FR 1116), make the following corrections:

PART 308—[Corrected]

1. On page 1126, in the second column, the heading of the table of contents and new Subpart U heading are revised to read as follows: ''Subpart U—Removal, Suspension, and Debarment of Accountants From Performing Audit Services''

§ 308.604 [Corrected]

2. On page 1128, in the first column, in § 308.604(b)(1), remove ''§§ 308.603(b) through (d); or'' and add, ''§§ 308.603(a)(2) through (a)(4); or'' in its place.

§ 513.8 [Corrected]

3. On page 1128, in the second line of the third column, in § 513.8(a), remove ''loan holding.'' and add, ''loan holding companies.'' in its place.

4. On page 1130, in the first column, in the last word of § 513.8(j)(1)(iii), remove the word ''and'' and add ''or'' in its place.

Dated: January 17, 2003.

By order of the Board of Directors of the Federal Deposit Insurance Corporation.

Robert Feldman,

Executive Secretary.

Dated: January 22, 2003.

Marilyn K. Burton,

Federal Register Liaison Officer, Office of Thrift Supervision.

[FR Doc. 03–1960 Filed 1–30–03; 8:45 am]

BILLING CODE 6714–01–P; 6720–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[DEA–228A]

RIN 1117–AA66

Chemical Mixtures Containing Listed Forms of Phosphorus

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Drug Enforcement Administration (DEA) is soliciting information on chemical mixtures that contain the list I chemical phosphorus, which includes red phosphorus, white phosphorus, and hypophosphorous acid (and its salts) (hereafter referred to as regulated phosphorus). Specifically, DEA is interested in learning what products contain regulated phosphorus, and what concentrations of regulated phosphorus and other chemicals are used in their formulations. DEA is also interested in how chemical mixtures containing regulated phosphorus are packaged, distributed and used, and their availability at the retail level. DEA is seeking this information to help determine whether there are chemical mixtures (as defined in 21 U.S.C. 802(40)) containing regulated phosphorus that should be exempt from the regulations governing listed chemicals, pursuant to 21 U.S.C. 802(39)(A)(v). Exempt chemical mixtures are those formulations that contain any listed chemical, but are not subject to the regulatory controls of the Controlled Substances Act (CSA) that pertain to listed chemicals because they pose a limited risk of diversion to illicit channels.

On September 16, 1998, DEA published a Notice of Proposed Rulemaking in the **Federal Register** (63 FR 49506) that proposed regulations to define exempt chemical mixtures. Because regulated phosphorus was not then a listed chemical, regulations defining potential exempt chemical mixtures were not proposed. The information being requested in this Advance Notice of Proposed Rulemaking (ANPRM) will be used to help propose regulations to define what chemical mixtures containing regulated phosphorus may be exempt.

DATES: Written comments must be received on or before April 1, 2003.

ADDRESSES: Comments should be received to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC, 20537, Attention: DEA **Federal Register** Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537; Telephone (202) 307–7183.

SUPPLEMENTARY INFORMATION:

What Is Phosphorus, How Is It Used, and Which Forms Are Regulated?

Phosphorus is a nonmetallic element that can occur in three main allotropic (*i.e.* crystalline) forms (white, red, and black), none of which have retail uses. White phosphorus, red phosphorus, and hypophosphrous acid and its salts are list I chemicals. Black phosphorus is not a regulated form of phosphorus. Phosphorus is used as a co-reactant, along with iodine or hydriodic acid, in the clandestine manufacture of the Schedule II controlled substances methamphetamine and amphetamine.

White phosphorus is the most abundant form of phosphorus produced industrially. Most other forms of phosphorus and phosphorus chemicals are produced from white phosphorus, including phosphorus acid, phosphorus trichloride, phosphorus pentasulfide, and phosphorus pentoxide. Over 98% of the annual U.S. phosphorus demand is used in the production of these four compounds, none of which is regulated.

The second crystalline form is red phosphorus. Red phosphorus is usually prepared as a powder and is more stable and less toxic than the white form. Industrial uses of red phosphorus include the manufacture of pyrotechnics, safety matches, phosphoric acid an other phosphorus compounds, fertilizers, incendiary shells, smoke bombs, tracer bullets, and pesticides. Red phosphorus is used to produce an ultra-high-purity phosphorus for application in the electronics industry. A black crystalline form of phosphorus is also occasionally made and is similar to graphite in its physical, thermal, and electrical properties. Black phosphorus is not regulated because it does not have the reactivity needed for use in clandestine operations.

Hypophosphorus acid (H_3PO_2) and its salts are list I chemicals. Hypophosphorus acid is most commonly sold in aqueous solutions, all of which are regulated as list I chemicals and not regarded as chemical mixtures. There are no retail uses for this chemical. Hypophosphorus acid is commonly used by large industry as a bleaching, color stabilization or decoloring agent for plastics, synthetic fibers (primarily polyester) and chemicals. Hypophosphorus acid is also used as a chemical intermediate in organic synthesis and as a polymerization and polycondensation catalyst. It also has applications as a reducing agent and as an antioxidant.

Salts of hypophosphorus acid are known as hypophosphite salts. Examples of these salts include: ammonium hypophosphite, iron hypophosphite, potassium hypophosphite, manganese hypophosphite, and sodium hypophosphite. The two most common salts of hypophosphorus acid are sodium hypophosphite and manganese hypophosphite. The sodium salt is used primarily in electroless nickel plating. It is also used as a reducing agent, analytical reagent, polymerization catalyst, polymer stabilizer, and fire retardant. While the manganese salt is used primarily in nylon fiber production, it also has application as a

chemical intermediate. They are not sold at retail.

How Did Red Phosphorus, White Phosphorus, and Hypophosphorus Acid (and Its Salts) Become List I Chemicals?

On September 25, 2000, DEA published a Notice of Proposed Rulemaking (65 FR 57577) that proposed that red phosphorus, white phosphorus, and hypophosphorus acid (and its salts) be placed in list I by amending 21 Code of Federal Regulations (CFR) 1310.02(a). On October 17, 2001, a Final Rule with request for comments was published in the **Federal Register** (66 FR 52670) which amended 21 CFR 1310.02(a) and placed these chemicals in list I of the CSA. Placing these forms of phosphorus in list I became necessary because they are used in the illicit manufacturing of methamphetamine, a Schedule II controlled substance.

The CSA requires that all handlers of red phosphorus, white phosphorus, and hypophosphorus acid (and its salts) must register as set forth in 21 CFR part 1309 and keep records and file reports as set forth in 21 CFR part 1310. Until regulations that delineate criteria and procedures for exempting specific regulated phosphorus-containing chemical mixtures are finalized, DEA is treating regulated phosphorus-containing chemical mixtures as being exempt from the chemical regulatory requirements of the CSA.

Why Is DEA Interested in Learning About Chemical Mixtures Containing Regulated Phosphorus?

DEA is in the process of establishing regulations that define which chemical mixtures are exempt from CSA regulatory controls. The CSA defines the term ''chemical mixture'' as ''a combination of two or more chemical substances, at least one of which is not a list I chemical or a list II chemical, except that such term does not include any combination of a lsit I chemical or a list II chemical that is present solely as an impurity.'' The CSA further allows exemption of chemical mixtures ''based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered.''

A notice of proposed rule making (NPRM) regarding the exemption of chemical mixtures was published in the **Federal Register** on September 16, 1998 (63 FR 49506). The NPRM proposed regulations to identify if a chemical mixture is automatically exempt from CSA regulatory controls. When the NPRM was published, white phosphorus, red phosphorus, and hypophosphorus acid (and its salts) were not regulated chemicals. Therefore, regulations addressing the exemption of chemical mixtures containing regulated phosphorus were not proposed.

The NPRM proposed a concentration limit for each listed chemical. If a listed chemical is found in a chemical mixture at or below the concentration limit, the mixture is exempt. Also proposed were categories of exempt chemical mixtures and an application process. The application process is a means to exempt chemical mixtures not automatically exempted by regulation. These approaches were well received by the regulated industry and may be proposed to identify exempt chemical mixtures containing regulated phosphorus.

What Is DEA Requesting in This ANPRM?

To propose regulations in line with the above approaches, DEA is interested in learning about formulations that contain regulated phosphorus. While some formulations containing regulated phosphorus have been identified, DEA is not aware of the entire scope of mixtures containing regulated phosphorus, including how they are used, traded, and their chemical composition. DEA invites all interested persons to provide any information on chemical mixtures containing regulated phosphorus. Both quantitative and qualitative information is requested. If the concentration of a chemical(s) varies in a formulation, DEA is interested in the range of concentration. Also of interest is how the mixtures are packaged, distributed, type of application, and the target market (*e.g.,* type of industry, availability at retail, Internet sales). This information will be used to propose regulations to exempt any chemical mixture that, according to 21 U.S.C. 802(39)(A)(v), is ''formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered.''

Such information may be submitted to the address listed above and is requested by April 1, 2003. Information designated as confidential or proprietary will be treated accordingly. The release of confidential business information that is protected from disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), is governed by section 310(c) of the CSA (21 U.S.C. 830(c)) and the Department of Justice procedures set forth in 28 CFR 16.8.

Dated: January 22, 2003.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 03–2296 Filed 1–30–03; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–125638–01]

RIN 1545–BA00

Guidance Regarding Deduction and Capitalization of Expenditures; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains corrections to a notice of proposed rulemaking and notice of public hearing that explains how section 263(a) of the Internal Revenue Code (Code) applies to amounts paid to acquire, create, or enhance intangible assets. This document was published in the **Federal Register** on December 19, 2002 (67 FR 77701).

FOR FURTHER INFORMATION CONTACT: Andrew J. Keyso (202) 927–9397 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are the subject of these corrections are under sections 263(a), 167, and 446 of the Internal Revenue Code.

Need for Correction

As published, the proposed regulations REG–125638–01, contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed regulations REG–125638–01, which is the subject of FR Doc. 02–31859, is corrected as follows:

1. On page 77704, column 1, in the preamble, under the paragraph heading ''Amounts Paid to Obtain or Modify Contract Rights'', paragraph 4, the last two lines of the paragraph, the language ''agreement is a separate and distinct asset'' is corrected to read ''agreement is a separate and distinct intangible asset''.