

firms. Assuming a normal distribution, the majority of producers and handlers of tart cherries may be classified as small entities.

This action would change the grower diversion regulations prescribed under the order. This rule would suspend indefinitely the regulations in § 930.158 establishing random row as a method of grower diversion. With growers consistently choosing other diversion methods which offer more flexibility and fewer potential problems, the Board recommended this suspension to bring grower diversion requirements in line with current industry practices. The authority for this action is provided for in § 930.58 of the order. The Board unanimously recommended this action at a meeting on March 24, 2011.

This proposed rule would not impose any additional costs on growers. The grower diversion program under the order is completely voluntary. In an effort to stabilize supplies and prices, the tart cherry industry uses mechanisms under the order to attempt to bring supply and demand into balance. Under voluntary grower diversion, growers can divert cherries from production in exchange for Board issued grower diversion certificates stating the quantity diverted. Growers can then present these certificates to handlers who may redeem them as a method of complying with their restricted percentage obligation under volume regulation. By diverting cherries from production, growers can avoid the costs of harvesting and transporting fruit, reduce the supply, and mitigate the downward pressure on prices that result from oversupply.

This action would only suspend the regulations that provide random row as a method of grower diversion. The other three options, whole lot, partial block, and in-orchard tank, would remain unchanged by this action. Random row is the least utilized of the grower diversion options, with the other three options accounting for 97 percent of diversion volume. Consequently, this change would bring the regulations in line with current industry preferences and practices. Further, the remaining grower diversion options offer the grower some flexibility to control quality, which in turn could increase grower returns. The effects of this rule are not expected to be disproportionately greater or less for small entities than for larger entities.

One alternative action considered by the Board was to remove the regulations pertaining to random row diversion. However, the Board agreed that suspension would be the most appropriate action should the industry

determine it would like to reinstate random row as a diversion option in the future. Thus, termination was rejected as an alternative.

This rule would not impose any additional reporting or recordkeeping requirements on either small or large tart cherry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

In addition, the Board's meeting was widely publicized throughout the tart cherry industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the March 24, 2011, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Laurel May at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A ten-day comment period is provided to allow interested persons to respond to this proposal. Ten days is deemed appropriate because the 2011–12 tart cherry crop harvest will begin in mid to late July 2011. Also, growers need to make their determinations as to grower diversion prior to harvest. Further, growers and handlers are aware of this action, which was unanimously recommended by the Board at a public meeting on March 24, 2011. All written comments timely received will be considered before a final determination is made on this matter.

#### List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is proposed to be amended as follows:

#### **PART 930—TART CHERRIES GROWN IN MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN**

1. The authority citation for 7 CFR part 930 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

#### **§ 930.158 [Amended]**

2. In § 930.158:
  - A. Suspend paragraph (b)(1) indefinitely.
  - B. In paragraph (c)(3), redesignate the first two sentences as paragraph (c)(3)(i) and the remaining sentences as paragraph (c)(3)(ii).
  - C. Newly redesignated paragraph (c)(3)(ii) is suspended indefinitely.

Dated: July 12, 2011.

**Rayne Pegg,**  
*Administrator, Agricultural Marketing Service.*

[FR Doc. 2011–17883 Filed 7–15–11; 8:45 am]

**BILLING CODE P**

#### **NUCLEAR REGULATORY COMMISSION**

#### **10 CFR Part 20**

[NRC–2011–0162]

#### **Consideration of Rulemaking To Address Prompt Remediation of Residual Radioactivity During Operations**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of public Webinar and request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (Commission or NRC) is seeking input from the public, licensees, Agreement States, non-Agreement States, and other stakeholders on a potential rulemaking to address prompt remediation of residual radioactivity during the operational phase of licensed material sites and nuclear reactors. The NRC has not initiated a rulemaking, but is in the process of gathering information and seeking stakeholder input on this subject for developing a technical basis document. To aid in this process, the NRC is requesting comments on the issues discussed in Section III, “Specific Questions,” in the Supplementary Information Section of this document. Additionally, the NRC will hold a public Webinar to facilitate the public's and other stakeholders'

understanding of these issues and the submission of comments.

**DATES:** The public Webinar will be held in Rockville, Maryland on July 25, 2011, from 1 p.m. to 5 p.m. (EDT). Submit comments on the issues discussed in this document by September 16, 2011. Comments received after this date will be considered if it is practical to do so.

**ADDRESSES:** Please include Docket ID NRC-2011-0162 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed. You may submit comments by any one of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2011-0162. Address questions about NRC dockets to Carol Gallagher, telephone: 301-492-3668, e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

- *Fax comments to:* RADB at 301-492-3446.

You can access publicly available documents related to this notice using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of the

NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The Draft Proposed Technical Basis is available electronically under ADAMS Accession Number ML111580353.

- *Federal Rulemaking Web site:* Public comments and supporting materials related to this notice can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2011-0162.

**FOR FURTHER INFORMATION CONTACT:** Mr. Chad Glenn, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6722; email: [chad.glenn@nrc.gov](mailto:chad.glenn@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The NRC recently published the Decommissioning Planning Rule (DPR) (76 FR 33512; June 17, 2011). The DPR applies to the operational phase of a licensed facility, and requires licensees to operate in a way to minimize spills, leaks, and other unplanned releases of radioactive contaminants into the environment. It also requires licensees to check periodically for radiological contamination throughout the site, including subsurface soil and groundwater. The DPR does not have a mandatory requirement for licensees to conduct radiological remediation during operations. Within the Staff Requirements Memorandum (SRM), SRM-SECY-07-0177 (ADAMS Accession No. ML073440549), that approved the proposed DPR, the Commission directed the staff to "make further improvements to the decommissioning planning process by addressing remediation of residual radioactivity during the operational phase with the objective of avoiding complex decommissioning challenges that can lead to legacy sites." Therefore, the NRC staff is considering a potential rulemaking requiring prompt remediation during operations, and has begun gathering information pertinent to its considerations.

##### **II. Discussion**

Currently, there are no NRC regulations that require licensees to promptly remediate radiological contamination. To enhance stakeholder engagement in developing a technical basis as a precursor to a proposed rule, the NRC staff developed a Draft

Proposed Technical Basis to facilitate discussion with, and to solicit input from, interested stakeholders. The Draft Proposed Technical Basis describes the NRC's preferred approach as a rulemaking to require licensees to promptly remediate radioactive spills and leaks when certain threshold limits are met. NRC's preferred approach contemplates using the NRC screening values for soil and the U.S. Environmental Protection Agency (EPA) maximum contamination levels for groundwater as the threshold limits. The preferred approach would also include a provision allowing licensees to delay remediation when certain conditions are met. To justify a delayed remediation, licensees would be required to perform analyses such as dose assessment, risk-assessments and/or cost-benefit analyses for the NRC's review.

In addition to the preferred approach, the NRC staff considered the following as alternative frameworks for requiring prompt remediation during operations:

- (1) Issuing a regulation that would require licensees to conduct prompt remediation of a spill or leak when certain contaminant thresholds, such as the restricted release limits in Title 10 of the *Code of Federal Regulations* (10 CFR), § 20.1403, are exceeded. Unlike the preferred approach, this alternative would not provide the licensee with the opportunity to conduct an analysis to justify delayed remediation.

- (2) Issuing site-specific license conditions requiring timely remediation following identification of contamination above some specified volume or concentration.

- (3) Issuing new guidance in the form of a NUREG.

- (4) No action (i.e., the NRC staff would rely on existing regulations and guidance documents to encourage licensees to consider prompt remediation after spills or leaks).

For more information on the preferred approach and alternatives, please refer to the Draft Proposed Technical Basis (ML111580353).

##### **III. Specific Questions**

To assist the NRC in developing a comprehensive technical basis document for a potential rulemaking requiring prompt remediation, the NRC is seeking stakeholder input on the following questions:

1. Should the NRC conduct rulemaking to address remediation of residual radioactivity during the operational phase? Why or why not?
2. If the NRC implements a rule that requires prompt remediation of radioactive spills and leaks, what

concentration, dose limits, or other threshold limits should trigger prompt remediation? Should the thresholds differ for soil versus groundwater contamination? For example, should the NRC screening criteria be used to establish threshold levels for soil contamination? Should the EPA's maximum contaminant levels be used for drinking water?

3. Should the NRC allow licensees to justify delaying remediation under certain conditions when the contaminant level exceeds the threshold limit? If yes, then what conditions should be used to justify a delayed remediation?

4. Should factors such as safety, operational impact, and cost be a basis for delaying remediation?

5. If the NRC implements a rule that allows licensees to analyze residual radioactivity to justify delaying remediation, then what should the licensee's analysis cover? For example, what kind of dose assessment, risk-assessments and/or cost-benefit analyses should be performed to justify delayed remediation? What other types of analyses are relevant?

6. If the NRC implements a rule that allows licensees to analyze residual radioactivity to justify delaying remediation, what role should the cost of prompt remediation versus remediation at the time of decommissioning play in the analysis?

7. If the NRC implements a rule that allows licensees to analyze residual radioactivity to justify delaying remediation, what standards or criteria should a licensee use to demonstrate to the NRC that a sufficient justification to delay remediation has been met?

8. Are there any other alternatives beyond those discussed in the Draft Proposed Technical Basis document that the NRC should have considered to address prompt remediation?

9. What other issues should the NRC staff consider in developing a technical basis for a rulemaking to address prompt remediation of residual radioactivity during site operations?

#### IV. Public Webinar

To facilitate the understanding of the public and other stakeholders of these issues and the submission of comments, the NRC staff has scheduled a public Webinar, from 1 p.m. to 5 p.m. (EDT). Webinar participants will be able to view the presentation slides prepared by the NRC and electronically submit comments over the Internet. Participants must register to participate in the Webinar. Registration information may be found in the meeting notice (ML111780802). The meeting notice can

also be accessed through the NRC's public Web site under the headings Public Meetings & Involvement > Public Meeting Schedule; see Web page <http://www.nrc.gov/public-involve/public-meetings/index.cfm>.

Additionally, the final agenda for the public Webinar and the Draft Proposed Technical Basis document will be posted no fewer than 10 days prior to the Webinar at this Web site. Those who are unable to participate via Webinar may also participate via teleconference. For details on how to participate via teleconference, please contact Sarah Achten; telephone: 301-415-6009; email: [sarah.achten@nrc.gov](mailto:sarah.achten@nrc.gov) or T.R. Rowe; telephone: 301-415-8008; email: [t.rowe@nrc.gov](mailto:t.rowe@nrc.gov).

Dated at Rockville, Maryland, this 8th day of July 2011.

For the Nuclear Regulatory Commission.

**Keith I. McConnell,**

*Deputy Director, Decommissioning and Uranium Recovery, Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.*

[FR Doc. 2011-17913 Filed 7-15-11; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-126519-11]

RIN 1545-BK41

#### Determining the Amount of Taxes Paid for Purposes of the Foreign Tax Credit

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

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section in this issue of the **Federal Register**, the IRS is issuing temporary regulations that provide guidance relating to the determination of the amount of taxes paid for purposes of the foreign tax credit. These regulations address certain highly structured arrangements that produce inappropriate foreign tax credit results. The text of those temporary regulations published in this issue of the **Federal Register** also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments and requests for a public hearing must be received by October 17, 2011.

**ADDRESSES:** Send submissions to CC:PA:LPD:PR (REG-126519-11), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-126519-11), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20044, or sent electronically, via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-126519-11).

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, Jeffrey P. Cowan, (202) 622-3850; concerning submissions of comments or a request for a public hearing, Oluwafunmilayo Taylor at (202) 622-7180.

#### SUPPLEMENTARY INFORMATION:

#### Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** contain amendments to the Income Tax Regulations (26 CFR part 1) which provide rules relating to the determination of the amount of taxes paid for purposes of the foreign tax credit. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations. The regulations affect individuals and corporations that claim direct and indirect foreign tax credits.

#### Special Analyses

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 the 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), these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic or written comments (a