

(1) If no cracking is detected, repeat the inspection thereafter at intervals not to exceed 1,000 flight cycles on the straight fuse pin.

(2) If any cracking is detected, prior to further flight, accomplish the requirements of either paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) Replace the cracked straight fuse pin with a new straight fuse pin, P/N 311N5067-1. Prior to the accumulation of 3,800 total flight cycles on that newly installed straight fuse pin, perform an eddy current inspection to detect cracking in that straight fuse pin, in accordance with the service bulletin. Repeat the inspection thereafter at intervals not to exceed 1,000 flight cycles on that newly installed straight fuse pin. Or

(ii) Replace the cracked straight fuse pin with a new 15-5PH fuse pin, P/N 311N5217-1. Prior to the accumulation of 14,000 total flight cycles on that newly installed 15-5PH fuse pin, perform an eddy current inspection to detect cracking in that newly installed 15-5PH fuse pin, in accordance with the procedures described in the service bulletin. Repeat the inspection thereafter at intervals not to exceed 3,500 flight cycles on that newly installed 15-5PH fuse pin.

(b) For airplanes equipped with refinished straight fuse pins, P/N 311N5067-1: Prior to the accumulation of 1,000 total flight cycles on the refinished straight fuse pin, perform an eddy current inspection to detect cracking in the refinished straight fuse pins, in accordance with Boeing Service Bulletin 757-54A0019, Revision 5, dated March 17, 1994.

(1) If no cracking is detected, repeat the inspection thereafter at intervals not to exceed 1,000 flight cycles on the refinished straight fuse pin.

(2) If any cracking is detected, prior to further flight, accomplish the requirements of either paragraph (b)(2)(i), (b)(2)(ii), or (b)(2)(iii) of this AD, in accordance with the service bulletin.

(i) Replace the cracked refinished straight fuse pin with a crack-free refinished straight fuse pin, P/N 311N5067-1. Prior to the accumulation of 1,000 total flight cycles on that newly installed refinished straight fuse pin, perform an eddy current inspection to detect cracking in that newly installed refinished straight fuse pin, in accordance with the procedures described in the service bulletin. Repeat this inspection thereafter at intervals not to exceed 1,000 flight cycles on the newly installed refinished straight fuse pin. Or

(ii) Replace the cracked refinished straight fuse pin with a new straight fuse pin, P/N 311N5067-1. Prior to the accumulation of 3,800 total flight cycles on that newly installed straight fuse pin, perform an eddy current inspection to detect cracking in that newly installed straight fuse pin, in accordance with the service bulletin. Repeat the inspection thereafter at intervals not to exceed 1,000 flight cycles on that newly installed straight fuse pin. Or

(iii) Replace the cracked refinished straight fuse pin with a new 15-5PH fuse pin, P/N 311N5217-1. Prior to the accumulation of 14,000 total flight cycles on that newly installed 15-5PH fuse pin, perform an eddy

current inspection to detect cracking in that newly installed 15-5PH pin, in accordance with the procedures described in the service bulletin. Repeat the inspection thereafter at intervals not to exceed 3,500 flight cycles on that newly installed 15-5PH fuse pin.

(c) For airplanes equipped with bulkhead fuse pins, P/N 311N5211-1: Within 3,000 flight cycles after the effective date of this AD, replace the bulkhead fuse pins with 15-5PH fuse pins, P/N 311N5217-1, in accordance with Boeing Service Bulletin 757-54A0019, Revision 5, dated March 17, 1994, and accomplish the requirements of paragraph (d) of this AD.

(d) For airplanes equipped with 15-5PH fuse pins: Prior to the accumulation of 14,000 total flight cycles on the 15-5PH fuse pins, perform an eddy current inspection to detect cracking in those 15-5PH fuse pins, in accordance with the procedures described in Boeing Service Bulletin 757-54A0019, Revision 5, dated March 17, 1994.

(1) If no cracking is detected, repeat the inspection thereafter at intervals not to exceed 3,500 flight cycles on the 15-5PH fuse pin.

(2) If any cracking is detected, accomplish the requirements of both paragraphs (d)(2)(i) and (d)(2)(ii) of this AD.

(i) Prior to further flight, replace any cracked 15-5PH fuse pin with a new 15-5PH fuse pin, P/N 311N5217-1, in accordance with the procedures described in the service bulletin. And

(ii) Prior to the accumulation of 14,000 total flight cycles on that newly installed 15-5PH fuse pin, perform an eddy current inspection to detect cracking in that newly installed 15-5PH fuse pin, in accordance with the procedures described in the service bulletin. Repeat the inspection thereafter at intervals not to exceed 3,500 flight cycles on that newly installed 15-5PH fuse pin.

(e) Fuse pins must be of the same type on the same strut. For example, a steel fuse pin having P/N 311N5067-1 may not be installed on the same strut that has a corrosion-resistant steel (CRES) fuse pin having P/N 311N5217-1 installed on that strut. However, fuse pins on one strut may differ from those on another strut, provided the fuse pins are not of mixed types on the same strut.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 2, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95-14055 Filed 6-7-95; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[INTL-0024-94]

RIN 1545-AS83

Taxpayer Identifying Numbers (TIN)

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document withdraws the notice of proposed rulemaking relating to taxpayer identifying numbers published in the **Federal Register** on September 27, 1990, at 55 FR 39486. This document also contains proposed amendments to the regulations relating to requirements for furnishing a taxpayer identifying number on returns, statements, or other documents. These amendments set forth procedures for requesting a taxpayer identifying number for certain alien individuals for whom a social security number is not available. These numbers would be called "IRS individual taxpayer identification numbers." These amendments also require certain foreign persons to furnish a taxpayer identifying number on their tax returns. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments and outlines of the oral comments to be presented at the public hearing scheduled for 10 a.m. on September 28, 1995, must be received by September 7, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (INTL-0024-94), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (INTL-0024-94), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. The public hearing will be held in the Internal Revenue Service Auditorium, 7400 corridor, 1111

Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Concerning the regulations, Lilo A. Hester (202) 874-1490; concerning submissions and the hearing, Christina Vasquez (202) 622-7180 (not a 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 (44 U.S.C. 3504(h)). 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, PC:FP, Washington, DC 20224.

The collection of information from certain resident alien individuals and foreign persons required to furnish taxpayer identifying numbers under section 6109 of the Internal Revenue Code (Code) is found in § 301.6109-1. This information will be used by the IRS for tax administration purposes. The likely respondents and recordkeepers are certain resident alien individuals and foreign persons such as nonresident alien individuals and foreign corporations who make a return of tax.

The burden for the collection of information contained in § 301.6109-1(d) is reflected in the burden of Form W-7.

Background

This document withdraws the notice of proposed rulemaking under section 6109 published in the *Federal Register* on September 27, 1990 at 55 FR 39486. This document also contains proposed amendments to 26 CFR part 301 to provide rules under section 6109 of the Internal Revenue Code relating to a new type of taxpayer identifying number.

Explanation of Provisions

In General

Section 6109(a) of the Code provides that, when required by regulations, a person must furnish a taxpayer identifying number (TIN) for securing proper identification of that person on any return, statement, or other document made under the Code. The assignment of a unique and permanent number to each taxpayer is important for the effective operation of the IRS

automatic data processing system. The numbering system improves the IRS' ability to identify and access database records; to match information provided on tax and information returns, statements, and other documents with the proper taxpayers; and to provide better customer service to taxpayers.

The Treasury Department and the IRS are concerned about individuals who are filing tax returns but who are unable to obtain a social security number. In order to insure that all taxpayers required to provide a TIN for tax purposes are able to obtain one, the IRS is developing a separate numbering system that will make unique and permanent numbers available to those individuals. The proposed regulations explain how alien individuals, whether resident or nonresident, can obtain an IRS individual taxpayer identification number from the IRS.

The regulations require any foreign person who makes a return to provide a TIN on the return. This TIN may be an employer identification number, a social security number, or a new IRS individual taxpayer identification number in the case of an alien individual who does not have a social security number and cannot obtain one.

The Treasury Department and the IRS are also considering changes to the procedures that apply to withholding tax on payments to foreign persons in order to encourage compliance and reduce paperwork burden. The Treasury Department and the IRS are aware that significant changes in this area will impact some aspects of transactions subject to withholding. Accordingly, the Treasury Department and the IRS intend to move very cautiously, particularly by considering the possible effect of changes in these procedures on investment decisions by foreign persons and by considering the adequacy of existing procedures for those taxpayers who wish to continue to comply with current rules. Generally, no new procedures will be adopted without adequate opportunity for public comment and appropriate transition periods before taking effect. This will not, however, preclude the Treasury Department and the IRS from adopting new procedures to replace the current address rule for dividends.

Specific Changes

The most significant changes proposed by these regulations are described below. The first change is the introduction of a new IRS-issued TIN for use by alien individuals who currently do not have, and are not eligible to obtain, social security numbers. The number is called an IRS

individual taxpayer identification number (ITIN). This number is intended to be issued to alien individuals, whether resident or nonresident, who are currently required to furnish a number for tax purposes but who are not entitled to obtain social security numbers. Therefore, these amendments are designed to help taxpayers maintain compliance with TIN requirements under the Code and regulations. The Social Security Administration limits its assignment of social security numbers to individuals who are U.S. citizens and alien individuals legally admitted to the United States for permanent residence or under other immigration categories which authorize U.S. employment. Therefore, IRS-issued numbers are necessary for those individuals who need a TIN but cannot qualify for a social security number.

The second change is to modify the existing rule set forth in § 301.6109-1(g) that currently excludes from the general requirement of providing a TIN, foreign persons that do not have either (1) income effectively connected with the conduct of a U.S. trade or business or (2) a U.S. office or place of business or a U.S. fiscal or paying agent. Under the proposed regulations, the exclusion is modified to require that any foreign person who makes a return of tax furnish its TIN on that return. This change is intended solely to address the IRS' and Treasury's concern that, without TINs, taxpayers cannot be identified and tax returns cannot be processed effectively.

The Treasury Department and the IRS are giving added thought to applying the TIN requirement to facilitate changes to the procedures that apply to withholding taxes on payments to foreign persons. Decisions with respect to the withholding tax system have yet to be made, and when made, will be proposed in subsequent regulations. The Treasury Department and the IRS will proceed cautiously in expanding the scope of the TIN requirement and will consider the adequacy of existing procedures for those taxpayers who wish to continue to comply with current rules.

The IRS individual taxpayer identification numbers issued under this regulation will differ from, and replace, the "temporary" TINs the IRS currently issues under the authority of section 6109(c). For example, after declaring in Rev. Rul. 84-158, 1984-2 C.B. 262, that a partnership must request the social security numbers of its individual partners (including a nonresident alien limited partner), the IRS announced in Rev. Rul. 85-61, 1985-1 C.B. 355, that it would issue

temporary numbers to nonresident alien limited partners who do not have, and cannot obtain, social security numbers. All of these temporary numbers, however, will be retired upon subsequent revocation of these revenue rulings.

IRS individual taxpayer identification numbers are intended for tax use only. For example, the numbers will create no inference regarding the immigration status of a foreign person or the right of that person to be legally employed in the United States. The IRS individual taxpayer identification numbers and the information obtained by the IRS as a result of issuing numbers constitute confidential taxpayer information. Section 6103 strictly prohibits the disclosure of this information to other government agencies, private entities, or citizens. Disclosure in violation of the restrictions under section 6103 may lead to civil or criminal penalties.

Section-by-Section Analysis

Proposed § 301.6109-1(a)(1)(i) provides a general description of the types of TINs, including the new IRS individual taxpayer identification number. The IRS individual taxpayer identification number will begin with a specific number designated by the IRS and will otherwise resemble a social security number. Proposed § 301.6109-1(a)(1)(ii) provides general rules for use of the different TINs, including the rule for an estate to obtain and furnish its employer identification number when required, such as in its capacity as a payor or payee of royalties. This rule for estates was announced previously in the proposed regulations under section 6109 published in the **Federal Register** at 55 FR 39486 on September 27, 1990.

The requirement for foreign persons to provide a TIN if they have income effectively connected with the conduct of a U.S. trade or business, if they have a U.S. office or place of business, or a U.S. fiscal or paying agent during the taxable year, or if they are treated as resident alien individuals under section 6013(g) or (h), is restated without change in proposed §§ 301.6109-1(b)(2) and (c). However, proposed § 301.6109-1(b)(2)(iv) modifies the exclusion currently provided in § 301.6109-1(g) with respect to other foreign persons by providing that a foreign person filing a return of tax is subject to the TIN requirements under section 6109. For this purpose, a return of tax includes income, estate, and gift tax returns but excludes information returns, statements or other documents. This requirement is proposed to be effective for foreign persons who file returns of tax after December 31, 1995.

The provisions of § 301.6109-1(d)(2) dealing with obtaining an employer identification number are unchanged except to specify that a Form SS-4 will be available from U.S. consular offices abroad. This change is intended to accommodate those foreign persons that are required to provide an employer identification number.

The procedures governing the new IRS individual taxpayer identification number, including procedures for obtaining such a number, are set forth in proposed § 301.6109-1(d)(3). An IRS individual taxpayer identification number is applied for on Form W-7, Application for IRS Individual Taxpayer Identification Number. Under normal procedures, the application is submitted to the IRS for processing together with required documentation designed to substantiate foreign status, as well as true identity. Further guidance will be issued to specify the types of acceptable documentation. Because the IRS intends to rely as much as possible on the identifying documents that are customarily used in a foreign jurisdiction to identify a resident in that jurisdiction, the documentation requirements are likely to vary from country to country. Comments and suggestions are solicited regarding the type of documents that could be used reliably to establish the identity of taxpayers and their foreign status.

The IRS is planning a wide distribution of application forms in the United States and abroad and will insure that the form is easily available to the public. Further, in order to facilitate the application process and to expedite the issuance of the TINs, the regulations propose to authorize agreements that would permit certain persons to act as an applicant's agent. These agents are called acceptance agents. Generally, an acceptance agent may include financial institutions or educational institutions, i.e., institutions that are likely to come in contact with a large number of foreign taxpayers earning U.S. source income and that can establish to the IRS that they have the resources and procedures necessary to undertake the duties expected from an acceptance agent.

Under an agreement with the IRS, an acceptance agent would assume responsibility for providing the necessary information to the IRS for the issuance of a number, together with a certification that the applicant is a foreign person. The certification would be issued on the basis of prescribed documentation obtained from the applicant. Under this procedure, no documentation generally would be required to be furnished to the IRS,

except as part of a verification process by which the IRS may periodically verify the agent's compliance with the agreement. In order to streamline the process and facilitate the agent's due diligence under the agreement, the agreement would specify the type of documentation that must be obtained to verify foreign status and true identity of an applicant.

Proposed § 301.6109-1(d)(4) provides rules for the coordination of the different TINs. A person entitled to a social security number will not be issued an IRS individual taxpayer identification number. Once a person has a social security number, that number must be used for all tax purposes, even though the person is a nonresident alien. A nonresident alien who is issued an IRS individual taxpayer identification number and later becomes entitled to a social security number (e.g., becomes a U.S. resident under an immigration visa) must apply for a social security number and must stop using the IRS number. IRS matching systems will help the IRS detect taxpayers who are incorrectly using an IRS individual taxpayer identification number. The IRS will contact those individuals and request that they obtain a social security number.

Section 301.6109-1(f) is modified to cross reference the new penalty provisions under sections 6721 through 6724.

Proposed § 301.6109-1(g)(1) provides the general rule that, in the IRS records, a person with a social security number or an employer identification number will normally be identified as a U.S. person. Regulations to be issued at a later time may make it important for a person to be identified correctly in the IRS records as a U.S. or a foreign person. Accordingly, these proposed regulations provide that the foreign person with a social security number or an employer identification number may establish foreign status with the IRS. Any foreign person that holds an employer identification number issued prior to the effective date of this proposed regulation may continue to use its employer identification number for tax purposes. However, when requested by the IRS, such persons must apply for a new employer identification number that is exclusively dedicated to foreign persons. Proposed § 301.6109-1(g)(1) also provides that an IRS individual taxpayer identification number is considered by the IRS to belong to a nonresident alien individual if the foreign status of the individual is established upon initial application for the number. If foreign status is not

established, the IRS will generally require the individual to apply for a social security number. In rare cases when a resident alien individual is not eligible for a social security number, the taxpayer will be entitled to use an IRS individual taxpayer identification number, and the IRS will note in its records that the number belongs to a U.S. person.

No re-filings are required in order to maintain foreign status described in proposed § 301.6109-1(g)(1). However, proposed § 301.6109-1(g)(2) provides that if circumstances change (for example, a taxpayer becomes a U.S. resident), then the taxpayer must notify the IRS to record the change of status. The IRS will issue guidance on procedures for notifying the IRS of a person's status or changes thereof.

Proposed § 301.6109-1(g)(3) concerns disclosure provisions. In order to make the acceptance agent's procedures possible, it is necessary that taxpayers requesting a TIN through an acceptance agent authorize the disclosure of taxpayer information to the extent necessary to allow communications between the IRS and the acceptance agent in the course of the issuance and administration of the number. Accordingly, the application form will include a waiver of the prohibition against disclosure of taxpayer information in order to permit the IRS to communicate with an acceptance agent regarding matters related to the assignment of a TIN.

Proposed Effective Date

These regulations would apply to returns, statements, or documents filed after December 31, 1995, except the provision relating to the requirement for an estate to obtain an employer identification number applies on and after January 1, 1984. Thus, these regulations would apply to foreign persons described in proposed § 301.6109-1(b)(2)(iv) who file a return of tax after December 31, 1995.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis 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 that are submitted timely (preferably a signed original and eight (8) copies) to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for 10 a.m. on September 28, 1995. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic by September 7, 1995.

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 proposed regulations is Lilo A. Hester of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, IRS. However, other personnel from the IRS and Treasury Department participated in their development.

Withdrawal of Proposed Regulations

The previously proposed regulations under § 301.6109-1, as published in the **Federal Register** on September 27, 1990, at 55 FR 39486, are hereby withdrawn.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by adding an entry in numerical order to read in part as follows:

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

Section 301.6109-1 also issued under 26 U.S.C. 6109(a), (c), and (d). * * *

Par. 2. Section § 301.6109-1 is amended as follows:

1. Paragraphs (a)(1), (b), (c), and (d)(2) are revised.

2. Paragraphs (d)(3) and (4) are added.

3. Paragraphs (f), (g), and (h) are revised.

The revisions and additions read as follows:

§ 301.6109-1 Identifying numbers.

(a) *In general*—(1) *Taxpayer identifying numbers*—(i) *Types.* There are generally three types of taxpayer identifying numbers: social security numbers, Internal Revenue Service (IRS) individual taxpayer identification numbers, and employer identification numbers. Social security numbers take the form 000-00-0000, IRS individual taxpayer identification numbers take the form 000-00-0000 but begin with a specific number designated by the IRS, and employer identification numbers take the form 00-0000000. Both social security numbers and IRS individual taxpayer identification numbers identify individual persons. For the definition of social security number and employer identification number, see §§ 301.7701-11 and 301.7701-12, respectively. For the definition of IRS individual taxpayer identification number, see paragraph (d)(3) of this section.

(ii) *Uses.* Except as otherwise provided in applicable regulations under this title or on a return, statement, or other document, and related instructions, taxpayer identifying numbers must be used as follows:

(A) Except as otherwise provided in paragraphs (a)(1)(ii)(B) and (D) of this section, an individual required to furnish a taxpayer identifying number must use a social security number.

(B) Except as otherwise provided in paragraph (a)(1)(ii)(D) of this section, an individual required to furnish a taxpayer identifying number but who is not eligible to obtain a social security number, must use an IRS individual taxpayer identification number.

(C) Any person other than an individual (such as corporations, partnerships, nonprofit associations, trusts, estates, and similar nonindividual persons) that is required to furnish a taxpayer identifying number must use an employer identification number.

(D) An individual, whether U.S. or foreign, who is an employer or who is engaged in trade or business as a sole proprietor should use an employer identification number as required by

returns, statements, or other documents and their related instructions.

* * * * *

(b) *Requirement to furnish one's own number*—(1) *U.S. persons.* Every U.S. person who makes under this title a return, statement, or other document must furnish its own taxpayer identifying number as required by the forms and the accompanying instructions. A U.S. person whose number must be included on a document filed by another person must give the taxpayer identifying number so required to the other person on request. For penalties for failure to supply taxpayer identifying numbers, see sections 6721 through 6724. For provisions dealing specifically with the duty of employees with respect to their social security numbers, see § 31.6011(b)-2 (a) and (b) of this chapter (Employment Tax Regulations). For provisions dealing specifically with the duty of employers with respect to employer identification numbers, see § 31.6011(b)-1 of this chapter (Employment Tax Regulations).

(2) *Foreign persons.* The provisions of paragraph (b)(1) of this section regarding the furnishing of one's own number shall apply to the following foreign persons—

(i) A foreign person that has income effectively connected with the conduct of a U.S. trade or business at any time during the taxable year;

(ii) A foreign person that has a U.S. office or place of business or a U.S. fiscal or paying agent at any time during the taxable year;

(iii) A nonresident alien treated as a resident under section 6013(g) or (h); and

(iv) Any other foreign person who makes a return of tax under this title (including income, estate, and gift tax returns) but excluding information returns, statements, or documents.

(c) *Requirement to furnish another's number.* Every person required under this title to make a return, statement, or other document must furnish such taxpayer identifying numbers of other U.S. persons and foreign persons that are described in paragraph

(b)(2) (i), (ii), or (iii) of this section as required by the forms and the accompanying instructions. If the person making the return, statement, or other document does not know the taxpayer identifying number of the other person, such person must request the other person's number. A request should state that the identifying number is required to be furnished under authority of law. When the person making the return, statement, or other

document does not know the number of the other person, and has complied with the request provision of this paragraph, such person must sign an affidavit on the transmittal document forwarding such returns, statements, or other documents to the Internal Revenue Service, so stating. A person required to file a taxpayer identifying number shall correct any errors in such filing when such person's attention has been drawn to them.

(d) * * *

(2) *Employer identification number.*

Any person required to furnish an employer identification number must apply for one, if not done so previously, on Form SS-4. A Form SS-4 may be obtained from any office of the Internal Revenue Service, U.S. consular office abroad, or from an acceptance agent described in paragraph (d)(3)(iv) of this section. The person must make such application in advance of the first required use of the employer identification number to permit issuance of the number in time for compliance with such requirement. The form, together with any supplementary statement, must be prepared and filed in accordance with the form, accompanying instructions, and relevant regulations, and must set forth fully and clearly the requested data.

(3) *IRS individual taxpayer identification number*—(i) *Definition.* The term *IRS individual taxpayer identification number* means a taxpayer identifying number issued to an alien individual by the Internal Revenue Service, upon application, for use in connection with filing requirements under this title. The term *IRS individual taxpayer identification number* does not refer to a social security number or an account number for use in employment for wages. For purposes of this section, the term *alien individual* means an individual who is not a citizen or national of the United States.

(ii) *General rule for obtaining number.* Any individual who is not eligible to obtain a social security number and is required to furnish a taxpayer identifying number must apply for an IRS individual taxpayer identification number on Form W-7, Application for IRS Individual Taxpayer Identification Number, or such other form as may be prescribed by the Internal Revenue Service. Form W-7 may be obtained from any office of the Internal Revenue Service, U.S. consular office abroad, or any acceptance agent described in paragraph (d)(3)(iv) of this section. The individual shall furnish the information required by the form and accompanying instructions, including the individual's name, address, foreign tax identification

number (if any), and specific reason for obtaining an IRS individual taxpayer identification number. The individual must make such application in advance of the first required use of the IRS individual taxpayer identification number to permit issuance of the number in time for compliance with such requirement. The application form, together with any supplementary statement and documentation, must be prepared and filed in accordance with the form, accompanying instructions, and relevant regulations, and must set forth fully and clearly the requested data.

(iii) *General rule for assigning number.* Under procedures issued by the Internal Revenue Service, an IRS individual taxpayer identification number will be assigned to an individual upon the basis of information reported on Form W-7 (or such other form as may be prescribed by the Internal Revenue Service) and any such accompanying documentation that may be required by the Internal Revenue Service. An applicant for an IRS individual taxpayer identification number must submit such documentary evidence as the Internal Revenue Service may prescribe in order to establish alien status and identity. Examples of acceptable documentary evidence for this purpose may include items such as an original (or a certified copy of the original) passport, driver's license, birth certificate, identity card, or U.S. visa.

(iv) *Acceptance agents*—(A) *Agreements with acceptance agents.* A person described in paragraph (d)(3)(iv)(B) of this section will be accepted by the Internal Revenue Service to act as an acceptance agent for purposes of the regulations under this section upon entering into an agreement with the Internal Revenue Service, under which the acceptance agent will be authorized to act on behalf of taxpayers seeking to obtain a taxpayer identifying number from the Internal Revenue Service. The agreement must contain such terms and conditions as are necessary to insure proper administration of the process by which the Internal Revenue Service issues taxpayer identifying numbers to foreign persons, including proof of their identity and foreign status. In particular, the agreement may contain—

(1) Procedures for providing Form SS-4 and Form W-7, or such other necessary form to applicants for obtaining a taxpayer identifying number;

(2) Procedures for providing assistance to applicants in completing

the application form or completing it for them;

(3) Procedures for collecting, reviewing, and maintaining, in the normal course of business, a record of the required documentation for assignment of a taxpayer identifying number;

(4) Procedures for submitting the application form and required documentation to the Internal Revenue Service, or if permitted under the agreement, submitting the application form together with a certification that the acceptance agent has reviewed the required documentation and that it has no actual knowledge or reason to know that the documentation is not complete or accurate;

(5) Procedures for assisting taxpayers with notification procedures described in paragraph (g)(2) of this section in the event of change of foreign status;

(6) Procedures for making all documentation or other records furnished by persons applying for a taxpayer identifying number promptly available for review by the Internal Revenue Service, upon request; and

(7) Provisions that the agreement may be terminated in the event of a material failure to comply with the agreement, including failure to exercise due diligence under the agreement.

(B) *Persons who may be acceptance agents.* An acceptance agent may include any financial institution as defined in section 265(b)(5) or § 1.165-12(c)(1)(v) of this chapter, any college or university that is an educational organization as defined in § 1.501(c)(3)-1(d)(3)(i) of this chapter, any federal agency as defined in section 6402(f) or any other person or categories of persons that may be authorized by regulations or Internal Revenue Service procedures. A person described in this paragraph (d)(3)(iv)(B) that seeks to qualify as an acceptance agent must have an employer identification number for use in any communication with the Internal Revenue Service. In addition, it must establish to the satisfaction of the Internal Revenue Service that it has adequate resources and procedures in place to comply with the terms of the agreement described in paragraph (d)(3)(iv)(A) of this section.

(4) *Coordination of taxpayer identifying numbers—(i) Social security number.* Any individual who is duly assigned a social security number or who is entitled to a social security number will not be issued an IRS individual taxpayer identification number. The individual can use the social security number for all tax purposes under this title, even though the individual is, or later becomes, a

nonresident alien individual. Further, any individual who has an application pending with the Social Security Administration will be issued an IRS individual taxpayer identification number only after the Social Security Administration has notified the individual that a social security number cannot be issued. Any alien individual duly issued an IRS individual taxpayer identification number who later becomes a U.S. citizen, or an alien lawfully permitted to enter the United States either for permanent residence or under authority of law permitting U.S. employment, will be required to obtain a social security number. Any individual who has an IRS individual taxpayer identification number and a social security number, due to the circumstances described in the preceding sentence, must notify the Internal Revenue Service of the acquisition of the social security number and must use the newly-issued social security number as the taxpayer identifying number on all future returns, statements, or other documents filed under this title.

(ii) *Employer identification number.* Any individual with both a social security number (or an IRS individual taxpayer identification number) and an employer identification number may use the social security number (or the IRS individual taxpayer identification number) for individual taxes, and the employer identification number for business taxes as required by returns, statements, and other documents and their related instructions. Any alien individual duly assigned an IRS individual taxpayer identification number who also is required to obtain an employer identification number must furnish the previously-assigned IRS individual taxpayer identification number to the Internal Revenue Service on Form SS-4 at the time of application for the employer identification number. Similarly, where an alien individual has an employer tax identification number and is required to obtain an IRS individual taxpayer identification number, the individual must furnish the previously-assigned employer identification number to the Internal Revenue Service on Form W-7, or such other form as may be prescribed by the Internal Revenue Service, at the time of application for the IRS individual taxpayer identification number.

* * * * *

(f) *Penalty.* For penalties for failure to supply taxpayer identifying numbers, see sections 6721 through 6724.

(g) *Special rules for taxpayer identifying numbers issued to foreign*

persons—(1) General rule—(i) Social security number. A social security number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. citizen or resident alien individual. A person may establish a different status for the number by providing proof of foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. Upon accepting an individual as a nonresident alien individual, the Internal Revenue Service will assign this status to the individual's social security number.

(ii) *Employer identification number.* An employer identification number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. person. However, the Internal Revenue Service may establish a separate class of employer identification numbers solely dedicated to foreign persons which will be identified as such in the records and database of the Internal Revenue Service. A person may establish a different status for the number either at the time of application or subsequently by providing proof of U.S. or foreign status with the Internal Revenue Service under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify. The Internal Revenue Service may require a person to apply for the type of employer identification number that reflects the status of that person as a U.S. or foreign person.

(iii) *IRS individual taxpayer identification number.* An IRS individual taxpayer identification number is generally identified in the records and database of the Internal Revenue Service as a number belonging to a nonresident alien individual. If the Internal Revenue Service determines at the time of application or subsequently, that an individual is not a nonresident alien individual, the Internal Revenue Service may require that the individual apply for a social security number. If a social security number is not available, the Internal Revenue Service may accept that the individual use an IRS individual taxpayer identification number, which the Internal Revenue Service will identify as a number belonging to a U.S. resident alien.

(2) *Change of foreign status.* Once a taxpayer identifying number is identified in the records and database of the Internal Revenue Service as a number belonging to a U.S. or foreign person, the status of the number is

permanent until the circumstances of the taxpayer change. A taxpayer whose status changes (for example, a nonresident alien individual with a social security number becomes a U.S. resident alien) must notify the Internal Revenue Service of the change of status under such procedures as the Internal Revenue Service shall prescribe, including the use of a form as the Internal Revenue Service may specify.

(3) *Waiver of prohibition to disclose taxpayer information when acceptance agent acts.* As part of its request for an IRS individual taxpayer identification number or submission of proof of foreign status with respect to any taxpayer identifying number, where the foreign person acts through an acceptance agent, the foreign person will agree to waive the limitations in section 6103 regarding the disclosure of certain taxpayer information. However, the waiver will apply only for purposes of permitting the Internal Revenue Service and the acceptance agent to communicate with each other regarding matters related to the assignment of a taxpayer identifying number and change of foreign status.

(h) *Effective date.* The provisions of this section generally are effective for any return, statement, or other document to be filed after December 31, 1995. However, the provision of paragraph (a)(1)(ii) of this section that requires an estate to obtain an employer identification number applies on and after January 1, 1984.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 95-13818 Filed 6-7-95; 8:45 am]

BILLING CODE 4830-01-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT24-1-7036b; FRL-5218-5]

Determination of Attainment of Ozone Standard for Salt Lake and Davis Counties, Utah, and Determination Regarding Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to determine that the Salt Lake and Davis Counties ozone nonattainment area has attained the National Ambient Air Quality Standard (NAAQS) for ozone

and that certain reasonable further progress and attainment demonstration requirements, along with certain other related requirements, of Part D of Title 1 of the Clean Air Act are not applicable to the area for so long as the area continues to attain the ozone NAAQS. In the Final Rules section of this **Federal Register**, EPA is making these determinations without prior proposal. A detailed rationale for the action is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and address the comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this notice. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments on this action must be received by July 10, 1995.

ADDRESSES: Written comments should be addressed to: Douglas M. Skie, Chief, Air Programs Branch (8ART-AP), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202-2466.

A copy of the air quality data and EPA's analysis are available for inspection at the following address: United States Environmental Protection Agency, Region 8, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202-2466.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Programs Branch (8ART-AP), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202-2466
Phone: (303) 293-1814

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the Final Rules section of this **Federal Register**.

Dated: May 31, 1995.

William P. Yellowtail,

Regional Administrator.

[FR Doc. 95-14066 Filed 6-7-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 455

[FRL-5214-7]

RIN 2040-AC21

Pesticide Chemicals Category, Formulating, Packaging and Repackaging Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Supplemental Notice

AGENCY: Environmental Protection Agency.

ACTION: Supplemental notice to proposed rule.

SUMMARY: EPA is publishing this Supplemental Notice to obtain public comment on two topics for which comments were received on the proposed rulemaking (59 FR 17850, April 14, 1994) for the Pesticides Formulating, Packaging and Repackaging (PFPR) Industry. EPA seeks comment on the scope and applicability of the rulemaking as they pertain to commenters' requests for the exemption of certain pesticide active ingredients (PAIs) and certain wastewater discharges from the rulemaking.

In addition, EPA is soliciting comment on a regulatory option under consideration by the Agency that is comprised of two alternatives between which industry may choose: (1) Achieving zero discharge or (2) incorporating specific pollution prevention (or best management) practices and treatment technologies and achieving an allowable discharge of small quantities of pollutants.

EPA's addition of the pollution prevention alternative to achieving zero discharge provides benefits to the environment by reducing the cross-media impacts that would otherwise occur from hauling and incinerating the non-reusable portion of PFPR wastewaters. The provision of an alternative compliance method also provides flexibility to industry in meeting the effluent limitations guidelines and standards. Reducing the scope of the rule will reduce regulatory burden without compromising environmental protection. This notice also solicits comment on various means of implementing a pollution prevention alternative to zero discharge.

EPA has estimated the compliance costs and economic impacts expected to result from a rule comprised of a zero discharge and a pollution prevention alternative (referred to as the Zero/P2 Option) as specified in this notice. The Agency has determined that the Zero/P2 Option will result in a similar removal of toxic pound equivalents per year