

au pair participant with more than one host family;

(4) A report by a certified public accountant attesting to the sponsor's compliance with the procedures and reporting requirements set forth in this subpart;

(5) A report detailing the name of the au pair, his or her host family placement, location, and the names of the local and regional organizational representatives; and

(6) A complete set of all promotional materials, brochures, or pamphlets distributed to either host family or au pair participants.

(o) Sanctions. In addition to the sanctions provisions set forth at § 514.50, the Agency may undertake immediate program revocation procedures upon documented evidence that a sponsor has failed to:

(1) Comply with the au pair placement requirements set forth in paragraph (e) above;

(2) Satisfy the selection requirements for each individual au pair as set forth in paragraph (d) above; and

(3) Enforce and monitor host family's compliance with the stipend and hours requirements set forth in paragraph (j) above.

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## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8573]

RIN 1545-AQ06

### Information Returns Required of United States Persons With Respect To Certain Foreign Corporations

AGENCY: Internal Revenue Service (IRS), Treasury

ACTION: Final regulations.

**SUMMARY:** This document contains final Income Tax Regulations relating to information returns required of United States persons with respect to annual accounting periods of certain foreign corporations. These regulations clarify certain requirements of the Income Tax Regulations relating to Form 5471 and affect controlled foreign corporations and their United States shareholders.

**EFFECTIVE DATE:** January 13, 1995.

**FOR FURTHER INFORMATION CONTACT:** Carl Cooper, 202-622-3840, not a toll free number.

## SUPPLEMENTARY INFORMATION:

### Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545-1317. Estimates of the reporting burden in these final regulations will be reflected in the burden of Form 5471.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224, and to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503

### Background

On July 7, 1992, the IRS published a notice of proposed rulemaking in the Federal Register (57 FR 29851) proposing amendments to the Income Tax Regulations (26 CFR part 1) under sections 6035, 6038, and 6046 of the Internal Revenue Code of 1986 (Code). These amendments were proposed to clarify the requirements of §§ 1.6035-1, 1.6038-2, and 1.6046-1 of the Income Tax Regulations relating to Form 5471. Written comments responding to the notice were received. No public hearing was requested and, therefore, no public hearing was held. Some commentators suggested that the amendment to § 1.6038-2(h) would impose a greater burden with respect to ongoing compliance and conversion of data gathering routines than present requirements; however, the majority of the responses to this amendment have been favorable. After consideration of these comments, the Service has determined that the overall burden is alleviated. Thus, having considered all comments regarding the proposed amendments, those amendments are adopted (with certain effective date changes) by this Treasury decision.

The changes to paragraph (h) (and corresponding changes in § 1.6046-1(g)) are effective for taxable years ending after December 31, 1994, but only for returns filed after December 31, 1995.

### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also 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, the notice of the proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Drafting Information

The principal author of these regulations is Carl Cooper of the Office of Associate Chief Counsel (International), IRS. However, personnel from other offices of the IRS and Treasury Department participated in their development.

### List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows.

## PART 1—INCOME TAXES

Paragraph 1. The authority for part 1 continues to read in part as follows:

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

§ 1.6035 [Amended]

Par. 2. Section 1.6035-1, paragraph (a)(1) is amended by adding a sentence at the end to read as follows.

§ 1.6035-1 Returns of U.S. officers, directors and 10-percent shareholders of foreign personal holding companies for taxable years beginning after September 3, 1982.

(a) \* \* \*

(1) \* \* \* In the case of a foreign personal holding company which is a specified foreign corporation (as defined in section 898), the taxable year of such corporation shall be treated as its annual accounting period

§ 1.6038 [Amended]

Par. 3. Section 1.6038-2 is amended as follows

1 Paragraph (d)(5) is added following paragraph (d)(4) and immediately before the concluding text

2. Paragraph (e) is amended by removing the third sentence and adding two new sentences in its place.

3. Paragraph (f)(10)(iii) is amended by removing the word "and" immediately following the semicolon and paragraph (f)(10)(iv) is amended by removing the colon and adding a semicolon in its place.

4. Paragraph (f)(10)(v) is added.

5. Paragraph (g) is amended as follows:

a. The introductory text of paragraph (g) is amended by replacing the colon with a period and adding a second sentence at the end.

b. The concluding text of paragraph (g) is amended by removing the words "form and".

6. Paragraph (h) is revised.

7. The additions and revisions read as follows:

**§ 1.6038-2 Information returns required of United States persons with respect to annual accounting periods of certain foreign corporations beginning after December 31, 1962.**

(d) \* \* \*

(5) For taxable years ending after December 31, 1987, with respect to a corporation organized under the laws of American Samoa, the term does not include an individual who is a bona fide resident of American Samoa, provided—

(i) 80 percent or more of the gross income of the corporation for the 3-year period ending at the close of the taxable year (or for such part of such period as such corporation or any predecessor has been in existence) was derived from sources within American Samoa or was effectively connected with the conduct of a trade or business in American Samoa; and

(ii) 50 percent or more of the gross income of such corporation for such period (or part) was derived from the conduct of an active trade or business within American Samoa.

(e) \* \* \* In the case of a specified foreign corporation (as defined in section 898), the taxable year of such corporation shall be treated as its annual accounting period. The term *annual accounting period* may refer to a period of less than one year, where, for example, the foreign income, war profits, and excess profits taxes are determined on the basis of an accounting period of less than one year as described in section 902 (c) (5).

(f) \* \* \*  
(10) \* \* \*

(v) For Forms 5471 filed for taxable years ending after December 15, 1990,

such earnings and profits information as the form shall prescribe, including post-1986 undistributed earnings described in section 902(c)(1), pre-1987 amounts, total earnings and profits; and previously taxed earnings and profits described in section 959(c); and

(g) *Financial statements.* \* \* \*

Forms 5471 filed after September 30, 1991, shall contain this information in such form or manner as the form shall prescribe with respect to each foreign corporation:

(h) *Method of reporting.* Except as provided in this paragraph (h), all amounts furnished under paragraphs (f) and (g) of this section shall be expressed in United States dollars with a statement of the exchange rates used. The following rules shall apply for taxable years ending after December 31, 1994, with respect to returns filed after December 31, 1995. All amounts furnished under paragraph (g) of this section shall be expressed in United States dollars computed and translated in conformity with United States generally accepted accounting principles. Amounts furnished under paragraph (g)(1) of this section shall also be furnished in the foreign corporation's functional currency as required on the form. Earnings and profits amounts furnished under paragraphs (f)(10) (i), (iii), (iv), and (v) of this section shall be expressed in the foreign corporation's functional currency except to the extent the form requires specific items to be translated into United States dollars. Tax amounts furnished under paragraph (f)(10)(ii) of this section shall be furnished in the foreign currency in which the taxes are payable and in United States dollars translated in accordance with section 986(a). All amounts furnished under paragraph (f)(11) of this section shall be expressed in U.S. dollars translated from functional currency at the weighted average exchange rate for the year as defined in § 1.989(b)-1. The foreign corporation's functional currency is determined under section 985. All statements submitted on or with the return required under this section shall be rendered in the English language.

**§ 1.6046-1 (Amended)**

Par. 4. Section 1.6046-1 is amended as follows:

1 Paragraph (b)(10) introductory text is amended by removing the language "A copy of the following statements" and adding "The following

information" in its place; and by removing the language "form and".

2. Paragraph (f)(5) is added.

3. Paragraph (g) is amended by adding three sentences at the end.

4. The additions and revisions read as follows:

**§ 1.6046-1 Returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock, on or after January 1, 1963.**

(f) \* \* \*

(5) *Accounting period and taxable year.* In the case of a specified foreign corporation (as defined in section 898), the taxable year of such corporation shall be treated as its annual accounting period.

(g) \* \* \* For taxable years ending after December 31, 1994, with respect to returns filed after December 31, 1995, all amounts furnished under paragraph (c) of this section shall be expressed in United States dollars computed and translated in conformity with United States generally accepted accounting principles. Amounts furnished under paragraph (c)(3)(i) of this section shall also be furnished in the foreign corporation's functional currency as required on the form. Information described in paragraphs (b)(10) and (c)(3) of this section shall be submitted in such form or manner as the form shall prescribe.

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

Par. 6. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 7. Section 602.101, paragraph (c) is amended by removing the existing entries for 1.6038-2 and 1.6046-1 from the table and adding the following entries to the table in numerical order to read as follows:

**§ 602.101 OMB Control numbers.**

(c) \* \* \*

CFR part or section where identified and described	Current OMB control No.
1.6038-2	1545-0704 1545-0805 1545-1317
1.6046-1	1545-0704 1545-0794 1545-1317

Margaret Milner Richardson,  
Commissioner of Internal Revenue

Approved: November 10, 1994

Leslie Samuels,

Assistant Secretary of the Treasury

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## ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 63

[AD-FRL-5116-5]

RIN 2060-AD93

National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** The final rule provided in this document is a national emission standard(s) for hazardous air pollutants (NESHAP) for bulk gasoline terminals and pipeline breakout stations pursuant to section 112 of the Clean Air Act as amended in 1990 (the Act). On February 8, 1994, EPA proposed a NESHAP for the gasoline distribution source category. On August 19, 1994, the EPA also published supplementary data and recommendations on the level of control for gasoline cargo tanks. This document announces the EPA's final decisions on the rule.

This final rule requires sources to achieve emission limits reflecting application of the maximum achievable control technology (MACT) consistent with section 112(d) of the Act. The rule regulates all hazardous air pollutants (HAP's) identified in the Act's list of 189 HAP's that are emitted from new and existing bulk gasoline terminals and pipeline breakout stations that are major sources of HAP's or are located at plant sites that are major sources of HAP's.

**DATES:** *Effective Date.* December 14, 1994.

*Judicial Review.* Under section 307(b)(1) of the Act, judicial review of NESHAP is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this final rule. Under section 307(b)(2) of the Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

**ADDRESSES:** *Docket.* Docket No. A-92-38, containing information considered by the EPA in developing the promulgated standards, is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, including all non-Government holidays, at the EPA's Air and Radiation Docket and Information Center, room M1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone (202) 260-7548. A reasonable fee may be charged for copying.

*Background Information Document* The background information document (BID) for the promulgated standards may be obtained as supplies permit from the U.S. Environmental Protection Agency Library (MD-35), Research Triangle Park, North Carolina 27711, telephone (919) 541-2777; or from the U.S. Department of Commerce, National Technical Information Service (NTIS), Springfield, Virginia 22161, telephone (703) 487-4650. Please refer to "Gasoline Distribution Industry (Stage I)—Background Information for Promulgated Standards" (EPA-453/R-94-002b). The BID contains: (1) a summary of the public comments made on the proposed standards and the EPA's responses to the comments, and (2) a summary of the revisions made to the regulatory analysis presented at proposal. Electronic versions of the BID as well as this preamble and final rule are available for download from the EPA's Technology Transfer Network (TTN), a network of electronic bulletin boards developed and operated by the Office of Air Quality Planning and Standards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a phone call. Dial (919) 541-5742 for up to a 14,400 bits per second (bps) modem. If more information on TTN is needed, contact the systems operator at (919) 541-5384.

**FOR FURTHER INFORMATION CONTACT:** For general and technical information concerning the final rule, contact Mr. Stephen Shedd, Waste and Chemical Processes Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone (919) 541-5397. For information regarding the economic impacts of the rule, contact Mr. Scott Mathias, Innovative Strategies and Economics Group, Air Quality Strategies and Standards Division, at the above address; telephone (919) 541-5310. For information regarding the test methods and procedures referenced in the rule,

contact Mr. Roy Huntley, Emission Inventory and Factors Group, Emissions, Monitoring and Analysis Division, at the above address; telephone (919) 541-1060.

**SUPPLEMENTARY INFORMATION:** The information presented in this preamble is organized as follows.

- I. Applicability
- II. Summary of Major Changes Since Proposal
  - A. Applicability
  - B. Level of Control
- III. Significant Comments and Changes
  - A. Applicability Determination
  - B. Equipment Leak Requirements
  - C. Storage Vessel Requirements
  - D. Cargo Tank Requirements
  - E. Continuous Monitoring
- IV. Summary of the Final Rule
  - A. Sources Covered
  - B. Standards for Sources
  - C. Effective Date for Compliance
  - D. Compliance Extensions
  - E. Compliance Testing and Monitoring
  - F. Recordkeeping and Reporting
  - V. Administrative Requirements
    - A. Docket
    - B. Executive Order 12866
    - C. Paperwork Reduction Act
    - D. Regulatory Flexibility Act
    - E. Regulatory Review

### I. Applicability

The final rule is applicable to all existing and new bulk gasoline terminals and pipeline breakout stations that are major sources of HAP's or are located at plant sites that are major sources. Major source facilities that are subject to this rule must install and operate the control equipment and implement the work practices required in the rule. Section 112(a) of the Act defines major source as a source, or group of sources, located within a contiguous area and under common control that emits or has the potential to emit, considering controls, 10 tons per year (tpy) or more of any individual HAP or 25 tpy or more of any combination of HAP's. Area sources are stationary sources that do not qualify as "major." The term "affected source" as used in this rule means the total of all HAP emission points at each bulk gasoline terminal or pipeline breakout station that is subject to the rule.

To determine the applicability of this rule to facilities that are within a contiguous area of other HAP-emitting emission sources that are not part of the source category covered by this rule, the owner or operator must determine whether the plant site as a whole is a major source. A formal HAP emissions inventory must be used to determine if total HAP emissions from all HAP emission sources at the plant site meets the definition of a major source. To determine the applicability of this rule