

facilities in the FD&C Act, including the amendments made by FSMA. This document continues to serve as FDA's Small Entity Compliance Guide for FDA's food facility registration regulation. Further, this guidance is intended to set forth in plain language the requirements for registration of food facilities and help small businesses understand the requirements.

**DATES:** December 17, 2012. Submit either electronic or written comments on Agency guidances at any time.

**ADDRESSES:** Submit written requests for single copies of this guidance to the Office of Compliance, Division of Field Programs and Guidance (HFS-615), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740. Send one self-addressed adhesive label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

Submit electronic comments on this guidance to <http://www.regulations.gov>. Submit written comments on this guidance to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Amy Barringer, Office of Compliance, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240-402-1988.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The FDA Food Safety Modernization Act (FSMA), enacted on January 4, 2011, amended section 415 of the FD&C Act, in relevant part, to require that facilities engaged in manufacturing, processing, packing, or holding food for consumption in the United States submit additional registration information to FDA, including an assurance that FDA will be permitted to inspect the facility at the times and in the manner permitted by the FD&C Act. Section 415 of the FD&C Act, as amended by FSMA, also requires food facilities required to register with FDA to renew such registrations every other year and provides FDA with authority to suspend the registration of a food facility in certain circumstances.

FDA has prepared this guidance to restate the legal requirements in section 415 of the FD&C Act. Previously, this guidance restated the legal requirements of FDA's food facility registration regulation at 21 CFR part 1, Subpart H

(§§ 1.225 through 1.243), implementing section 415 of the FD&C Act, as added by the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. This guidance also served as FDA's Small Entity Compliance Guide for 21 CFR part 1, Subpart H in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104-121). Because section 415 of the FD&C Act was amended by section 102 of FSMA in 2011, FDA is revising this document to provide guidance on section 415 of the FD&C Act, as amended by FSMA. This updated guidance is intended to help any entity comply with the requirements of section 415 of the FD&C Act, including the amendments made by section 102 of FSMA. This document continues to serve as FDA's Small Entity Compliance Guide for 21 CFR Part 1, Subpart H.

FDA is issuing this guidance consistent with FDA's good guidance practices regulation (21 CFR 10.115) as level 1 guidance. Consistent with FDA's good guidance practices regulation, the Agency will accept comments, but it is implementing this guidance document immediately, in accordance with 21 CFR 10.115(g)(2), because the Agency has determined that prior public participation is not feasible or appropriate because the updated guidance document is merely specifying the new requirements of section 102 of FSMA, many of which are already in effect. This guidance represents the Agency's current thinking on the registration of food facilities. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

##### **II. The Paperwork Reduction Act of 1995**

This guidance refers to previously approved collections of information found in FDA regulations and section 415 of the FD&C Act. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The collections of information in §§ 1.230 through 1.235 and section 415 of the FD&C Act have been approved under OMB control number 0910-0502.

##### **III. Comments**

Interested persons may submit either written comments regarding this document to the Division of Dockets Management (see **ADDRESSES**) or electronic comments to [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at <http://www.regulations.gov>.

#### **IV. Electronic Access**

Persons with access to the Internet may obtain the document at either <http://www.fda.gov/RegulatoryInformation/Guidances/default.htm> or <http://www.regulations.gov>. Always access an FDA guidance document by using FDA's Web site listed previously to find the most current version of the guidance.

Dated: December 12, 2012.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2012-30327 Filed 12-14-12; 8:45 am]

**BILLING CODE 4160-01-P**

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## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

#### **26 CFR Part 1**

[TD 9564]

**RIN 1545-BJ93**

#### **Guidance Regarding Deduction and Capitalization of Expenditures Related to Tangible Property**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Technical amendments.

**SUMMARY:** This document contains amendments to temporary regulations relating to guidance regarding deduction and capitalization of expenditures related to tangible property. These amendments change the applicability dates of the temporary regulations to taxable years beginning on or after January 1, 2014, while permitting taxpayers to choose to apply the temporary regulations for taxable years beginning on or after January 1, 2012. The amendments to the temporary regulations will affect all taxpayers that acquire, produce, or improve tangible property.

**DATES:** These amendments are effective December 17, 2012.

**FOR FURTHER INFORMATION CONTACT:** Concerning §§ 1.162-3T, 1.162-4T, 1.162-11T, 1.263(a)-1T, 1.263(a)-2T, 1.263(a)-3T, and 1.263(a)-6T, Merrill D.

Feldstein or Alan S. Williams, Office of Associate Chief Counsel (Income Tax & Accounting), (202) 622-4950 (not a toll-free call); Concerning §§ 1.165-2T, 1.167(a)-4T, 1.167(a)-7T, 1.167(a)-8T, 1.168(i)-1T, 1.168(i)-7T, 1.168(i)-8T, 1.263A-1T, and 1.1016-3T, Kathleen Reed or Patrick Clinton, Office of Associate Chief Counsel (Income Tax & Accounting), (202) 622-4930 (not a toll-free call).

**SUPPLEMENTARY INFORMATION:**

**Background**

The temporary regulations that are the subject of these amendments are under sections 162, 165, 167, 168, 263, 263A, and 1016 of the Internal Revenue Code. The temporary regulations (TD 9564) were published in the **Federal Register** on Tuesday, December 27, 2011 (76 FR 81060). Because the temporary regulations are applicable to taxable years beginning on or after January 1, 2012, the IRS and the Treasury Department are concerned that taxpayers are expending resources to comply with temporary regulations that may not be consistent with forthcoming final regulations. For more information about the temporary regulations and these amendments, see Notice 2012-73, which is in IRB 2012-51.

Taxpayers choosing to apply the provisions of the temporary regulations to taxable years beginning on or after January 1, 2012, may continue to rely on the procedures by which a taxpayer may obtain the automatic consent of the Commissioner of Internal Revenue to change its methods of accounting provided in Revenue Procedures 2012-19 (2012-14 IRB 689), and 2012-20 (2012-14 IRB 700), both of which are available at IRS.gov.

**Need for Amendments**

For the reasons discussed, the IRS and the Treasury Department have decided to amend the applicability dates of the temporary regulations.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Amendments of Publication**

Accordingly, 26 CFR part 1 is amended by making the following technical amendments.

**PART 1—INCOME TAXES**

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

**Authority:** 26 U.S.C. 7805 \* \* \* Section 1.168(i)-1T also issued under 26 U.S.C. 168(i)(4). \* \* \*

■ **Par. 2.** Section 1.162-3T is amended by revising paragraph (j) to read as follows:

**§ 1.162-3T Materials and supplies (temporary).**

\* \* \* \* \*

(j) *Effective/applicability date*—(1) *In general.* This section generally applies to amounts paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2014. However, a taxpayer may apply paragraph (e) of this section (the optional method of accounting for rotatable and temporary spare parts) to taxable years beginning on or after January 1, 2014. Section 1.162-3 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) *Optional early application.* Except for paragraph (e) of this section, a taxpayer may choose to apply this section to amounts paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2012. A taxpayer may choose to apply paragraph (e) of this section (the optional method of accounting for rotatable and temporary spare parts) to taxable years beginning on or after January 1, 2012.

■ **Par. 3.** Section 1.162-4T is amended by revising paragraph (c) to read as follows:

**§ 1.162-4T Repairs (temporary).**

\* \* \* \* \*

(c) *Effective/applicability date*—(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014. Section 1.162-4 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) *Optional early application.* A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

■ **Par. 4.** Section 1.162-11T is amended by revising paragraph (c) to read as follows:

**§ 1.162-11T Rentals (temporary).**

\* \* \* \* \*

(c) *Effective/applicability date*—(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014. Section 1.162-11 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) *Optional early application.* A taxpayer may choose to apply this

section to taxable years beginning on or after January 1, 2012.

■ **Par. 5.** Section 1.165-2T is amended by revising paragraph (d) to read as follows:

**§ 1.165-2T Obsolescence of nondepreciable property (temporary).**

\* \* \* \* \*

(d) *Effective/applicability date*—(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014. Section 1.165-2 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) *Optional early application.* A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

■ **Par. 6.** Section 1.167(a)-4T is amended by:

- 1. Revising paragraph (b)(1).
- 2. Revising the heading and introductory text to paragraph (b)(2).

The revisions read as follows:

**§ 1.167(a)-4T Leased property (temporary).**

\* \* \* \* \*

(b) \* \* \*

(1) *In general.* Except as provided in paragraphs (b)(2) and (b)(3) of this section, this section applies to taxable years beginning on or after January 1, 2014.

(2) *Application of this section to leasehold improvements placed in service after December 31, 1986, in taxable years beginning before January 1, 2014.* For leasehold improvements placed in service after December 31, 1986, in taxable years beginning before January 1, 2014, a taxpayer may—

■ **Par. 7.** Section 1.167(a)-7T is amended by revising paragraph (f) to read as follows:

**§ 1.167(a)-7T Accounting for depreciable property (temporary).**

\* \* \* \* \*

(f) *Effective/applicability date*—(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014. Section 1.167(a)-7 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) *Optional early application.* A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

■ **Par. 8.** Section 1.167(a)-8T is amended by revising paragraph (h) to read as follows:

**§ 1.167(a)–8T Retirements (temporary).**

\* \* \* \* \*

(h) *Effective/applicability date*—(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014. Section 1.167(a)–8 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) *Optional early application.* A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

\* \* \* \* \*

■ **Par. 9.** Section 1.168(i)–1T is amended by:

- 1. Revising paragraph (m)(1).
- 2. Redesignating paragraph (m)(3) as paragraph (m)(4).
- 3. Redesignating paragraph (m)(2) as paragraph (m)(3) and adding new paragraph (m)(2).
- 4. In redesignated paragraph (m)(3), last sentence, the language “paragraph (m)(2)” is removed and “paragraph (m)(3)” is added in its place.

The revision and addition read as follows:

**§ 1.168(i)–1T General asset accounts (temporary).**

\* \* \* \* \*

(m) \* \* \*

(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014. Section 1.168(i)–1 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) *Optional early application.* A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

\* \* \* \* \*

■ **Par. 10.** Section 1.168(i)–7T is amended by:

- 1. Revising paragraph (e)(1).
- 2. Redesignating paragraph (e)(3) as paragraph (e)(4).
- 3. Redesignating paragraph (e)(2) as paragraph (e)(3) and adding new paragraph (e)(2).

The revision and addition read as follows:

**§ 1.168(i)–7T Accounting for MACRS property (temporary).**

\* \* \* \* \*

(e) \* \* \*

(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014.

(2) *Optional early application.* A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

\* \* \* \* \*

■ **Par. 11.** Section 1.168(i)–8T is amended by:

- 1. Revising paragraph (i)(1).
- 2. Redesignating paragraph (i)(3) as paragraph (i)(4).
- 3. Redesignating paragraph (i)(2) as paragraph (i)(3) and adding new paragraph (i)(2).

The revision and addition read as follows:

**§ 1.168(i)–8T Dispositions of MACRS property (temporary).**

\* \* \* \* \*

(i) \* \* \*

(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014.

(2) *Optional early application.* A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

\* \* \* \* \*

■ **Par. 12.** Section 1.263(a)–0T is amended by:

- 1. Adding new entries in the table of contents for § 1.263(a)–1T(g)(1) and (g)(2).
- 2. Adding new entries in the table of contents for § 1.263(a)–2T(k)(1) and (k)(2).
- 3. Adding new entries in the table of contents for § 1.263(a)–3T(p)(1) and (p)(2).

The additions read as follows:

**§ 1.263(a)–0T Table of Contents (temporary).**

\* \* \* \* \*

**§ 1.263(a)–1T Capital expenditures; In general (temporary).**

\* \* \* \* \*

(g) \* \* \*

(1) *In general.*(2) *Optional early application.*

\* \* \* \* \*

**§ 1.263(a)–2T Amounts paid to acquire or produce tangible property (temporary).**

\* \* \* \* \*

(k) \* \* \*

(1) *In general.*(2) *Optional early application.*

\* \* \* \* \*

**§ 1.263(a)–3T Amounts paid to improve tangible property (temporary).**

\* \* \* \* \*

(p) \* \* \*

(1) *In general.*(2) *Optional early application.*

\* \* \* \* \*

**§ 1.263(a)–1T [Amended]**

■ **Par. 13.** Section 1.263(a)–1T is amended by revising paragraph (g) to read as follows:

**§ 1.263(a)–1T Capital expenditures: In general (temporary).**

\* \* \* \* \*

(g) *Effective/applicability date*—(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014. Section 1.263(a)–1 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) *Optional early application.* A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

\* \* \* \* \*

■ **Par. 14.** Section 1.263(a)–2T is amended by revising paragraph (k) to read as follows:

**§ 1.263(a)–2T Amounts paid to acquire or produce tangible property (temporary).**

\* \* \* \* \*

(k) *Effective/applicability date*—(1) *In general.* Except for paragraphs (f)(2)(iii), (f)(2)(iv), (f)(3)(ii), and (g) of this section, this section generally applies to taxable years beginning on or after January 1, 2014. Paragraphs (f)(2)(iii), (f)(2)(iv), (f)(3)(ii), and (g) of this section apply to amounts paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2014. Section 1.263(a)–2 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) *Optional early application.* Except for paragraphs (f)(2)(iii), (f)(2)(iv), (f)(3)(ii), and (g) of this section, a taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012. A taxpayer may choose to apply paragraphs (f)(2)(iii), (f)(2)(iv), (f)(3)(ii), and (g) of this section to amounts paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2012.

\* \* \* \* \*

■ **Par. 15.** Section 1.263(a)–3T is amended by revising paragraph (p) to read as follows:

**§ 1.263(a)–3T Amounts paid to improve tangible property (temporary).**

\* \* \* \* \*

(p) *Effective/applicability date*—(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014. Section 1.263(a)–3 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) *Optional early application.* A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

\* \* \* \* \*

■ **Par. 16.** Section 1.263(a)–6T is amended by revising paragraph (c) to read as follows:

**§ 1.263(a)–6T Election to deduct or capitalize certain expenditures (temporary).**

\* \* \* \* \*

(c) *Effective/applicability date*—(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014. Section 1.263(a)–3 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014. For the effective dates of the enumerated election provisions, see those Internal Revenue Code sections and the regulations thereunder.

(2) *Optional early application.* A taxpayer may choose to apply this section to taxable years beginning on or after January 1, 2012.

\* \* \* \* \*

■ **Par. 17.** Section 1.263A–1T is amended by:

- 1. Revising paragraph (m)(2).
- 2. Redesignating paragraph (m)(3) as paragraph (n).

The revision reads as follows:

**§ 1.263A–1T Uniform capitalization of costs (temporary).**

\* \* \* \* \*

(m) \* \* \*

(2) Paragraph (b)(14), the introductory phrase of paragraph (c)(4), the last sentence of paragraphs (e)(2)(i)(A) and (e)(2)(ii)(E), paragraph (l), and paragraph (m)(2) of this section apply to amounts paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2014. Section 1.263A–1 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014. A taxpayer may choose to apply paragraph (b)(14), the introductory text of paragraph (c)(4), the last sentence of paragraphs (e)(2)(i)(A) and (e)(2)(ii)(E), and paragraph (l) of this section to amounts paid or incurred (to acquire or produce property) in taxable years beginning on or after January 1, 2012.

\* \* \* \* \*

■ **Par. 18.** Section 1.1016–3T is amended by revising paragraph (j)(3) to read as follows:

**§ 1.1016–3T Exhaustion, wear and tear, obsolescence, amortization, and depletion for periods since February 13, 1913 (temporary).**

\* \* \* \* \*

(j) \* \* \*

(3) *Application of § 1.1016–3T(a)(1)(ii)*—(i) *In general.* Paragraph (a)(1)(ii) of this section applies to taxable years beginning on or after

January 1, 2014. Section 1.1016–3(a)(1)(ii) as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(ii) *Optional early application.* A taxpayer may choose to apply paragraph (a)(1)(ii) of this section to taxable years beginning on or after January 1, 2012.

\* \* \* \* \*

**Guy R. Traynor,**

*Federal Register Liaison, Publication & Regulation Branch, Legal Processing Division, Associate Chief Counsel, Procedure & Administration.*

[FR Doc. 2012–30252 Filed 12–14–12; 8:45 am]

**BILLING CODE 4830–01–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 117**

[Docket No. USCG–2012–1052]

**Drawbridge Operation Regulation; Elizabeth River, Eastern Branch, Norfolk, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the operation of the Norfolk Southern #V2.8 Railroad Bridge across the Elizabeth River (Eastern Branch), mile 2.7, at Norfolk, VA. This deviation is necessary to facilitate replacing bearings on the Norfolk Southern #V2.8 Railroad Bridge. This temporary deviation will allow the drawbridge to remain in the closed-to-navigation position on specific dates and times.

**DATES:** This deviation is effective from 8 a.m. on December 18, 2012, until to 8 a.m. on December 21, 2012.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2012–1052 and are available online at [www.regulations.gov](http://www.regulations.gov), inserting USCG–2012–1052 in the “Search” box and then clicking “Search”. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary

deviation, call or email Mr. Jim Rousseau, Bridge Administration Branch, Fifth Coast Guard District; telephone (757) 398–6557, email [James.L.Rousseau2@uscg.mil](mailto:James.L.Rousseau2@uscg.mil). If you have any questions on reviewing the docket, call Renee V. Wright, Program Manager, Docket Operations, 202–366–9826.

**SUPPLEMENTARY INFORMATION:** The Norfolk Southern Corporation, owner and operator of the swing span Norfolk Southern #V2.8 Railroad Bridge, mile 2.7, at Norfolk, VA, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.1007(a), to accommodate bearing replacement.

Under the normal operating schedule the bridge shall be left in the open position at all times and will only be closed for the passage of trains and to perform periodic maintenance. The Norfolk Southern #V2.8 Bridge, at mile 2.7, across the Elizabeth River (Eastern Branch) in Norfolk, VA, has a vertical clearance in the closed position to vessels of 6 feet above mean high water.

To facilitate bearing replacement, the drawbridge will be maintained in the closed-to-navigation position from 8 a.m. on December 18, 2012, to 8 a.m. on December 21, 2013. The bridge normally operates in the open position with several vessels transiting a week. Coordination with waterway users has been completed.

The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the opening restrictions of the draw span to minimize transiting delays caused by this temporary deviation. There are no alternate routes available. Mariners able to pass under the bridge in the closed position may do so at any time and the bridge is not able to open for emergencies. Mariners are advised to proceed with caution.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 5, 2012.

**Waverly W. Gregory, Jr.,**

*Bridge Program Manager, Fifth Coast Guard District.*

[FR Doc. 2012–30286 Filed 12–14–12; 8:45 am]

**BILLING CODE 9110–04–P**