

**Alternative Methods of Compliance (AMOCs)**

(j) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

**Related Information**

(k) French airworthiness directive 2003-376(B), dated October 1, 2003, also addresses the subject of this AD.

**Material Incorporated by Reference**

(l) You must use Job Instruction Card 32-11-00 RAI 10030-001, dated February 1, 2000, of the Avions de Transport Regional 42 Aircraft Maintenance Manual to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approves the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. For information on the availability of this material at the National Archives and Records Administration (NARA), call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). You may view the AD docket at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, Nassif Building, Washington, DC.

Issued in Renton, Washington, on February 17, 2005.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 05-3787 Filed 3-1-05; 8:45 am]

**BILLING CODE 4910-13-P**

**AIR TRANSPORTATION STABILIZATION BOARD****14 CFR Part 1310****Regulations for Air Transportation Stabilization Board Under Section 101(a)(1) of the Air Transportation Safety and System Stabilization Act**

**AGENCY:** Air Transportation Stabilization Board.

**ACTION:** Final rule.

**SUMMARY:** This supplemental regulation is issued by the Air Transportation Stabilization Board under section 102(c)(2)(B) of the Air Transportation Safety and System Stabilization Act, which authorizes the Air Transportation Stabilization Board (the "Board") to issue supplemental regulations for the issuance of federal credit instruments. The purpose of this supplemental regulation is to allow the Board to charge a fee for each amendment to, or waiver of, any term or condition of any

guaranteed loan document or related instrument approved by the Board relating to its air carrier guarantee loan program. These regulations are effective upon publication.

**EFFECTIVE DATE:** March 2, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Mark R. Dayton, Executive Director, Air Transportation Stabilization Board, 1120 Vermont Avenue, NW., Suite 970, Washington, DC 20005, at (202) 622-3550 or by e-mail to [atsb@do.treas.gov](mailto:atsb@do.treas.gov).

**SUPPLEMENTARY INFORMATION:**

On October 12, 2001, the Office of Management and Budget (the "OMB") published a final rule (66 FR 52270), as amended on April 9, 2002 (67 FR 17258), under section 102(c)(2)(B) of the Air Transportation Safety and System Stabilization Act (the "Act"). That section states that "the Director of the Office of Management and Budget shall issue regulations setting forth procedures for application and minimum requirements \* \* \* for the issuance of Federal credit instruments under Section 101(a)(1)" of the Act. Section 101(a)(1) authorizes the Board, which is established by section 102(b)(1) of the Act, to issue certain Federal credit instruments to assist air carriers who suffered losses due to the terrorist attacks of September 11, 2001, and to whom credit is not otherwise reasonably available, in order to facilitate a safe, efficient, and viable commercial aviation system in the United States.

Section 102(c)(2)(B) of the Act authorizes the Board to supplement the regulations issued by OMB. On April 9, 2002, the Board published a supplemental final rule (67 FR 17258) under Section 102(c)(2)(B) of the Act establishing administrative rules and procedures. The Board has determined that it is appropriate to issue supplemental rules and procedures to facilitate requests for amendments or waivers to terms and conditions of guaranteed loan documents or related instruments approved by the Board.

Because this final rule relates to public loan guarantees and does not affect the substantive rights or obligations of any person, notice and public procedure are not required pursuant to 5 U.S.C. 553(a). For the same reasons, a delayed effective date is not required pursuant to 5 U.S.C. 553(a) and (d). This rule is not a "significant regulatory action" for purposes of Executive Order 12866, and because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

**List of Subjects in Part 1310**

Air carriers, Disaster assistance, Loan programs-transportation, Reporting and recordkeeping requirements.

Dated: February 22, 2005.

**Mark R. Dayton,**

*Executive Director, Air Transportation Stabilization Board.*

■ For the reasons set forth in the preamble and under the authority of 49 U.S.C. 40101 note, the Air Transportation Stabilization Board amends subchapter B of 14 CFR Chapter VI as follows:

■ 1. The heading of Part 1310 is revised to read as follows:

**Subchapter B—Air Transportation Stabilization Board****PART 1310—AIR CARRIER GUARANTEE LOAN PROGRAM ADMINISTRATIVE REGULATIONS AND AMENDMENT OR WAIVER OF A TERM OR CONDITION OF GUARANTEED LOAN**

■ 2. The authority citation for part 1310 continues to read as follows:

**Authority:** Title I of Pub. L. 107-42, 115 Stat. 230 (49 U.S.C. 40101 note).

■ 3. Section 1310.15 is added to read as follows:

**§ 1310.15 Amendment or Waiver of a term or condition of a guaranteed loan.**

The Board may, in its discretion, charge the borrower a fee, in an amount and payable as determined by the Board, for each amendment to, or waiver of, any term or condition of any guaranteed loan document or related instrument approved by the Board.

[FR Doc. 05-4005 Filed 2-25-05; 12:15 pm]

**BILLING CODE 4810-25-P**

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[TD 9186]

**RIN 1545-BD42**

**Qualified Amended Returns**

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

**ACTION:** Temporary regulations.

**SUMMARY:** This document contains temporary regulations that modify the rules relating to qualified amended returns by providing additional circumstances that end the period within which a taxpayer may file an

amended return that constitutes a qualified amended return. These regulations provide that the period for filing a qualified amended return is terminated once the IRS has served a John Doe summons on a third party with respect to the taxpayer's tax liability. In addition, for taxpayers who have claimed tax benefits from undisclosed listed transactions, the regulations provide that the period for filing a qualified amended return is terminated once the IRS contacts a promoter, organizer, seller, or material advisor concerning the listed transaction. The regulations also provide that the date on which published guidance is issued announcing a settlement initiative for a listed transaction in which penalties are compromised or waived is an additional date by which a taxpayer must file a qualified amended return. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject published elsewhere in this issue of the **Federal Register**.

**DATES:** *Effective Date:* These regulations are effective March 2, 2005.

*Applicability Dates:* For dates of applicability, see § 1.6664-1T(b)(3).

**FOR FURTHER INFORMATION CONTACT:** Nancy M. Galib, 202-622-4940 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

This document contains temporary regulations under 26 CFR part 1 relating to qualified amended returns. Section 1.6664-2(c) provides that the amount reported on a qualified amended return will be treated as an amount shown as tax on the taxpayer's return for purposes of determining whether there is an underpayment of tax subject to an accuracy-related penalty. Section 1.6664-2(c)(3) provides that an amended return, or request for administrative adjustment under section 6227 of the Internal Revenue Code, is a qualified amended return if it is filed before the earliest of: (1) The date on which the IRS first contacts the taxpayer concerning an examination of the return; (2) the date on which the IRS first contacts a person described in section 6700(a) concerning the examination of an activity described in section 6700(a) with respect to which the taxpayer claimed any tax benefit on the return directly or indirectly through the entity, plan or arrangement described in section 6700(a)(1)(A); or (3) for certain pass-through items, the date on which the IRS first contacts the pass-

through entity in connection with an examination of the return to which the pass-through item relates. These provisions are intended to encourage voluntary compliance by permitting taxpayers to avoid accuracy-related penalties by filing an amended return before the IRS begins an investigation of the taxpayer or the promoter of a transaction in which the taxpayer participated.

The Treasury Department and the IRS have determined that additional rules providing for the termination of the period for filing a qualified amended return are necessary because existing rules may encourage taxpayers to delay filing amended returns until after the IRS has taken steps to identify taxpayers as participants in potentially abusive transactions. To discourage the wait-and-see approach of some taxpayers and to encourage voluntary compliance, the Treasury Department and the IRS announced in Notice 2004-38, 2004-24 I.R.B. 949, that regulations modifying the definition of *qualified amended return* in § 1.6664-2(c)(3) would be issued. Notice 2004-38 announced that the regulations would provide that the period for filing a qualified amended return is terminated when the IRS serves a John Doe summons under section 7609(f) with respect to the taxpayer's tax liability. Notice 2004-38 also announced that the regulations would provide that the period for filing a qualified amended return would terminate when the IRS contacts an organizer, seller, or material advisor concerning a listed transaction for which the taxpayer has claimed a tax benefit. Notice 2004-38 provided that the regulations would be effective for amended returns or requests for administrative adjustment filed on or after April 30, 2004.

**Explanation of Provisions**

These regulations provide the rules announced in Notice 2004-38 that identify additional circumstances that terminate the period within which a taxpayer may file a qualified amended return. Temporary regulation § 1.6664-2T(c)(3)(i) provides that a qualified amended return must be filed before the IRS serves on a third party a John Doe summons relating to the tax liability of a person, group, or class that includes the taxpayer or pass-through entity of which the taxpayer is a partner, shareholder, beneficiary, or holder of a residual interest in a REMIC with respect to a return that reflects the activity that is the subject of the summons. Any taxpayer so identified also is precluded from filing a qualified amended return in a year not identified

in the summons if the original return for that year reflected the taxpayer's participation in the transaction or activity to which the summons relates.

Temporary regulation § 1.6664-2T(c)(3)(ii) provides special rules with respect to undisclosed listed transactions. An *undisclosed listed transaction* is a transaction that: (1) is the same or substantially similar to a listed transaction as defined in § 1.6011-4(b)(2) (regardless of whether § 1.6011-4 requires the taxpayer to disclose the transaction); and (2) was not previously disclosed by the taxpayer within the meaning of § 1.6011-4 or § 1.6011-4T, or had not been disclosed under Announcement 2002-2 by the deadline therein. In the case of an undisclosed listed transaction for which a taxpayer claims any direct or indirect tax benefits on its return, a taxpayer may not file a qualified amended return on or after the earlier of: (1) The date on which the IRS first contacts any person regarding an examination of that person's liability under section 6707(a) with respect to the undisclosed listed transaction of the taxpayer; or (2) the date on which the IRS issues to any person a request for information required to be included on a list under section 6112 relating to a type of listed transaction regarding which that person made a tax statement to or for the benefit of the taxpayer (regardless of whether the taxpayer's information is required to be included on the list requested by the IRS). For purposes of this section, an examination of a person's liability under section 6707(a) includes examinations under section 6707, in effect prior to and after the amendments made by section 816 of the American Jobs Creation Act of 2004, Pub. L. 108-357 (118 Stat. 1418).

An amended return that is filed to disclose a transaction, but that does not show an additional amount due, is treated as a qualified amended return for purposes of § 1.6662-3(c) or § 1.6662-4(e) and (f). These temporary regulations also provide that a qualified amended return includes an amended return filed solely to disclose information pursuant to § 1.6011-4, provided that the taxpayer also makes the required disclosure to the Office of Tax Shelter Analysis.

In addition to these rules, temporary regulation § 1.6664-2T(c)(3)(i) also provides that the date on which published guidance is issued providing for a settlement initiative for a listed transaction is an additional date by which a taxpayer who participated in the listed transaction must file a qualified amended return for the taxable years in which the taxpayer claimed any

direct or indirect tax benefits from the listed transaction. The Commissioner may waive the requirements of this provision or identify a later date by which a taxpayer who participated in the listed transaction must file a qualified amended return in the published guidance announcing the listed transaction settlement initiative.

These temporary regulations also clarify the existing rules applicable to qualified amended returns. Temporary regulation § 1.6664-2T(c)(3)(i)(B) clarifies that the period for filing a qualified amended return terminates on the date the IRS first contacts a person concerning an examination under section 6700, regardless of whether the IRS ultimately establishes that such person violated section 6700. Temporary regulation § 1.6664-2T(c)(3)(i) also clarifies that a taxpayer must file a qualified amended return before the IRS first contacts the taxpayer concerning a criminal investigation of the taxpayer that includes the tax period covered by the return.

#### Effective Date

Paragraphs (c)(1), (c)(2), (c)(3)(i)(A), (c)(3)(i)(B), (c)(3)(i)(C), (c)(3)(i)(D) (second sentence), (c)(3)(i)(E), and (c)(4) of § 1.6664-2T are applicable for amended returns and requests for administrative adjustment filed on or after March 2, 2005. Paragraphs (c)(3)(i)(D) (first sentence) and (c)(3)(ii) of § 1.6664-2T are applicable for amended returns and requests for administrative adjustment filed on or after April 30, 2004.

#### Effect on Other Documents

Notice 2004-38 (2004-24 I.R.B. 949) is obsolete as of March 2, 2005.

#### Special Analyses

It has been determined that this Treasury decision 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 the regulation does 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), this Treasury decision will be 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 this regulation is Nancy M. Galib, Office of Associate

Chief Counsel (Procedure & Administration), Administrative Provisions and Judicial Practice Division.

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

Income taxes, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.6664-1T is added to read as follows:

#### § 1.6664-1T Accuracy-related and fraud penalties; definitions and special rules (temporary).

(a) through (b)(2) [Reserved]. For further guidance, see § 1.6664-1.

(b)(3) *Qualified amended returns.* Sections 1.6664-2T(c)(1), (c)(2), (c)(3)(i)(A), (c)(3)(i)(B), (c)(3)(i)(C), (c)(3)(i)(D) (second sentence), (c)(3)(i)(E), and (c)(4) are applicable for amended returns and requests for administrative adjustment filed on or after March 2, 2005. Sections 1.6664-2T(c)(3)(i)(D) (first sentence) and (c)(3)(ii) are applicable for amended returns and requests for administrative adjustment filed on or after April 30, 2004.

■ **Par. 3.** Section 1.6664-2 is revised to read as follows:

#### § 1.6664-2 Underpayment.

\* \* \* \* \*

(c) [Reserved]. For further guidance, see § 1.6664-2T.

\* \* \* \* \*

■ **Par. 4.** Section 1.6664-2T is added to read as follows:

#### § 1.6664-2T Underpayment (temporary).

(a) through (b) [Reserved]. For further guidance, see § 1.6664-2.

(c) *Amount shown as the tax by the taxpayer on his return—(1) Defined.* For purposes of paragraph (a) of this section, the “amount shown as the tax by the taxpayer on his return” is the tax liability shown by the taxpayer on his return, determined without regard to the items listed in § 1.6664-2(b) (1), (2), and (3), except that it is reduced by the excess of—

(i) The amounts shown by the taxpayer on his return as credits for tax withheld under section 31 (relating to

tax withheld on wages) and section 33 (relating to tax withheld at source on nonresident aliens and foreign corporations), as payments of estimated tax, or as any other payments made by the taxpayer with respect to a taxable year before filing the return for such taxable year; over

(ii) The amounts actually withheld, actually paid as estimated tax, or actually paid with respect to a taxable year before the return is filed for such taxable year.

(2) *Effect of qualified amended return.* The “amount shown as the tax by the taxpayer on his return” includes an amount shown as additional tax on a qualified amended return (as defined in paragraph (c)(3) of this section), except that such amount is not included if it relates to a fraudulent position on the original return.

(3) *Qualified amended return defined.* (i) *General rule.* A qualified amended return is an amended return, or a timely request for an administrative adjustment under section 6227, filed after the due date of the return for the taxable year (determined with regard to extensions of time to file) and before the earliest of—

(A) The date the taxpayer is first contacted by the Internal Revenue Service concerning any examination (including a criminal investigation) with respect to the return;

(B) The date any person is first contacted by the Internal Revenue Service concerning an examination of that person under section 6700 (relating to the penalty for promoting abusive tax shelters) of an activity with respect to which the taxpayer claimed any tax benefit on the return directly or indirectly through the entity, plan or arrangement described in section 6700(a)(1)(A);

(C) In the case of a pass-through item (as defined in § 1.6662-4(f)(5)), the date the pass-through entity (as defined in § 1.6662-4(f)(5)) is first contacted by the Internal Revenue Service in connection with an examination of the return to which the pass-through item relates;

(D) The date on which the Internal Revenue Service serves a summons described in section 7609(f) relating to the tax liability of a person, group, or class that includes the taxpayer (or pass-through entity of which the taxpayer is a partner, shareholder, beneficiary, or holder of a residual interest in a REMIC) with respect to an activity for which the taxpayer claimed any tax benefit on the return directly or indirectly. This rule applies to any return on which the taxpayer claimed a direct or indirect tax benefit from the type of activity that is the subject of the summons, regardless of whether the summons seeks the

production of information for the taxable period covered by such return; and

(E) The date on which the Commissioner announces by revenue ruling, revenue procedure, notice, or announcement, to be published in the Internal Revenue Bulletin (see § 601.601(d)(2)), a settlement initiative to compromise or waive penalties with respect to a listed transaction. This rule applies only to a taxpayer who participated in the listed transaction and for the taxable year(s) in which the taxpayer claimed any direct or indirect tax benefits from the listed transaction. The Commissioner may waive the requirements of this paragraph or identify a later date by which a taxpayer who participated in the listed transaction must file a qualified amended return in the published guidance announcing the listed transaction settlement initiative.

(ii) *Undisclosed listed transactions.* An undisclosed listed transaction is a transaction that is the same as, or substantially similar to, a listed transaction within the meaning of § 1.6011-4(b)(2) (regardless of whether § 1.6011-4 requires the taxpayer to disclose the transaction) and was not previously disclosed by the taxpayer within the meaning of § 1.6011-4 or § 1.6011-4T, or had not been disclosed under Announcement 2002-2, 2002-1 C.B. 304, by the deadline therein. In the case of an undisclosed listed transaction for which a taxpayer claims any direct or indirect tax benefits on its return (regardless of whether the transaction was a listed transaction at the time the return was filed), an amended return or request for administrative adjustment under section 6227 will not be a qualified amended return if filed on or after the earliest of—

(A) The dates described in § 1.6664-2(c)(3)(i);

(B) The date on which the Internal Revenue Service first contacts any person regarding an examination of that person's liability under section 6707(a) with respect to the undisclosed listed transaction of the taxpayer; or

(C) The date on which the Internal Revenue Service requests, from any person who made a tax statement or for the benefit of the taxpayer, or who is a material advisor (within the meaning of section 6111) with respect to the taxpayer, the information required to be included on a list under section 6112 relating to a transaction that is the same as, or substantially similar to, the undisclosed listed transaction, regardless of whether the taxpayer's information is required to be included on that list.

(4) *Special rules.* (i) A qualified amended return includes an amended return that is filed to disclose information pursuant to § 1.6662-3(c) or § 1.6662-4 (e) and (f) and that does not report any additional tax liability. A qualified amended return also includes an amended return filed solely to disclose information pursuant to § 1.6011-4, if the taxpayer also makes the required disclosure to the Office of Tax Shelter Analysis under § 1.6011-4(e). See § 1.6662-3(c), § 1.6662-4(f), and § 1.6664-4(c) for rules relating to adequate disclosure.

(ii) The Commissioner may by revenue procedure prescribe the manner in which the rules of paragraph (c) of this section regarding qualified amended returns apply to particular classes of taxpayers.

(5) *Examples.* The following examples illustrate the provisions of paragraphs (c)(3) and (c)(4) of this section:

*Example 1.* T, an individual taxpayer, claimed tax benefits on its 2002 Federal income tax return from a transaction that is substantially similar to the transaction identified as a listed transaction in Notice 2002-65, 2002-2 C.B. 690 (Partnership Entity Straddle Tax Shelter). T did not disclose his participation in this transaction on a Form 8886, Reportable Transaction Disclosure Statement, as required by § 1.6011-4. On June 30, 2004, the IRS requested from P, T's material advisor, an investor list required to be maintained under section 6112. The section 6112 request, however, related to the type of transaction described in Notice 2003-81, 2003-2 C.B. 1223 (Tax Avoidance Using Offsetting Foreign Currency Option Contracts). T did not participate in (within the meaning of § 1.6011-4(c)), and claimed no tax benefits from, a transaction described in Notice 2003-81. T may file a qualified amended return relating to the transaction described in Notice 2002-65 because T did not claim a tax benefit with respect to the listed transaction that is the subject of the section 6112 request.

*Example 2.* The facts are the same as in Example 1, except that T's 2002 Federal income tax return reflected T's participation in the transaction described in Notice 2003-81. As of June 30, 2004, T may not file a qualified amended return for the 2002 tax year.

*Example 3.* Corporation X claimed tax benefits from a transaction on its 2002 Federal income tax return. In October 2003, the IRS and Treasury identified the transaction as a listed transaction. In December 2003, the IRS contacted P concerning an examination of P's liability under section 6707(a) (as in effect prior to the amendment to section 6707 by section 816 of the American Jobs Creation Act of 2004, P.L. 108-357, 118 Stat. 1418). P is the organizer of a section 6111 tax shelter who provided representations to X regarding tax benefits from the transaction, and the IRS has contacted P about the failure to register that transaction. Three days later, X filed an amended return.

X's amended return is not a qualified amended return, because X did not disclose the transaction before the IRS contacted P. X's amended return would have been a qualified amended return if it was submitted prior to the date on which the IRS contacted P.

*Example 4.* The facts are the same as in Example 3 except that, instead of contacting P concerning an examination under section 6707(a), in December 2003, the IRS served P a summons described in section 7609(f). X cannot file a qualified amended return after the summons has been served regardless of when, or whether, the transaction becomes a listed transaction.

*Example 5.* On November 30, 2003, the Internal Revenue Service served Corporation Y, a credit card company, a summons described in section 7609(f). The summons requested the identity of, and information concerning, United States taxpayers who, during the taxable years 2001 and 2002, had signature authority over Corporation Y's credit cards issued by, through, or on behalf of certain offshore financial institutions. In obtaining court approval for the summons, the IRS provided reports and declarations that established a reasonable basis for believing that this ascertainable group of taxpayers may have been using these offshore credit card accounts to avoid complying with the internal revenue laws of the United States. Corporation Y complied with the summons, and identified, among others, Taxpayer B. On May 31, 2004, before the IRS first contacted Taxpayer B concerning an examination of Taxpayer B's federal income tax return for the taxable year 2002, Taxpayer B filed an amended return for that taxable year, that showed an increase in Taxpayer B's federal income tax liability. Under paragraph (c)(3)(i)(D) of this section, the amended return is not a qualified amended return because it was not filed before the summons was served on Corporation Y.

*Example 6.* The facts are the same as in Example 5. Taxpayer B continued to maintain the offshore credit card account through 2003 to avoid compliance with the internal revenue laws. On March 21, 2005, Taxpayer B filed an amended return for the taxable year 2003, that showed an increase in Taxpayer B's federal income tax liability. Under paragraph (c)(3)(i)(D) of this section, the amended return is not a qualified amended return because it was not filed before the summons for 2001 and 2002 was served on Corporation Y, and the return reflects an activity that is the subject of the same summons.

*Example 7.* On November 30, 2003, the Internal Revenue Service served Corporation Y, a credit card company, a summons described in section 7609(f). The summons requested the identity of, and information concerning, United States taxpayers who, during the taxable years 2001 and 2002, had signature authority over Corporation Y's credit cards issued by, through, or on behalf of certain offshore financial institutions. In obtaining court approval for the summons, the IRS established a reasonable basis for believing that this ascertainable group of taxpayers may have been using these offshore credit card accounts to avoid complying with

the internal revenue laws of the United States. Taxpayer C did not have signature authority over any of Corporation Y's credit cards during either 2001 or 2002 and, therefore, was not a person described in the summons.

In 2003, Taxpayer C first acquired signature authority over a Corporation Y credit card issued by an offshore financial institution. Taxpayer C's ability to file a qualified amended return for 2003 is not limited by paragraph (c)(3)(i)(D) because Taxpayer C's return does not reflect an activity that was the subject of the summons that was served on Corporation Y for 2001 and 2002.

*Example 8.* On April 15, 2004, Taxpayer D timely filed his 2003 federal income tax return. The return reported tax benefits from a transaction that had previously been identified as a listed transaction. The tax treatment of the transaction also reflected a position that was contrary to a revenue ruling. D did not include with his return a Form 8275, Disclosure Statement, as required by § 1.6662-3(c), or a Form 8886, Reportable Transaction Disclosure Statement, as required by § 1.6011-4. On March 21, 2005, D filed a qualified amended return that disclosed the listed transaction on an attached Form 8886, but that did not report any additional tax. D also filed the Form 8886 with the Office of Tax Shelter Analysis as required by § 1.6011-4. D has not adequately disclosed the transaction under § 1.6662-3(c) because D failed to file a Form 8275. (d) through (g) [Reserved]. For further guidance, see § 1.6664-2.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

Approved: February 23, 2005.

**Eric Solomon,**

*Acting Assistant Secretary of the Treasury.*  
[FR Doc. 05-3950 Filed 3-1-05; 8:45 am]

**BILLING CODE 4830-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 228**

[FRL-7877-9]

**Ocean Dumping; De-designation of Ocean Dredged Material Disposal Sites and Designation of New Sites**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing its proposal to de-designate four existing ocean dredged material disposal sites located off of the mouth of the Columbia River near the states of Oregon and Washington and to designate two new sites, the Shallow Water site (SWS) and the Deep Water site (DWS). The new sites are needed for long-term use by authorized Columbia River navigation projects and may be available for use by others meeting the criteria for ocean disposal of dredged material. EPA published its proposal to designate the two new ocean disposal sites and to de-designate the four existing ocean disposal sites in the **Federal Register** on March 11, 2003 (68 FR 11488). The de-designation of existing sites is necessary to discontinue their use where the impact of disposal has resulted in changed and adverse site conditions. The newly designated sites are necessary for current and future dredged material ocean disposal needs and will be subject to ongoing monitoring and management to ensure continued protection of the marine environment from adverse effects to the greatest extent practicable.

**DATES:** *Effective Date:* This final site designation and de-designation becomes effective on April 1, 2005.

**ADDRESSES:** The administrative record for this final action is available for inspection at the Region 10 Library, 10th Floor, 1200 Sixth Avenue, Seattle, Washington 98101. For access to the administrative record, contact the Region 10 Library Reference Desk at (206) 553-1289, between 9 a.m. and 4 p.m., Monday through Friday, excluding legal holidays, for an appointment. The EPA public information regulations (40 CFR part 2) provide that a reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** John Malek, Ocean Dumping Coordinator, U.S. Environmental Protection Agency, Region 10 (ETPA-083), 1200 Sixth Avenue, Seattle, WA 98101-1128, telephone (206) 553-1286, e-mail: malek.john@epa.gov.

**SUPPLEMENTARY INFORMATION:**

**1. Regulated Entities**

Entities potentially affected by this action include those who seek or might seek permits or approval by EPA to dispose of dredged material into ocean waters pursuant to the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1401 to 1445, (MPRSA). The action would be relevant to entities, including the U.S. Army Corps of Engineers (Corps), seeking to dispose of dredged materials in ocean waters off the mouth of the Columbia River near the states of Oregon and Washington. Potentially affected categories and entities include:

| Category                                  | Examples of potentially regulated entities   |
|---|--|
| Federal Government .....                  | U.S. Army Corps of Engineers Civil Works Projects, Regulatory Program, Other Federal Agencies.   |
| Industry and General Public .....         | Port Authorities, Marinas and Harbors, Shipyards and Marine Repair Facilities, Berth Owners.   |
| State, local and tribal governments ..... | Governments owning and/or responsible for ports, harbors, and/or berths, Government agencies requiring disposal of dredged material associated with public works projects. |

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. For any questions regarding the applicability of this action to a particular entity, please consult the person listed in the section of this action titled **FOR FURTHER INFORMATION CONTACT**.

**2. Background**

The EPA published a proposal in the **Federal Register** on March 11, 2003, (68 FR 11488), to de-designate four ocean

dredged material disposal sites and to designate two new ocean dredged material disposal sites under Section 102(c) of the MPRSA and its implementing regulations at 40 CFR subchapter H. Under the MPRSA, the Administrator of EPA has the authority, which is delegated to the Regional Administrator of the Region in which the sites are located, to designate sites where ocean disposal may be permitted. The sites that are designated in today's action and the sites that are de-

designated in today's action are located near the mouth of the Columbia River, within Region 10. Figure 1 displays the de-designated sites. Figure 2 displays the newly designated sites. [Figures 1 and 2 are attached at the end of this document.]

The proposed designations and de-designations were accompanied by a joint EPA and Corps "Integrated Feasibility Report and Environmental Impact Statement for Channel Improvements," August 1999 (1999 IFR/