

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

"Comments to Airspace Docket No. 95-ACE-2." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A, which describes the application procedures.

#### The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to provide additional controlled airspace for Instrument Flight Rules (IFR) procedures at the Scribner State Airport. The additional airspace would segregate aircraft operating under VFR conditions from aircraft operating under IFR procedures. The area would be depicted on appropriate aeronautical charts, thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more

above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9B, dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order. The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

#### PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

##### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth*

\* \* \* \* \*

##### ACE NE E5 Scribner, NE [New]

Scribner State Airport, NE  
(Lat. 41°36'46" N, long. 96°37'43" W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Scribner State Airport.

\* \* \* \* \*

Issued in Kansas City, MO, on May 3, 1995.

**Herman J. Lyons, Jr.,**

*Acting Manager, Air Traffic Division, Central Region.*

[FR Doc. 95-12757 Filed 5-23-95; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[INTL-0023-95]

RIN 1545-AT49

#### Allocation and Apportionment of Research and Experimental Expenditures

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

**ACTION:** Notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document provides guidance concerning the allocation and apportionment of research and experimental expenditures for purposes of determining taxable income from sources within and without the United States. This document affects taxpayers that have income from United States and foreign sources and that have made expenditures for research and experimentation that the taxpayer deducts under section 174 of the Internal Revenue Code of 1986. This document also provides notice of a public hearing on these proposed regulations.

**DATES:** Written comments must be received by August 22, 1995. Outlines of topics to be discussed at the public hearing scheduled for September 8, 1995, at 10 a.m. must be received by August 18, 1995.

**ADDRESSES:** Send submissions to: CC:DOM:CORP:T:R (INTL-0023-95), 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-0023-95), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. The public hearing will be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, Carl Cooper

at (202) 622-3840; concerning submissions, Michael Slaughter, (202) 622-8543 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### **Paperwork Reduction Act**

This notice of proposed rulemaking does not contain collections of information and, therefore, it has not been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act (44 U.S.C. 3504(h)).

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

Section 1.861-8(e)(3) of the Income Tax Regulations provides rules regarding the allocation and apportionment of research and experimental expenditures for purposes of determining taxable income from sources within and without the United States.

This notice of proposed rulemaking proposes three changes to the existing regulations at § 1.861-8(e)(3).

First, allocation of research and experimental expenditures to three digit SIC code product categories of gross income would be permitted. Existing regulations require taxpayers to allocate research and experimental expenditures to two digit SIC code product categories. Use of three digit SIC code product categories would enable taxpayers to allocate research and experimental expenditures to narrower classes of gross income than the classes of gross income permitted by the existing regulations.

Second, the percentage of research and experimental expenditures that may be exclusively apportioned to United States source income under the sales method of apportionment under § 1.861-8(e)(3)(ii) would be increased from 30 percent to 50 percent. Thus, where an apportionment based upon geographic sources of income of a deduction for research and experimental expenses is necessary and the sales method of apportionment is elected, an amount equal to 50 percent of the deduction for research and experimental expenditures shall be apportioned exclusively to the statutory or residual grouping of gross income, as the case may be, arising from the geographic source where the research and experimental activities which account for more than 50 percent of the amount of the deduction were performed.

Third, use of the optional gross income methods of apportionment would constitute a binding election to use such methods in subsequent years. The election would not be revocable

without the prior consent of the Commissioner.

These changes would apply to taxable years beginning after December 31, 1995. However, the taxpayer would have the option to apply the new rules, in their entirety, to taxable years beginning after December 31, 1994.

*Examples (3) through (8) of § 1.861-8(g) are conformed to these changes. Examples (9) through (16) and Example (23) are removed and reserved.*

The three changes are proposed in part on the basis of an economic study performed by the Treasury Department pursuant to Rev. Proc. 92-56, 1992-2 C.B. 409, which is being simultaneously published by Treasury. The Treasury study evaluates the factual relationships between taxpayer performed research and experimental expenses and income from foreign sources. The study reviewed evidence of foreign returns from research and experimental expenditures in the form of both royalties and the retained earnings and profits of controlled foreign corporations. Estimates of foreign returns attributable to research and experimental expenditures were translated into appropriate allocations and apportionments using two alternative methodologies. One methodology was based on estimated comparable domestic returns for research and experimental expenditures. The other methodology simulated the relationship expected between the current returns from research and experimental expenditures and the level of current research and experimental expenditures for taxpayers with ongoing research programs. The methodologies generated a range of allocations and apportionments to foreign income that were not inconsistent with the available evidence. The allocations and apportionments to foreign income which would result from adoption of these proposed regulations are within that range and are about 25 percent lower than the allocations and apportionments to foreign income which result under the current regulations.

In addition, the proposed regulations provide explicit rules for allocating and apportioning research and experimental expenses incurred by a partnership and for computing a partner's sales for purposes of apportioning research and experimental expenses under the sales method.

##### **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 (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for September 8, 1995, at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. Because of access restrictions, visitors will not be admitted beyond the 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 by August 22, 1995 and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by August 18, 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 regulations is Carl Cooper, Office of the Associate Chief Counsel (International). However, other personnel from IRS and Treasury participated in their development.

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

Income taxes, Reporting and recordkeeping requirements.

##### **Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

**PART 1—INCOME TAXES**

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

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

**Par. 2.** Section 1.861-8 is amended by:

1. Revising paragraph (e)(3).
2. Revising paragraph (g), *Examples (3) through (8)*.
3. Removing and reserving paragraph (g), *Examples (9) through (16) and (23)*.

The revisions read as follows:

**§ 1.861-8 Computation of taxable income from sources within the United States and from other sources and activities.**

\* \* \* \* \*

(e) \* \* \*

\* \* \* \* \*

(3) *Research and experimental expenditures—(i) Allocation—(A) In general.* The methods of allocation and apportionment of research and experimental expenditures set forth in this paragraph (e)(3) recognize that research and experimentation is an inherently speculative activity, that findings may contribute unexpected benefits, and that the gross income derived from successful research and experimentation must bear the cost of unsuccessful research and experimentation. Expenditures for research and experimentation which a taxpayer deducts under section 174 ordinarily shall be considered deductions which are definitely related to all income reasonably connected with the relevant broad product category (or categories) of the taxpayer and therefore allocable to all items of gross income as a class (including income from sales, royalties, and dividends) related to such product category (or categories). For purposes of this allocation, the product category (or categories) which a taxpayer may be considered to have shall be determined in accordance with the provisions of paragraph (e)(3)(i)(B) of this section.

(B) *Determination of product categories.* Ordinarily, a taxpayer's research and experimental expenditures may be divided between the relevant product categories. Where research and experimentation is conducted with respect to more than one product category, the taxpayer may aggregate the categories for purposes of allocation and apportionment; however, the taxpayer may not subdivide the categories. Where research and experimentation is not clearly identified with any product category (or categories), it will be considered conducted with respect to all the taxpayer's product categories. A taxpayer shall determine the relevant

product categories by reference to the three digit classification of the Standard Industrial Classification Manual (SIC code). A copy may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. The individual products included within each category are enumerated in Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual, 1987 (or later edition, as available). Once a taxpayer selects a product category for the first taxable year for which this paragraph (e)(3) is effective with respect to the taxpayer, it must continue to use that product category in following years, unless the taxpayer establishes to the satisfaction of the Commissioner that, due to changes in the relevant facts, a change in the product category is appropriate. For this purpose, a change in the taxpayer's selection of a product category shall include a change from a three digit SIC code category to a two digit SIC code category, a change from a two digit SIC code category to a three digit SIC code category, or any other aggregation, disaggregation or change of a previously selected SIC code category. The two digit SIC code category "Wholesale trade" is not applicable with respect to sales by the taxpayer of goods and services from any other of the taxpayer's product categories and is not applicable with respect to a domestic international sales corporation (DISC) or foreign sales corporation (FSC) for which the taxpayer is a related supplier of goods and services from any of the taxpayer's product categories. The two digit SIC code category "Retail trade" is not applicable with respect to sales by the taxpayer of goods and services from any other of the taxpayer's product categories, except Wholesale trade, and is not applicable with respect to a DISC or FSC for which the taxpayer is a related supplier of goods and services from any other of the taxpayer's product categories, except Wholesale trade.

(C) *Affiliated Group.* (1) Except as provided in paragraph (e)(3)(i)(C)(2) of this section, the allocation and apportionment required by this paragraph (e)(3) shall be determined as if all members of the affiliated group (as defined in § 1.861-14T(d)) were a single corporation. See § 1.861-14T.

(2) For purposes of the allocation and apportionment required by this paragraph (e)(3), sales and gross income from products produced in whole or in part in a possession by an electing corporation (within the meaning of section 936(h)(5)(E)), and dividends from an electing corporation, shall not be taken into account, except that this

paragraph (e)(3)(i)(C)(2) shall not apply to sales of (and gross income and dividends attributable to sales of) products with respect to which an election under section 936(h)(5)(F) is not in effect.

(3) The research and experimental expenditures taken into account for purposes of this paragraph (e)(3) shall be reduced by the amount of such expenditures included in computing the cost-sharing amount (determined under section 936(h)(5)(C)(i)(I)).

(D) *Exception.* Where research and experimentation is undertaken solely to meet legal requirements imposed by a political entity with respect to improvement or marketing of specific products or processes, and the results cannot reasonably be expected to generate amounts of gross income (beyond de minimis amounts) outside a single geographic source, the deduction for such research and experimentation shall be considered definitely related and therefore allocable only to the grouping (or groupings) of gross income within that geographic source as a class (and apportioned, if necessary, between such groupings as set forth in paragraphs (e)(3)(ii)(B) and (iii) of this section). For example, where a taxpayer performs tests on a product in response to a requirement imposed by the U.S. Food and Drug Administration, and the test results cannot reasonably be expected to generate amounts of gross income (beyond de minimis amounts) outside the United States, the costs of testing shall be allocated solely to gross income from sources within the United States.

(ii) *Apportionment of research and experimentation—sales method—(A) Exclusive apportionment.* Where an apportionment based upon geographic sources of income of a deduction for research and experimentation is necessary (after applying the exception in paragraph (e)(3)(i)(D) of this section), an amount equal to fifty percent (50%) of such deduction for research and experimentation shall be apportioned exclusively to the statutory grouping of gross income or the residual grouping of gross income, as the case may be, arising from the geographic source where the research and experimental activities which account for more than fifty percent (50%) of the amount of such deduction were performed. If the fifty percent test of the preceding sentence is not met, then no part of the deduction shall be apportioned under this paragraph (e)(3)(ii)(A). This exclusive apportionment reflects the view that research and experimentation is often most valuable in the country where it is performed, for two reasons. First,

research and experimentation often benefits a broad product category, consisting of many individual products, all of which may be sold in the nearest market but only some of which may be sold in foreign markets. Second, research and experimentation often is utilized in the nearest market before it is used in other markets, and in such cases, has a lower value per unit of sales when used in foreign markets. The taxpayer may establish to the satisfaction of the Commissioner that, in its case, one or both of the conditions mentioned in the preceding sentences warrant a significantly greater percent than 50 percent (50%) because the research and experimentation is reasonably expected to have very limited or long delayed application outside the geographic source where it was performed. For purposes of establishing that only some products within the product category (or categories) are sold in foreign markets, the taxpayer shall compare the commercial production of individual products in domestic and foreign markets made by itself, by uncontrolled parties (as defined under paragraph (e)(3)(ii)(C) of this section) of products involving intangible property which was licensed or sold by the taxpayer, and by those controlled corporations (as defined under paragraph (e)(3)(ii)(D) of this section) which can reasonably be expected to benefit directly or indirectly from any of the taxpayer's research expense connected with the product category (or categories). The individual products compared for this purpose shall be limited, for nonmanufactured categories, solely to those enumerated in Executive Office of the President, Office of Management and Budget Standard Industrial Classification Manual, 1987 (or later edition, as available), and, for manufactured categories, solely to those enumerated at a 7-digit level in the U.S. Bureau of the Census, Census of Manufacturers: 1992, Numerical List of Manufactured Products, 1993 (or later edition, as available). Copies of both of these documents may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. For purposes of establishing the delayed application of research findings abroad, the taxpayer shall compare the commercial introduction of its own particular products and processes (not limited by those listed in the Standard Industrial Classification Manual or the Numerical List of Manufactured Products) in the United States and foreign markets, made by itself, by uncontrolled parties (as defined under

paragraph (e)(3)(ii)(C) of this section) of products involving intangible property which was licensed or sold by the taxpayer, and by those controlled corporations (as defined under paragraph (e)(3)(ii)(D) of this section) which can reasonably be expected to benefit, directly or indirectly, from the taxpayer's research expense. For purposes of evaluating the delay in the application of research findings in foreign markets, the taxpayer shall use a safe haven discount rate of 10 percent per year of delay unless he is able to establish to the satisfaction of the Commissioner, by reference to the cost of money and the number of years during which economic benefit can be directly attributable to the results of the taxpayer's research, that another discount rate is more appropriate.

(B) *Remaining apportionment.* The amount equal to the remaining portion of such deduction for research and experimentation, not apportioned under paragraph (e)(3)(ii)(A) of this section, shall be apportioned between the statutory grouping (or among the statutory groupings) within the class of gross income and the residual grouping within such class in the same proportions that the amount of sales from the product category (or categories) which resulted in such gross income within the statutory grouping (or statutory groupings) and in the residual grouping bear, respectively, to the total amount of sales from the product category (or categories). For purposes of this paragraph (e)(3), amounts received from the lease of equipment during a taxable year shall be regarded as sales receipts for such taxable year. Amounts apportioned under this paragraph (e)(3) may exceed the amount of gross income related to the product category within the statutory grouping. In such case, the excess shall be applied against other gross income within the statutory grouping. See paragraph (d)(1) of this section for instances where the apportionment leads to an excess of deductions over gross income within the statutory grouping.

(C) *Sales of uncontrolled parties.* For purposes of the apportionment under paragraph (e)(3)(ii)(B) of this section, the sales from the product category (or categories) by each party uncontrolled by the taxpayer, of particular products involving intangible property which was licensed or sold by the taxpayer to such uncontrolled party shall be taken fully into account both for determining the taxpayer's apportionment and for determining the apportionment of any other member of a controlled group of corporations to which the taxpayer belongs if the uncontrolled party can

reasonably be expected to benefit directly or indirectly (through any member of the controlled group of corporations to which the taxpayer belongs) from the research expense connected with the product category (or categories) of such other member. In the case of licensed products, if the amount of sales of such products is unknown (for example, where the licensed product is a component of a large machine), a reasonable estimate should be made. In the case of sales of intangible property, and in cases where a reasonable estimate of sales of licensed products cannot be made, the sales taken into account shall be an amount which is ten times the amount received or accrued for the intangible during the taxpayer's taxable year. For purposes of this paragraph (e)(3)(ii)(C), the term *uncontrolled party* means a party which is not a person with a relationship to the taxpayer (specified in section 267(b)), or is not a member of a controlled group of corporations to which the taxpayer belongs (within the meaning of section 993(a)(3) or section 927(d)(4)). An uncontrolled party can reasonably be expected to benefit from the research expense of a member of a controlled group of corporations to which the taxpayer belongs if such member can reasonably be expected to license, sell, or transfer intangible property to that uncontrolled party or transfer secret processes to that uncontrolled party, directly or indirectly, through a member of the controlled group of corporations to which the taxpayer belongs.

(D) *Sales of controlled parties.* For purposes of the apportionment under paragraph (e)(3)(ii)(B) of this section, the sales from the product category (or categories) of the taxpayer shall be taken fully into account and the sales from the product category (or categories) of a corporation controlled by the taxpayer shall be taken into account to the extent provided in this paragraph (e)(3)(ii)(D) for determining the taxpayer's apportionment, if such corporation can reasonably be expected to benefit directly or indirectly (through another member of the controlled group of corporations to which the taxpayer belongs) from the taxpayer's research expense connected with the product category (or categories). However, sales from the product category (or categories) between or among such controlled corporations or the taxpayer shall not be taken into account more than once; in such a situation, the amount sold by the selling corporation to the buying corporation shall be subtracted from the sales of the buying corporation. For

purposes of this paragraph (e)(3)(ii)(D), the term *a corporation controlled by the taxpayer* means any corporation other than an *uncontrolled party* as defined in paragraph (e)(3)(ii)(C) of this section. A corporation controlled by the taxpayer can reasonably be expected to benefit from the taxpayer's research expense if the taxpayer can be expected to license, sell, or transfer intangible property to that corporation or transfer secret processes to that corporation, either directly or indirectly through a member of the controlled group of corporations to which the taxpayer belongs. Past experience with research and experimentation shall be considered in determining reasonable expectations. However, if the corporation controlled by the taxpayer has entered into a bona fide cost-sharing arrangement, in accordance with the provisions of § 1.482-7, with the taxpayer for the purpose of developing intangible property, then that corporation shall not reasonably be expected to benefit from the taxpayer's share of the research expense. The sales from the product category (or categories) of a corporation controlled by the taxpayer taken into account shall be equal to the amount of sales that bear the same proportion to total sales of the controlled corporation as the taxpayer's direct or indirect ownership, as defined in section 1563, of the total combined voting power of all classes of stock entitled to vote of such corporation bears to the total outstanding combined voting power of all such classes of stock of such corporation.

(iii) *Apportionment of research and experimentation—gross income methods.* In lieu of apportioning the deduction for research and experimental expense under paragraph (e)(3)(ii) of this section, a taxpayer may make a binding election pursuant to paragraph (e)(3)(iii)(C) of this section to apportion such deduction, as prescribed in paragraph (e)(3)(iii)(A) or (B) of this section, between the statutory grouping (or among the statutory groupings) of gross income and the residual grouping of gross income. These optional methods must be applied to the taxpayer's entire deduction for research and experimental expense remaining after applying the exception in paragraph (e)(3)(i)(D) of this section, and may not be applied on a product category basis. Thus, after the allocation of the taxpayer's entire deduction for research and experimental expense under paragraph (e)(3)(i) of this section (by attribution to SIC code categories), the taxpayer must then apportion as necessary the entire deduction as

allocated by separate amounts to various product categories, using only the sales method under paragraph (e)(3)(ii) of this section or only the optional gross income methods under this paragraph (e)(3)(iii). The taxpayer may not use the sales method for a portion of the deduction and optional gross income methods for the remainder of the deduction separately allocated.

(A) *Option one.* The taxpayer may apportion its research and experimental expenditures ratably on the basis of gross income between the statutory grouping (or among the statutory groupings) of gross income and the residual grouping of gross income in the same proportions that the amount of gross income in the statutory grouping (or groupings) and the amount of gross income in the residual grouping bear, respectively, to the total amount of gross income, if both of the following two conditions are met.

(1) The amount of research and experimental expense ratably apportioned to the statutory grouping (or groupings in the aggregate) is not less than fifty percent (50%) of the amount which would have been so apportioned if the taxpayer had used the method described in paragraph (e)(3)(ii) of this section; and

(2) The amount of research and experimental expense ratably apportioned to the residual grouping is not less than fifty percent (50%) of the amount which would have been so apportioned if the taxpayer had used the method described in paragraph (e)(3)(ii) of this section.

(B) *Option two.* If, when the amount of research and experimental expense is apportioned ratably on the basis of gross income, either of the conditions described in paragraph (e)(3)(iii)(A) (1) or (2) of this section is not met, the taxpayer may either—

(1) Where the condition of paragraph (e)(3)(iii)(A)(1) of this section is not met, apportion fifty percent (50%) of the amount of research and experimental expense which would have been apportioned to the statutory grouping (or groupings in the aggregate) under paragraph (e)(3)(ii) of this section to such statutory grouping (or to such statutory groupings in the aggregate and then among such groupings on the basis of gross income within each grouping), and apportion the balance of the amount of research and experimental expenses to the residual grouping; or

(2) Where the condition of paragraph (e)(3)(iii)(A)(2) of this section is not met, apportion fifty percent (50%) of the amount of research and experimental expense which would have been apportioned to the residual grouping

under paragraph (e)(3)(ii) of this section to such residual grouping, and apportion the balance of the amount of research and experimental expenses to the statutory grouping (or to the statutory groupings in the aggregate and then among such groupings ratably on the basis of gross income within each grouping).

(C) *Binding election to use optional gross income methods.* A taxpayer may use either the sales method under paragraph (e)(3)(ii) of this section or the optional gross income methods under this paragraph (e)(3)(iii) for its return filed for its first taxable year to which this paragraph (e)(3) applies. The taxpayer's use of the optional gross income methods for its return filed for its first taxable year to which this paragraph (e)(3) applies or for any subsequent taxable year shall constitute a binding election to use the optional gross income methods for all taxable years thereafter. The taxpayer's election to use the optional gross income methods may not be revoked without the prior consent of the Commissioner.

(iv) *Special rules for partnerships.* For purposes of applying this paragraph (e)(3), if research and experimental expenditures are incurred by a partnership in which the taxpayer is a partner, the taxpayer's research and experimental expenditures shall include the taxpayer's distributive share of the partnership's research and experimental expenditures. In applying the exception for expenditures undertaken to meet legal requirements under paragraph (e)(3)(i)(D) of this section and the exclusive apportionment for the sales method under paragraph (e)(3)(ii)(A) of this section, a partner's distributive share of research and experimental expenditures incurred by a partnership shall be treated as incurred by the partner for the same purpose and in the same location as incurred by the partnership. In applying the remaining apportionment for the sales method under paragraph (e)(3)(ii)(B) of this section, a taxpayer's sales from a product category shall include the taxpayer's share of any sales from the product category of any partnership in which the taxpayer is a partner. For purposes of the preceding sentence, a taxpayer's share of sales shall be proportionate to the taxpayer's distributive share of the partnership's gross income in the product category, but the sales of the partnership taken into account by the taxpayer shall in no event be less than ten times the amount received or accrued for any intangible from the partnership during the taxpayer's taxable year.

(v) *Examples. Examples (3) through (8) of paragraph (g) of this section illustrate the allocation and apportionment of research and experimental deductions.*

(vi) *Effective date.* This paragraph (e)(3) applies to taxable years beginning after December 31, 1995. However, the taxpayer may at its option, apply this paragraph (e)(3) in its entirety to taxable years beginning after December 31, 1994.

\* \* \* \* \*  
(g) \* \* \*  
\* \* \* \* \*

*Example 3—Research and*

*Experimentation—(i) Facts.* X, a domestic corporation, is a manufacturer and distributor of small gasoline engines for lawn mowers. Gasoline engines are a product within the category, Engines and Turbines (SIC Industry Group 351). Y, a wholly owned foreign subsidiary of X, also manufactures and sells these engines abroad. During 1996, X incurred expenditures of \$60,000 on research and experimentation, which it deducts as a current expense, to invent and patent a new and improved gasoline engine. All of the research and experimentation was performed in the United States. In 1996, the domestic sales by X of the new engine total \$500,000 and foreign sales by Y total \$300,000. X provides technology for the manufacture of engines to Y via a license that requires the payment of an arm's length royalty. In 1996, X's income is \$150,000, of which \$140,000 is from domestic sales and \$10,000 is royalties from Y.

(ii) *Allocation.* The research and experimental expenditures were incurred in connection with small gasoline engines and they are definitely related to the items of gross income to which the research gives rise, namely gross income from the sale of small gasoline engines in the United States and royalties received from subsidiary Y, a foreign manufacturer of gasoline engines. Accordingly, the expenses are allocable to this class of gross income.

(iii) *Apportionment.* (A) For purposes of applying the foreign tax credit limitation, the statutory grouping is general limitation gross income from sources without the United States and the residual grouping is general limitation gross income from sources within the United States. Since the related class of gross income derived from the use of engine technology consists of both gross income from sources without the United States (royalties from Y) and gross income from sources within the United States (gross income from engine sales), X's deduction of \$60,000 for its research and experimental expenditure must be apportioned between the statutory and residual grouping before the foreign tax credit limitation may be determined. Because more than 50 percent of X's research and experimental activity was performed in the United States, 50 percent of that deduction can be apportioned exclusively to the residual grouping of gross income, gross income from sources within the United States. The remaining 50 percent of the deduction can then be apportioned

between the residual and statutory groupings on the basis of sales by X and Y.

Alternatively, X's deduction for research and experimentation can be apportioned under the optional gross income method. The apportionment for 1996 is as follows:

(1) *Tentative Apportionment on the Basis of Sales.*

(i) Research and experimental expense to be apportioned between residual and statutory groupings of gross income: \$60,000.

(ii) Less: Exclusive apportionment of research and experimental expense to the residual grouping of gross income (\$60,000×50 percent): \$30,000.

(iii) Research and experimental expense to be apportioned between residual and statutory groupings of gross income on the basis of sales: \$30,000.

(iv) Apportionment of research and experimental expense to the residual grouping of gross income (\$30,000×\$500,000/(\$500,000+\$300,000)): \$18,750.

(v) Apportionment of research and experimental expense to the statutory grouping of gross income (\$30,000×\$300,000/(\$500,000+\$300,000)): \$11,250.

(vi) Total apportioned deduction for research and experimentation: \$60,000.

(vii) Amount apportioned to the residual grouping (\$30,000+\$18,750): \$48,750.

(viii) Amount apportioned to the statutory grouping: \$11,250.

(2) *Tentative Apportionment on the Basis of Gross Income.*

(i) Research and experimental expense apportioned to sources within the United States (residual grouping) (\$60,000×\$140,000/(\$140,000+\$10,000)): \$56,000.

(ii) Research and experimental expense apportioned to sources within country Y (statutory grouping) (\$60,000×\$10,000/(\$140,000+\$10,000)): \$4,000.

(iii) Amount apportioned to the residual grouping: \$56,000.

(iv) Amount apportioned to the statutory grouping: \$4,000.

(B) The total research and experimental expense apportioned to the statutory grouping (\$4,000) under the gross income method is approximately 36 percent of the amount apportioned to the statutory grouping under the sales method. Thus, X may use option two of the gross income method (paragraph (e)(3)(iii)(B) of this section) and apportion to the statutory grouping fifty percent (50%) of the \$11,250 apportioned to that grouping under the sales method. Thus, X apportions \$5,625 of research and experimental expense to the statutory grouping. X's use of the optional gross income method will constitute a binding election to use the optional gross income method for all taxable years thereafter.

*Example 4—Research and*

*Experimentation—(i) Facts.* Assume the same facts as in *Example 3* except that X also spends \$30,000 in 1996 for research on steam turbines, all of which is performed in the United States, and X has steam turbine sales in the United States of \$400,000. X's foreign subsidiary Y neither manufactures nor sells steam turbines. The steam turbine research is in addition to the \$60,000 in research which X does on gasoline engines for lawnmowers.

X thus has a deduction of \$90,000 for its research activity. X's gross income is \$200,000, of which \$140,000 is from sales of gasoline engines, \$50,000 is from sales of steam turbines, and \$10,000 is royalties from Y.

(ii) *Allocation.* X's research expenses generate income from sales of small gasoline engines and steam turbines. Both of these products are in the same three digit SIC code category, Engines and Turbines (SIC Industry Group 351). Therefore, the deduction is definitely related to this product category and allocable to all items of income attributable to it. These items of X's income are gross income from the sale of small gasoline engines and steam turbines in the United States and royalties from foreign subsidiary Y, a foreign manufacturer and seller of small gasoline engines.

(iii) *Apportionment.* (A) For purposes of applying the foreign tax credit limitation, the statutory grouping is general limitation gross income from sources outside the United States and the residual grouping is general limitation gross income from sources within the United States. X's deduction of \$90,000 must be apportioned between the statutory and residual groupings. Because more than 50 percent of X's research and experimental activity was performed in the United States, 50 percent of that deduction can be apportioned exclusively to the residual grouping, general limitation gross income from sources within the United States. The remaining 50 percent of the deduction can then be apportioned between the residual and statutory groupings on the basis of total sales by X and Y. Alternatively, X's deduction for research and experimentation can be apportioned under the optional gross income methods. The apportionment for 1996 is as follows:

(1) *Tentative Apportionment on the Basis of Sales.*

(i) Research and experimental expense to be apportioned between residual and statutory groupings of gross income: \$90,000.

(ii) Less: Exclusive apportionment of the research and experimental expense to the residual grouping of gross income (\$90,000×50 percent): \$45,000.

(iv) Research and experimental expense to be apportioned between the residual and statutory groupings of gross income on the basis of sales: \$45,000.

(iv) Apportionment of research and experimental expense to the residual grouping of gross income (\$45,000×(\$500,000+\$400,000)/(\$500,000+\$400,000+\$300,000)): \$33,750.

(v) Apportionment of research and experimental expense to the statutory grouping of gross income (\$45,000×\$300,000/(\$500,000+\$400,000+\$300,000)): \$11,250.

(vi) Total apportioned deduction for research and experimentation: \$90,000.

(vii) Amount apportioned to the residual grouping (\$45,000+\$33,750): \$78,750.

(viii) Amount apportioned to the statutory grouping: \$11,250.

(2) *Tentative Apportionment on the Basis of Gross Income.*

(i) Research and experimental expense apportioned to sources within the United States (residual grouping)

(\$90,000×\$190,000/  
(\$140,000+\$50,000+10,000)): \$85,500.

(ii) Research and experimental expense apportioned to sources within country Y (statutory grouping) (\$90,000×\$10,000/  
(\$140,000+\$50,000+\$10,000)): \$4,500.

(iii) Amount apportioned to the residual grouping: \$85,500.

(iv) Amount apportioned to the statutory grouping: \$4,500.

(B) The total research and experimental expense apportioned to the statutory grouping (\$4,500) under the gross income method is 40 percent of the amount apportioned to the statutory grouping under the sales method. Thus, X, may use option two of the gross income method (paragraph (e)(3)(iii)(B) of this section) and apportion to the statutory grouping fifty percent (50%) of the \$11,250 apportioned to that grouping under the sales method. Thus, X apportions \$5,625 of research and experimental expense to the statutory grouping. X's use of the optional gross income method will constitute a binding election to use the optional gross income method for all taxable years thereafter.

**Example 5—Research and Experimentation—(i) Facts.** Assume the same facts as in *Example 3* except that in 1997 X continues its sales of the new engines, with sales of \$600,000 in the United States and \$400,000 by subsidiary Y. X also acquires a 60 percent ownership interest in foreign corporation Z and a 100 percent ownership interest in foreign corporation C. X transfers its engine technology to Z for a royalty equal to 5 percent of sales, and X enters into an arm's length cost-sharing arrangement with C to share the funding of all of X's research activity. In 1997, corporation Z has sales in country Z equal to \$1,000,000. X incurs expense of \$80,000 on research and experimentation in 1997, and in addition, X performs \$15,000 of research on gasoline engines which was funded by the cost-sharing arrangement with C. All of Z's sales are from the product category, Engines and Turbines (SIC Industry Group 351). X performs all of its research in the United States and \$20,000 of its expenditure of \$80,000 is made solely to meet pollution standards mandated by law. X establishes, to the satisfaction of the Commissioner, that the expenditure in response to pollution standards is not expected to generate gross income (beyond *de minimis* amounts) outside the United States.

(ii) **Allocation.** The \$20,000 of research expense which X incurred in connection with pollution standards is definitely related and thus allocable to the residual grouping, general limitation gross income from sources within the United States. The remaining \$60,000 in research and experimental expenditure incurred by X is definitely related to all gasoline engines and is therefore allocable to the class of gross income to which the engines give rise, gross income from sales in the United States, royalties from country Y, and royalties from country Z. No part of the \$60,000 research expense is allocable to dividends from country C, because corporation C has already paid, through its cost-sharing arrangement, for research activity performed by X which may benefit C.

(iii) **Apportionment.** For purposes of applying the foreign tax credit limitation, the statutory grouping is general limitation gross income from sources without the United States, and the residual grouping is general limitation gross income from sources within the United States. X's deduction of \$60,000 for its research and experimental expenditure must be apportioned between these groupings. Because more than 50 percent of the research and experimentation was performed in the United States, 50 percent of the \$60,000 deduction can be apportioned exclusively to the residual grouping. The remaining 50 percent of the deduction can then be apportioned between the residual and the statutory grouping on the basis of sales by X, Y, and Z. (If X utilized the optional gross income methods in 1996, then its use of such methods constituted a binding election to use the optional gross income methods for all taxable years thereafter. The optional gross income methods are not illustrated in this *Example 5* (see instead *Examples 3 and 4*.) Since X has only a 60 percent ownership interest in corporation Z, only 60 percent of Z's sales (60% of \$1,000,000, or \$600,000) are included for purposes of apportionment. The allocation and apportionment for 1997 is as follows:

(A) X's total research expense: \$80,000.

(B) Less: Legally mandated research directly allocated to the residual grouping of gross income: \$20,000.

(C) Tentative apportionment on the basis of sales.

(1) Research and experimental expense to be apportioned between residual and statutory groupings of gross income: \$60,000.

(2) Less: Exclusive apportionment of research and experimental expense to the residual grouping of gross income (\$60,000×50 percent): \$30,000.

(3) Research and experimental expense to be apportioned between the residual and the statutory grouping on the basis of sales: \$30,000.

(4) Apportionment of research and experimental expense to general limitation gross income from sources within the United States (residual grouping)

(\$30,000×\$600,000/  
(\$600,000+\$400,000+\$600,000)): \$11,250.

(5) Apportionment of research and experimental expense to general limitation gross income from countries Y and Z (statutory grouping)

(\$30,000×\$400,000+\$600,000/  
(\$600,000+\$400,000+\$600,000)): \$18,750.

(6) Total apportioned deduction for research and experimentation (\$30,000+\$30,000): 60,000.

(7) Amount apportioned to the residual grouping (\$30,000+\$11,250): \$41,250.

(8) Amount apportioned to the statutory grouping of sources within countries Y and Z: \$18,750.

**Example 6—Research and Experimentation—(i) Facts.** X, a domestic corporation, manufacturers and sells forklift trucks and other types of materials handling equipment in the United States. The manufacture and sale of forklift trucks and other materials handling equipment belongs to the product category, Construction, Mining, and Materials Handling Machinery

and Equipment (SIC Industry Group 353). X also sells its forklift trucks to a wholesaling subsidiary located in foreign country Y (but title passes in the United States), and X manufactures forklift trucks in foreign country Z. The wholesaling of forklift trucks to country Y also belongs to X's product category Transportation equipment and, therefore, may not belong to the product category, Wholesale trade (SIC Major Group 50 and 51). In 1997, X sold \$7,000,000 of forklift trucks to purchasers in the United States, \$3,000,000 of forklift trucks to the wholesaling subsidiary in Y, and transferred forklift truck components with an FOB export value of \$2,000,000 to its branch in Z. The branch's sales of finished forklift trucks were \$5,000,000. In response to legally mandated emission control requirements, X's United States research department has been engaged in a research project to improve the performance and quality of engine exhaust systems used on its products in the United States. It incurs expenses of \$100,000 for this purpose in 1997. In the past, X has customarily adapted the product improvements developed originally for the domestic market to its forklift trucks manufactured abroad. During the taxable year 1997, development of an improved engine exhaust system is completed and X begins installing the new system during the latter part of the taxable year in products manufactured and sold in the United States. X continues to manufacture and sell forklift trucks in foreign countries without the improved engine exhaust systems.

(ii) **Allocation.** X's deduction for its research expense is definitely related to the income to which it gives rise, namely income from the manufacture and sale of forklift trucks within the United States and in country Z. Although the research is undertaken in response to a legal mandate, it can reasonably be expected to generate gross income from the manufacture and sale of trucks by the branch in Z. Therefore, the deduction is not allocable solely to income from X's domestic sales of forklift trucks. It is allocable to income from such sales and income from the sales of X's branch in Z.

(iii) **Apportionment.** For the method of apportionment on the basis of either sales or gross income, see example 3. However, in determining the amount of research apportioned to income from foreign and domestic sources, the net sales of the branch in Z are \$3,000,000 (\$5,000,000 less \$2,000,000) and the sales within the United States are \$12,000,000 (\$7,000,000 plus \$3,000,000 plus \$2,000,000).

**Example 7—Research and Experimentation—(i) Facts.** X, a domestic corporation, is a drug company which manufactures a wide variety of pharmaceutical products for sale in the United States. Pharmaceutical products belong to the product category, Drugs (SIC Industry Group 283). X exports its pharmaceutical products through a foreign sales corporation (FSC). X's wholly owned foreign subsidiary Y also manufactures pharmaceutical products. In 1997, X has domestic sales of \$10,000,000, the FSC has sales of \$3,000,000, and Y has sales of \$5,000,000. In that same year, 1997, X incurs

expense of \$200,000 on research to test a product in response to requirements imposed by the United States Food and Drug Administration (FDA). X is able to show that, even though country Y imposes certain testing requirements on pharmaceutical products, the research performed in the United States is not accepted by country Y for purposes of its own licensing requirements, and the research has minimal use abroad. X is further able to show that its FSC sells goods to countries which do not accept or do not require research performed in the United States for purposes of their own licensing standards.

(ii) *Allocation.* Since X's research expense of \$200,000 is undertaken to meet the requirements of the United States Food and Drug Administration, and since it is reasonable to expect that the expenditure will not generate gross income (beyond *de minimis* amounts) outside the United States, the deduction is definitely related and thus allocable to the residual grouping.

(iii) *Apportionment.* No apportionment is necessary since the entire expense is allocated to the residual grouping, general limitation gross income from sales within the United States.

*Example 8—Research and Experimentation—(i) Facts.* X, a domestic corporation, is engaged in continuous research and experimentation to improve the quality of the products that it manufactures and sells, which are floodlights, flashlights, fuse boxes, and solderless connectors. X incurs and deducts \$100,000 of expenditure for research and experimentation in 1997 which was performed exclusively in the United States. As a result of this research activity, X acquires patents which it uses in its own manufacturing activity. X licenses its floodlight patent to Y and Z, uncontrolled foreign corporations, for use in their own territories, countries Y and Z, respectively. Corporation Y pays X an arm's length royalty of \$3,000 plus \$0.20 for each floodlight sold. Sales of floodlights by Y for the taxable year are \$135,000 (at \$4.50 per unit) or 30,000 units, and the royalty is \$9,000 ( $\$3,000 + \$0.20 \times 30,000$ ). Y has sales of other products of \$500,000. Z pays X an arm's length royalty of \$3,000 plus \$0.30 for each unit sold. Z manufactures 30,000 floodlights in the taxable year, and the royalty is \$12,000 ( $\$3,000 + \$0.30 \times 30,000$ ). The dollar value of Z's floodlight sales is not known and cannot be reasonably estimated because, in this case, the floodlights are not sold separately by Z but are instead used as a component in Z's manufacture of lighting equipment for theaters. The sales of all Z's products, including the lighting equipment for theaters, are \$1,000,000. Y and Z each sell the floodlights exclusively within their respective countries. X's sales of floodlights for the taxable year are \$500,000 and its sales of its other products, flashlights, fuse boxes, and solderless connectors, are \$400,000. X has gross income of \$500,000, consisting of gross income from domestic sources of \$479,000, and royalty income of \$9,000 and \$12,000 from foreign corporations Y and Z respectively.

(ii) *Allocation.* X's research and experimental expenses are definitely related

to all of the products that it produces, which are floodlights, flashlights, fuse boxes, and solderless connectors. All of these products are in the same three digit SIC Code category, Electric Lighting and Wiring Equipment (SIC Industry Group 364). Thus, X's research and experimental expenses are allocable to all items of income attributable to this product category, domestic sales income and royalty income from the foreign countries in which corporations Y and Z operate.

(iii) *Apportionment.* (A) The statutory grouping of gross income is general limitation income from sources without the United States. The residual grouping is general limitation gross income from sources within the United States. X's deduction of \$100,000 for its research expenditures must be apportioned between the groupings. For apportionment on the basis of sales in accordance with paragraph (e)(3)(ii) of this section, X is entitled to an exclusive apportionment of 50 percent of its research and experimental expense to the residual grouping, general limitation gross income from sources within the United States, since more than 50 percent of the research activity was performed in the United States. The remaining 50 percent of the deduction can then be apportioned between the residual and statutory groupings on the basis of sales. Since Y and Z are unrelated licensees of X, only their sales of the licensed product, floodlights, are included for purposes of apportionment. Floodlight sales of Z are unknown, but are estimated at ten times royalties from Z, or \$120,000. All of X's sales from the entire product category are included for purposes of apportionment on the basis of sales. Alternatively, X may apportion its deduction on the basis of gross income, in accordance with paragraph (e)(3)(iii) of this section. The apportionment is as follows:

(1) *Tentative Apportionment on the basis of sales.*

(i) Research and experimental expense to be apportioned between statutory and residual groupings of gross income: \$100,000.

(ii) Less: Exclusive apportionment of research and experimental expense to the residual groupings of gross income ( $\$100,000 \times 50$  percent): \$50,000.

(iii) Research and experimental expense to be apportioned between the statutory and residual groupings of gross income on the basis of sales: \$50,000.

(iv) Apportionment of research and experimental expense to the residual groupings of gross income ( $\$50,000 \times \$900,000 / (\$900,000 + \$135,000 + \$120,000)$ ): \$38,961.

(v) Apportionment of research and experimental expense to the statutory grouping, royalty income from countries Y and Z ( $\$50,000 \times \$135,000 + \$120,000 / (\$900,000 + \$135,000 + \$120,000)$ ): \$11,039.

(vi) Total apportioned deduction for research and experimentation: \$100,000.

(vii) Amount apportioned to the residual grouping ( $\$50,000 + \$38,961$ ): \$88,961.

(viii) Apportioned to the statutory grouping of sources within countries Y and Z: \$11,039.

(2) *Tentative apportionment on gross income basis.*

(i) Apportionment of research and experimental expense to the residual

grouping of gross income ( $\$100,000 \times \$479,000 / \$500,000$ ): \$95,800.

(ii) Apportionment of research and experimental expense to the statutory grouping of gross income ( $\$100,000 \times \$9,000 + \$12,000 / \$500,000$ ): \$4,200.

(iii) Amount apportioned to the residual grouping: \$95,800.

(iv) Amount apportioned to the statutory grouping of general limitation income from sources without the United States: \$4,200.

(B) Since X's apportionment on the basis of gross income to the statutory grouping, \$4,200, is less than 50 percent of its apportionment on the basis of sales to the statutory grouping, \$11,039 it may use Option two of paragraph (e)(3)(iii)(B) of this section and apportion \$5,520 (50 percent of \$11,039) to the statutory grouping.

*Examples (9) through (16)—[Reserved]*

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*Example (23)—[Reserved]*

\* \* \* \* \*

**Margaret Milner Richardson,**

*Commissioner of Internal Revenue.*

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 203

#### Technical Assistance for Public Participation

**AGENCY:** Department of Defense, Office of the Deputy Under Secretary of Defense for Environmental Security (DUSD(ES)).

**ACTION:** Notice of request for comments.

**SUMMARY:** Consistent with section 326 of The National Defense Authorization Act for Fiscal Year 1995 (NDAA-95), the Department of Defense intends to publish interim rules for providing technical assistance funding to citizens affected by the environmental restoration of Department of Defense facilities. This request for comments discusses and solicits comments on several options the Department of Defense is considering for providing assistance to community members of Technical Review Committee (TRCs) and Restoration Advisory Boards (RABs) to obtain technical advisors and facilitate the participation of these members and affected citizens in environmental restoration activities at their associated installations. The Department of Defense will consider these comments in formulating an Interim Final Rule.

**DATES:** Written comments must be received on or before July 24, 1995.