	203(d) & 203(b)(2).
E23 .....	Child of E21 .....	203(d) & 203(b)(2).
<b>Employment 3rd Preference (Skilled Workers, Professionals, and Other Workers)</b>		
E31 .....	Skilled Worker .....	203(b)(3)(A)(i).
E32 .....	Professional Holding Baccalaureate Degree .....	203(b)(3)(A)(ii).
E34 .....	Spouse of E31 or E32 .....	203(d) & 203(b)(3)(A)(i) & 203(b)(3)(A)(ii).
E35 .....	Child of E31 or E32 .....	203(d) & 203(b)(3)(A)(i) & 203(b)(3)(A)(ii).
EW3 .....	Other Worker (Subgroup Numerical Limit) .....	203(b)(3)(A)(iii).
EW4 .....	Spouse of EW3 .....	203(d) & 203(b)(3)(A)(iii).
EW5 .....	Child of EW3 .....	203(d) & 203(b)(3)(A)(iii).
<b>Employment 4th Preference (Certain Special Immigrants)</b>		
BC1 .....	Broadcaster in the U.S. employed by the International Broadcasting Bureau of the Broadcasting Board of Governors or a grantee of such organization.	101(a)(27)(M) & 203(b)(4).
BC2 .....	Accompanying spouse of BC1 .....	101(a)(27)(M) & 203(b)(4).
BC3 .....	Accompanying child of BC1 .....	101(a)(27)(M) & 203(b)(4).
SD1 .....	Minister of Religion .....	101(a)(27)(C)(ii)(I) & 203(b)(4).
SD2 .....	Spouse of SD1 .....	101(a)(27)(C)(ii)(I) & 203(b)(4).
SD3 .....	Child of SD1 .....	101(a)(27)(C)(ii)(I) & 203(b)(4).
SE1 .....	Certain Employees or Former Employees of the U.S. Government Abroad ..	101(a)(27)(D) & 203(b)(4).
SE2 .....	Spouse of SE1 .....	101(a)(27)(D) & 203(b)(4).
SE3 .....	Child of SE1 .....	101(a)(27)(D) & 203(b)(4).
SF1 .....	Certain Former Employees of the Panama Canal Company or Canal Zone Government.	101(a)(27)(E) & 203(b)(4).
SF2 .....	Spouse or Child of SF1 .....	101(a)(27)(E) & 203(b)(4).
SG1 .....	Certain Former Employees of the U.S. Government in the Panama Canal Zone.	101(a)(27)(F) & 203(b)(4).
SG2 .....	Spouse or Child of SG1 .....	101(a)(27)(F) & 203(b)(4).
SH1 .....	Certain Former Employees of the Panama Canal Company or Canal Zone Government on April 1, 1979.	101(a)(27)(G) & 203(b)(4).
SH2 .....	Spouse or Child of SH1 .....	101(a)(27)(G) & 203(b)(4).
SJ1 .....	Certain Foreign Medical Graduates (Adjustments Only) .....	101(a)(27)(H).
SJ2 .....	Accompanying Spouse or Child of SJ1 .....	101(a)(27)(H) & 203(b)(4).
SK1 .....	Certain Retired International Organization employees .....	101(a)(27)(I)(iii) & 203(b)(4).
SK2 .....	Spouse of SK1 .....	101(a)(27)(I)(iv) & 203(b)(4).
SK3 .....	Certain Unmarried Sons or Daughters of an International Organization Employee.	101(a)(27)(I)(i) & 203(b)(4).
SK4 .....	Certain Surviving Spouses of a deceased International Organization Employee.	101(a)(27)(I)(ii) & 203(b)(4).
SL1 .....	Juvenile Court Dependent (Adjustment Only) .....	101(a)(27)(J) & 203(b)(4).
SN1 .....	Certain retired NATO6 civilians .....	101(a)(27)(L) & 203(b)(4).
SN2 .....	Spouse of SN1 .....	101(a)(27)(L) & 203(b)(4).
SN3 .....	Certain unmarried sons or daughters of NATO6 civilian employees .....	101(a)(27)(L) & 203(b)(4).
SN4 .....	Certain surviving spouses of deceased NATO6 civilian employees .....	101(a)(27)(L) & 203(b)(4).
SP .....	Alien Beneficiary of a petition or labor certification application filed prior to September 11, 2001, if the petition or application was rendered void due to a terrorist act of September 11, 2001. Spouse, child of such alien, or the grandparent of a child orphaned by a terrorist act of September 11, 2001.	Section 421 of Public Law 107-56.
SR1 .....	Certain Religious Workers .....	101(a)(27)(C)(ii)(II) & (III) as amended, & 203(b)(4).
SR2 .....	Spouse of SR1 .....	101(a)(27)(C)(ii)(II) & (III) as amended, & 203(b)(4).
SR3 .....	Child of SR1 .....	101(a)(27)(C)(ii)(II) & (III) as amended, & 203(b)(4).
<b>Employment 5th Preference (Employment Creation Conditional Status)</b>		
C51 .....	Employment Creation OUTSIDE Targeted Areas .....	203(b)(5)(A).
C52 .....	Spouse of C51 .....	203(d) & 203(b)(5)(A).
C53 .....	Child of C51 .....	203(d) & 203(b)(5)(A).
T51 .....	Employment Creation IN Targeted Rural/High Unemployment Area .....	203(b)(5)(B).
T52 .....	Spouse of T51 .....	203(d) & 203(b)(5)(B).
T53 .....	Child of T51 .....	203(d) & 203(b)(5)(B).
R51 .....	Investor Pilot Program, Not in Targeted Area .....	203(b)(5) & Sec. 610 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1993 (Pub. L. 102-395), as amended.

## IMMIGRANTS—Continued

Symbol	Class	Section of law
R52 .....	Spouse of R51 .....	203(d) & 203(b)(5) & Sec. 610 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1993 (Pub. L. 102–395), as amended.
R53 .....	Child of R51 .....	203(d) & 203(b)(5) & Sec. 610 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1993 (Pub. L. 102–395), as amended.
I51 .....	Investor Pilot Program, in Targeted Area .....	203(b)(5) & Sec. 610 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1993 (Pub. L. 102–395), as amended.
I52 .....	Spouse of I51 .....	203(d) & 203(b)(5) & Sec. 610 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1993 (Pub. L. 102–395), as amended.
I53 .....	Child of I51 .....	203(d) & 203(b)(5) & Sec. 610 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1993 (Pub. L. 102–395), as amended.
<b>Other Numerically Limited Categories Diversity Immigrants</b>		
DV1 .....	Diversity Immigrant .....	203(c).
DV2 .....	Spouse of DV1 .....	203(d) & 203(c).
DV3 .....	Child of DV1 .....	203(d) & 203(c).

Dated: March 3, 2008.

**Stephen A. Edson,**

*Acting Assistant Secretary for Consular Affairs, Department of State.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9387]

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:** Final regulations.

**SUMMARY:** This document contains final 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. These regulations permit a utility whose assets cease, whether by disposition, deregulation, or otherwise, to be public

utility property with respect to the utility (deregulated 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.

**DATES:** *Effective Date:* These regulations are effective March 20, 2008.

*Applicability Date:* For dates of applicability, see § 1.46–6(k)(4) and § 1.168(i)–3(d) of these regulations.

**FOR FURTHER INFORMATION CONTACT:** Patrick Kirwan, at (202) 622–3040 (not a toll-free number).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background and Explanation of Provisions**

This document amends 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) and again on December 21, 2005 (the 2005 proposed regulations). The preambles of both the 2003 proposed regulations and the 2005 proposed regulations describe the normalization method of accounting and the reserves under the normalization method for excess deferred federal income tax (EDFIT) and accumulated deferred investment tax credits (ADITC).

The 2003 proposed regulations provided that electric utilities whose generation assets become deregulated public utility property could 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.

The 2003 proposed regulations provided similar rules under which electric utilities could continue to flow through ADITC reserves associated with generation assets that become deregulated public utility property without violating the normalization requirements. The 2003 proposed regulations addressed the treatment of these assets under former section 46(f)(2) (relating to the use of the investment credit to reduce the taxpayer's cost of service) but did not address their treatment under former section 46(f)(1) (relating to the use of the