

those firms who regularly file documents at the Commission on behalf of parties to Commission investigations or questionnaire respondents. The estimated number of respondents is about 4,695 and the estimated frequency of response to the collection of information is either about 47 times or one time per year, depending on the filer.

5. *Estimated Total Annual Reporting and Recordkeeping Burden:* The estimated total annual reporting burden is about 1,153.3 hours. There is no recordkeeping burden.

### Section-by-Section Analysis of the Proposed Amendments

#### PART 201—RULES OF GENERAL APPLICATION

##### Subpart B—Initiation and Conduct of Investigations

###### Section 201.8

Section 201.8 currently provides that a signed original and 14 copies of each document are to be filed with the Secretary of the Commission. The Commission proposes to add a new paragraph (f) to section 201.8 to permit persons the options of filing certain documents electronically at the Commission's Internet Web site without violating the relevant provisions of the Rules that govern paper filing of documents with the Commission.

The Commission also proposes to add a new paragraph (g) to section 201.8 to require that persons filing documents either in paper form or electronically must provide certain coding information to the Commission along with their filings.

###### Section 201.16

Section 201.16 provides generally that documents required to be served by a person or by the Commission on another party shall be effected by mailing or delivering a copy of such documents to such party or its authorized representative or its attorney. The Commission proposes to add a new paragraph (e) to section 201.16 to permit persons the option of serving documents on other parties electronically, if the Secretary consents to such electronic service, except in proceedings under section 337 of the Tariff Act of 1930. In section 337 proceedings, parties must obtain the prior permission of the presiding administrative law judge before serving documents electronically on other parties.

#### List of Subjects in 19 CFR Part 201

Administrative practice and procedure, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Commission proposes to amend 19 CFR part 201 as follows:

#### PART 201—RULES OF GENERAL APPLICATION

1. The authority citation for part 201 continues to read as follows:

**Authority:** Sec. 335 of the Tariff Act of 1930 (19 U.S.C. 1335), and sec. 603 of the Trade Act of 1974 (19 U.S.C. 2482), unless otherwise noted.

2. Amend § 201.8 to add paragraphs (f) and (g) to read as follows:

##### § 201.8 Filing of documents.

\* \* \* \* \*

(f) *Electronic filing.* Notwithstanding the relevant provisions of §§ 201.8, 201.12, 201.16, 207.3, 207.93, 210.4 and 210.7 of the Commission's Rules of Practice and Procedure (19 CFR 201.8, 201.12, 201.16, 207.3, 207.93, 210.4 and 210.7) governing the filing of documents in paper form with the Commission, a person may instead or in addition choose to file electronically certain documents at <http://edis.usitc.gov>. A person so choosing shall comply with the procedures set forth in the Commission's Handbook on Electronic Filing Procedures, which is available at the Office of the Secretary and at <http://edis.usitc.gov>. The Commission's Handbook on Electronic Filing Procedures will include a description of documents that are permitted to be filed with the Commission in electronic form.

(g) *Cover sheet.* Documents filed in paper form with the office of the Secretary must be accompanied by a cover sheet in a form prescribed by the Secretary, completed in its entirety. The cover sheet may be obtained from the Secretary or printed-out at <http://edis.usitc.gov>. For documents that are filed electronically, the cover sheet for such filing must be completed online at <http://edis.usitc.gov> at the time of the electronic filing.

3. Amend § 201.16 to add paragraph (e) to read as follows:

##### § 201.16 Service of process and other documents.

\* \* \* \* \*

(e) *Electronic service.* With the prior consent of the Secretary, parties may serve documents by electronic means in all matters before the Commission, except for proceedings conducted under section 337 of the Tariff Act of 1930. In the case of proceedings under section 337 of the Tariff Act of 1930, parties

may serve documents by electronic means with the prior consent of the presiding administrative law judge. Parties may only effect electronic service on recipients who have provided written consent thereto to the Secretary or the presiding administrative law judge. If electronic service is permitted, paragraphs (a), (b) and (d) of this section shall not apply. However, any dispute that arises among parties regarding electronic service must be resolved by the parties themselves, without the Commission's involvement. A party may withdraw its consent to electronic service and require service under paragraphs (a) and (b) of this section

Dated: April 23, 2002.

By Order of the Commission:

**Marilyn R. Abbott,**

Secretary.

The following attachment will not appear in the Code of Federal Regulations.

#### ATTACHMENT: EDIS-II Cover Sheet

Filed by \_\_\_\_\_  
Firm/Organization \_\_\_\_\_  
Filed on Behalf of \_\_\_\_\_  
Security \_\_\_\_\_  
Investigation # \_\_\_\_\_  
Document Type \_\_\_\_\_  
Document Title \_\_\_\_\_  
Document Date \_\_\_\_\_  
Add Attachments: \_\_\_\_\_

[FR Doc. 02-10346 Filed 4-25-02; 8:45 am]

BILLING CODE 7020-02-M

#### DEPARTMENT OF THE TREASURY

##### Internal Revenue Service

#### 26 CFR Part 1

[REG-163892-01]

RIN 1545-AY42

#### Guidance Under Section 355(e); Recognition of Gain on Certain Distributions of Stock or Securities in Connection With an Acquisition

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

**ACTION:** Withdrawal of notice of proposed rulemaking; and notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** This document withdraws the notice of proposed rulemaking published in the **Federal Register** on January 2, 2001. In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing

temporary regulations relating to recognition of gain on certain distributions of stock or securities of a controlled corporation in connection with an acquisition. The text of those regulations also serves as the text of these proposed regulations.

**DATES:** Written and electronic comments and requests for a public hearing must be received by July 25, 2002.

**ADDRESSES:** Send submissions to: CC:ITA:RU (REG-163892-01), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG-163892-01), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at [www.irs.gov/regs](http://www.irs.gov/regs).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Amber R. Cook at (202) 622-7530; concerning submissions, Treena Garrett, (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Background and Explanation of Provisions**

On January 2, 2001, the IRS and Treasury published in the **Federal Register** (66 FR 66) a notice of proposed rulemaking (REG-107566-00) under section 355(e) of the Internal Revenue Code of 1986. Those proposed regulations are withdrawn.

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 355(e). The temporary regulations provide rules relating to recognition of gain on certain distributions of stock or securities of a controlled corporation in connection with an acquisition. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

**Special Analysis**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 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) does not apply to these regulations, and, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C.

chapter 6) does not apply. 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.

**Comments and Requests for a 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) and electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rules and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these regulations is Amber R. Cook, Office of Associate Chief Counsel (Corporate). Other personnel from the IRS and Treasury Department, however, participated in their development.

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

Income taxes, Reporting and recordkeeping requirements.

**Withdrawal of Proposed Amendments to the Regulations and Proposed Amendments to the Regulations**

Accordingly, under the authority of 26 U.S.C. 7805 and 26 U.S.C. 355(e)(5), the notice of proposed rulemaking (REG-107566-00) that was published in the **Federal Register** on Tuesday, January 2, 2001, (66 FR 66) is withdrawn. In addition, 26 CFR part 1 is proposed to be amended as follows:

**PART 1—INCOME TAXES**

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

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

Section 1.355-7 also issued under 26 U.S.C. 355(e)(5). \* \* \*

**Par. 2.** Section 1.355-0 is amended by revising the introductory text and adding an entry for § 1.355-7 to read as follows:

**§ 1.355-0 Table of contents.**

In order to facilitate the use of §§ 1.355-1 through 1.355-7, this section lists the major paragraphs in those sections as follows:

\* \* \* \* \*

**§ 1.355-7 Recognition of gain on certain distributions of stock or securities in connection with an acquisition.**

- (a) In general.
- (b) Plan.
  - (1) In general.
  - (2) Certain post-distribution acquisitions.
  - (3) Plan factors.
  - (4) Non-plan factors.
  - (c) Operating rules.
    - (1) Internal discussions and discussions with outside advisors evidence of business purpose.
    - (2) Takeover defense.
    - (3) Effect of distribution on trading in stock.
    - (4) Consequences of section 355(e) disregarded for certain purposes.
    - (5) Multiple acquisitions.
      - (d) Safe harbors.
        - (1) Safe Harbor I.
        - (2) Safe Harbor II.
        - (3) Safe Harbor III.
        - (4) Safe Harbor IV.
        - (5) Safe Harbor V.
          - (i) In general.
          - (ii) Special rules.
        - (6) Safe Harbor VI.
          - (i) In general.
          - (ii) Special rule.
        - (7) Safe Harbor VII.
          - (i) In general.
          - (ii) Special rule.
      - (e) Stock acquired by exercise of options, warrants, convertible obligations, and other similar interests.
        - (1) Treatment of options.
          - (i) General rule.
          - (ii) Agreement, understanding, or arrangement to write an option.
          - (iii) Substantial negotiations related to options.
        - (2) Instruments treated as options.
        - (3) Instruments generally not treated as options.
          - (i) Escrow, pledge, or other security agreements.
          - (ii) Compensatory options.
          - (iii) Options exercisable only upon death, disability, mental incompetency, or separation from service.
          - (iv) Rights of first refusal.
        - (v) Other enumerated instruments.
    - (f) Multiple controlled corporations.
    - (g) Valuation.
    - (h) Definitions.
      - (1) Agreement, understanding, arrangement, or substantial negotiations.

- (2) Controlled corporation.
- (3) Controlling shareholder.
- (4) Coordinating group.
- (5) Discussions.
- (6) Established market.
- (7) Five-percent shareholder.
- (8) Similar acquisition.
- (9) Ten-percent shareholder.
- (i) [Reserved]
- (j) Examples.
- (k) Effective date.

**Par. 3.** Section 1.355-7 is added to read as follows:

**§ 1.355-7 Recognition of gain on certain distributions of stock or securities in connection with an acquisition.**

[The text of proposed § 1.355-7 is the same as the text of § 1.355-7T published elsewhere in this issue of the **Federal Register**].

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

[FR Doc. 02-9818 Filed 4-23-02; 12:14 pm]

BILLING CODE 4830-01-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[SC-039; 043-200222(b); FRL-7202-3]

**Approval and Promulgation of Implementation Plans South Carolina: Approval of Revisions to the 1-Hour Ozone Maintenance State Implementation Plan for the Cherokee County**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Cherokee County 1-hour ozone maintenance area portion of the South Carolina Air Quality State Implementation Plan (SIP), submitted by the South Carolina Department of Health and Environmental Control (SC DHEC) on January 31, 2002. This SIP revision satisfies the requirement of section 175A(b) of the Clean Air Act (CAA) for the ten-year update for the Cherokee County maintenance plan. Additionally, this submittal explicitly identifies the motor vehicle emission budgets ("budgets") for oxides of nitrogen (NO<sub>x</sub>) and volatile organic compounds (VOC). In this action, EPA is also finding the NO<sub>x</sub> and VOC "budgets" supplied in this updated maintenance plan adequate, and is proposing approval of these 'budgets.' These budgets, identified for the year 2012, will be used for the purposes of conducting transportation conformity

analyses for Cherokee County, in accordance with the requirements of the CAA amendments of 1990 and the Transportation Conformity rule. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to the direct final rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Written comments must be received on or before May 28, 2002.

**ADDRESSES:** All comments should be addressed to: Sean Lakeman or Lynorae Benjamin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. Persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file number SC-039; 043-200222. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), EPA, 401 M Street, SW, Washington, DC 20460.

SC DHEC, Bureau of Air Quality, 2600 Bull Street, Columbia, South Carolina 29201.

**FOR FURTHER INFORMATION CONTACT:**

Sean Lakeman, Regulatory Planning Section, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Lakeman's telephone number is (404) 562-9043. He can also be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

Lynorae Benjamin, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth

Street, SW, Atlanta, Georgia 30303-8960. Ms. Benjamin's telephone number is (404) 562-9040. She can also be reached via electronic mail at [benjamin.lynorae@epa.gov](mailto:benjamin.lynorae@epa.gov).

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

Dated: April 18, 2002.

**Winston A. Smith,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 02-10335 Filed 4-25-02; 8:45 am]

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**DEPARTMENT OF DEFENSE**

**48 CFR Part 225**

[DFARS Case 2002-D005]

**Defense Federal Acquisition Regulation Supplement; Foreign Military Sales Customer Involvement**

**AGENCY:** Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add policy regarding the participation of foreign military sales (FMS) customers in the development of contracts that DoD awards on their behalf. The objective is to provide FMS customers with more visibility into the contract pricing and award process.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before June 25, 2002, to be considered in the formation of the final rule.

**ADDRESSES:** Respondents may submit comments directly on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: [dfars@acq.osd.mil](mailto:dfars@acq.osd.mil). Please cite DFARS Case 2002-D005 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2002-D005.

At the end of the comment period, interested parties may view public comments on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf>.