significantly or uniquely affect the communities of the Indian Tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

When a Federal agency is required to publish a notice of proposed rulemaking (5 U.S.C. 553), the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the agency to conduct an initial regulatory flexibility analysis (IRFA). An IRFA describes the impact of the rule on small entities (5 U.S.C. 603). An IRFA is not required if the agency head certifies that a rule will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605). Under the Regulatory Flexibility Act, carriers that exclusively provide air transportation with aircraft originally designed to have a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less are small businesses.[129] If the Department proposes to adopt the consumer protections discussed in this ANPRM, it is possible that it may have some impact on small entities. We invite comment to facilitate DOT's assessment of the potential impact of adopting the possible regulatory requirements discussed in this ANPRM on small entities.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), no person is required to respond to a collection of information unless it displays a valid OMB control number. This ANPRM is not covered by the Paperwork Reduction Act because it does not propose any new information collection burdens. If the Department proposes to adopt information collections in a NPRM, the burdens associated with such a collection will be analyzed at that time.

F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Reform Act of 1995 do not apply to this document.

G. National Environmental Policy Act

The Department has analyzed the environmental impacts of this ANPRM pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS).[130] In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS.[131] Paragraph 4(c)(6)(i) of DOT Order 5610.1C provides that ''actions relating to consumer protection, including regulations'' are categorically excluded. The Department does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Signed this 3rd day of December, 2024, in Washington, DC.

Peter Paul Montgomery Buttigieg,

Secretary of Transportation.

[FR Doc. 2024–28930 Filed 12–10–24; 8:45 am]

BILLING CODE 4910–9X–P

[129] *See* 14 CFR 399.73.

[130] *See* 40 CFR 1508.4.

[131] *Id.*

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–117213–24]

RIN 1545–BR37

Accounting for Disregarded Transactions Between a Qualified Business Unit and Its Owner

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the determination of taxable income or loss and foreign currency gain or loss with respect to a qualified business unit. The proposed regulations include an election that is intended to reduce the compliance burden of accounting for certain disregarded transactions between a qualified business unit and its owner. This document also includes a request for comments relating to the treatment of partnerships and controlled foreign corporations.

DATES: Written or electronic comments and requests for a public hearing must be received by March 11, 2025.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at *https://www.regulations.gov* (indicate IRS and REG–117213–24) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the ''Comments and Requests for a Public Hearing'' section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted to the IRS's public docket. Send paper submissions to: CC:PA:01:PR (REG–117213–24), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Adam G. Province at (865) 329–4546; concerning submissions of comments, requests for a public hearing, and access to a public hearing, Publications and Regulations Section at (202) 317–6901 (not toll-free numbers) or by email to *publichearings@irs.gov* (preferred).

SUPPLEMENTARY INFORMATION:

Authority

This document contains proposed additions and amendments to 26 CFR part 1 (Income Tax Regulations) addressing the application of section 987 of the Internal Revenue Code (Code) and related provisions (the ''proposed regulations''). The additions and amendments are issued under sections 987 and 989, pursuant to the express delegations of authority provided under those sections. The express delegations relied upon are referenced in the Background section of this preamble. The proposed regulations are also issued under the express delegation of authority under section 7805 of the Code.

Background

This document contains proposed regulations under section 987 of the Code. Section 987 applies to any taxpayer that has a qualified business unit (QBU) with a functional currency other than the dollar. Section 987(1) and (2) provide rules for determining and translating taxable income or loss (''section 987 taxable income or loss'') with respect to the QBU. In addition, foreign currency gain or loss must be determined under section 987(3) (''section 987 gain or loss''), which requires proper adjustments (as prescribed by the Secretary) for transfers of property between QBUs of the

taxpayer having different functional currencies.

Sections 987 and 989 provide several explicit grants of regulatory authority. The statute does not specify how the proper adjustments should be made under section 987(3), but instead directs the Secretary to prescribe the proper adjustments needed to determine the taxable income of the owner of a section 987 QBU. Section 989(c) directs the Secretary to ''prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subpart.'' [1] The grants of authority in section 989(c) include regulations providing for the appropriate treatment of related party transactions (including transactions between QBUs of the same taxpayer). Section 989(c)(5).

Concurrently with the publication of these proposed regulations, the Treasury Department and the IRS are publishing in the rules and regulations section of this edition of the **Federal Register** (RIN 1545–BO07) final regulations under sections 861, 985, 987 through 989, and 1502 of the Code (the ''final regulations''). On November 14, 2023, the Treasury Department and the IRS published proposed regulations (REG–132422–17) under those same sections of the Code (the ''2023 proposed regulations'') in the **Federal Register** (88 FR 78134). The comments received in response to the 2023 proposed regulations, and the revisions made in response to those comments, are summarized in the Summary of Comments and Explanation of Revisions in the preamble to the final regulations. In response to certain comments, the Treasury Department and the IRS are publishing this notice of proposed rulemaking to provide additional proposed rules under section 987 and to request comments relating to the application of section 987 to partnerships and controlled foreign corporations (''CFCs'').

Explanation of Provisions

The proposed regulations provide an election under which, in certain cases, taxpayers can translate a group of frequently recurring transfers between a section 987 QBU and its owner using the yearly average exchange rate (rather than the spot rate applicable on the date of each transfer). The proposed regulations also would simplify the computation of unrecognized section 987 gain or loss under § 1.987–4 for taxpayers that make this election.

[1] The reference to ''this subpart'' refers to subpart J of part III of subchapter N of chapter 1 of the Code, which includes section 987.

I. Rules of the Final Regulations Relating to Disregarded Transactions

A. Accounting for Disregarded Transactions Between a Section 987 QBU and Its Owner

Under the final regulations, an asset is treated as transferred to a section 987 QBU from its owner if, because of a disregarded transaction, the asset is reflected on the books and records of the section 987 QBU. *See* § 1.987–2(c)(2)(i). Similarly, an asset is treated as transferred from a section 987 QBU to its owner if, because of a disregarded transaction, the asset ceases to be reflected on the books and records of the section 987 QBU. Thus, for example, if a section 987 QBU purchases inventory from its owner (or another eligible QBU of its owner) in a disregarded transaction, the section 987 QBU is treated as distributing cash to its owner, and the owner is treated as contributing the inventory to the section 987 QBU. Disregarded transactions, however, do not give rise to items of income, gain, deduction, or loss that are taken into account in determining section 987 taxable income or loss under § 1.987–3. *See* § 1.987–2(c)(2)(iii).

The final regulations provide rules for determining the basis of an asset or the amount of a liability that has been transferred by an owner to a section 987 QBU. In general, marked items are translated into the section 987 QBU's functional currency at the spot rate applicable on the date of the transfer, while historic items are translated at the applicable historic rate. *See* § 1.987–2(d). Similarly, when an asset or liability is transferred from a section 987 QBU to its owner, marked items are translated into the owner's functional currency at the spot rate applicable on the date of transfer, while historic items are translated at the applicable historic rate. *See* § 1.987–5(f). These rules apply to all transfers of assets and liabilities between a section 987 QBU and its owner, including transfers made in connection with ordinary course disregarded transactions (for example, sales of inventory).

The definition of a marked item under the final regulations includes an asset or liability denominated in, or determined by reference to, the functional currency of the section 987 QBU that would be a section 988 transaction if it were held or entered into directly by the owner of the section 987 QBU; it also includes several other categories of assets and liabilities. *See* § 1.987–1(d)(1). However, the final regulations provide an election to treat all items of a section 987 QBU as marked items (the ''current rate election''). *See* § 1.987–1(d)(2).

B. Determination of Unrecognized Section 987 Gain or Loss With Respect to a Section 987 QBU

Section 1.987–4 provides rules for computing net unrecognized section 987 gain or loss with respect to a section 987 QBU. Under § 1.987–4(b), net unrecognized section 987 gain or loss is equal to the sum of (i) the unrecognized section 987 gain or loss for the current taxable year and (ii) net accumulated unrecognized section 987 gain or loss for all prior taxable years.

Section § 1.987–4(d) provides a ten-step formula for computing unrecognized section 987 gain or loss for the current taxable year. The first step of this formula is to determine the change in owner functional currency net value (''OFCNV'') of the section 987 QBU for the taxable year, computed using end-of-year exchange rates for marked items and historic rates for historic items. *See* § 1.987–4(d)(1) and (e). The other steps adjust for amounts comprising the separate components of the annual change in OFCNV (other than changes in the exchange rate). Steps 2 through 5 relate to transfers of assets and liabilities between a section 987 QBU and its owner, and steps 6 through 9 relate to items of income or loss of the section 987 QBU. *See* § 1.987–4(d)(2) through (9). Step 10 is a residual adjustment for any remaining increase or decrease to the section 987 QBU's functional currency balance sheet. This residual adjustment is translated into the owner's functional currency using the yearly average exchange rate for the taxable year. *See* § 1.987–4(d)(10).

In applying steps 2 through 5, an owner must account for all transfers of assets and liabilities between a section 987 QBU and its owner, including transfers made in connection with ordinary course disregarded transactions. *See* § 1.987–4(d)(2) through (5). For this purpose, marked items are translated into the owner's functional currency at the spot rate applicable on the date of the transfer, while historic items are translated at the applicable historic rate.

II. Proposed Rules Relating to Disregarded Transactions

A. Comment Concerning the Compliance Burden of Accounting for Disregarded Transactions

A comment to the 2023 proposed regulations asserted that it is burdensome for taxpayers to track and translate disregarded transactions between a section 987 QBU and its owner (or between different section 987 QBUs of the same owner) that arise in

the ordinary course of a section 987 QBU's trade or business. The comment recommended that, for taxpayers that make a current rate election, unrecognized section 987 gain or loss for the taxable year should be computed by applying only two of the steps provided in § 1.987–4(d): step 1 (determining the change in OFCNV) and step 10 (reducing or increasing the amount determined in step 1 by the change in QBU net value, translated into the owner's functional currency at the yearly average exchange rate). The comment asserted that, under this approach, it would not be necessary to track ordinary course disregarded transactions between a section 987 QBU and its owner (or different section 987 QBUs of the same owner), because those transactions would be eliminated from the computation of unrecognized section 987 gain or loss.

As explained in the preamble to the final regulations, the effect of the comment's recommended rule would be to translate the net amount of all transfers between a section 987 QBU and its owner at the yearly average exchange rate under step 10. *See* part V.A.3 of the Summary of Comments and Explanation of Revisions in the preamble to the final regulations. By contrast, § 1.987–4(d) requires each transfer to be translated at the appropriate exchange rate in applying steps 2 through 5. Under the final regulations, if a current rate election is in effect, the basis of each asset and the amount of each liability transferred is translated at the spot rate applicable on the date of transfer (because all assets and liabilities are treated as marked items). The final regulations do not adopt the rule recommended by the comment because the applicable spot rate could be significantly higher or lower than the yearly average exchange rate, in which case the comment's recommended rule could substantially distort the computation of unrecognized section 987 gain or loss.

B. Recurring Transfer Group Election

Notwithstanding the concern described in part II.A of this Explanation of Provisions, the Treasury Department and the IRS are of the view that, in certain cases, a group of frequently recurring transfers between a section 987 QBU and its owner could be translated using the yearly average exchange rate without creating significant distortions. Further, permitting taxpayers to use the yearly average exchange rate in lieu of the applicable spot rate would reduce the compliance burden of the section 987 regulations.

Therefore, the proposed regulations would provide that a taxpayer that has made a current rate election may elect to use the yearly average exchange rate to translate assets that are transferred between a section 987 QBU and its owner as part of a recurring transfer group (a ''recurring transfer group election''). Proposed § 1.987–2(f)(1). The recurring transfer group election would be subject to the general timing and consistency requirements provided in § 1.987–1(g) of the final regulations.

If a recurring transfer group election is in effect, assets transferred between a section 987 QBU and its owner as part of a recurring transfer group (''grouped assets'') are translated under §§ 1.987–2(d), 1.987–4(d)(2), and 1.987–5(f) using the yearly average exchange rate in lieu of the applicable spot rate. Proposed § 1.987–2(f)(4). In addition, proposed § 1.987–2(f)(5)(i) would provide that transfers made as part of a recurring transfer group are disregarded for purposes of § 1.987–4(d)(2) and (3) (steps 2 and 3). Proposed § 1.987–2(f)(5). That is, because all transfers that are part of a recurring transfer group are translated at the yearly average exchange rate, these transfers do not need to be separately tracked and translated for purposes of determining unrecognized section 987 gain or loss.

Transfers that are part of a recurring transfer group are also disregarded when applying steps 2 and 3 in the functional currency of the section 987 QBU for purposes of determining the residual increase or decrease to net assets under § 1.987–4(d)(10). Proposed § 1.987–4(d)(10)(ii)(D). To the extent that these transfers increase or reduce the year-end net assets of the section 987 QBU (determined in the section 987 QBU's functional currency), the residual increase or decrease to net assets will be translated at the yearly average exchange rate under § 1.987–4(d)(10) (step 10).

Under the proposed regulations, if a recurring transfer group election is in effect, and the only transfers between a section 987 QBU and its owner are part of a recurring transfer group, the owner would determine unrecognized section 987 gain or loss for the taxable year by applying only steps 1 and 10 (as recommended by the comment). Transfers that are not part of a recurring transfer group must be taken into account at the applicable spot rate under steps 2 through 5. However, the final regulations permit taxpayers to use a spot rate convention based on the average of spot rates for a reasonable period (which can be as long as three months), which should reduce the compliance burden of accounting for these transfers. *See* § 1.987–1(c)(1)(ii).

The special rule for computing unrecognized section 987 gain or loss in proposed § 1.987–2(f)(5)(i) would not apply if the owner of a section 987 QBU determines QBU net value using the formula provided in § 1.987–4(e)(2)(iii). Proposed § 1.987–2(f)(5)(ii). Taxpayers using this formula must separately track each transfer for purposes of computing QBU net value, and therefore disregarding the transfers for purposes of § 1.987–4(d)(2) and (3) would not reduce the compliance burden for these taxpayers.

The proposed regulations also would modify the recordkeeping requirements in § 1.987–9 to provide that taxpayers are not required to maintain records concerning amounts transferred between an owner and a section 987 QBU unless the transferred amounts are taken into account in applying § 1.987–4 or § 1.987–5. Proposed § 1.987–9(b)(5) and (6). Therefore, if a taxpayer makes a recurring transfer group election and uses the alternative calculation provided in § 1.987–5(c)(2) (under which the remittance for a taxable year is determined by reference to the change in QBU net value, adjusted for income or loss of the section 987 QBU), the taxpayer generally would not be required to maintain records with respect to transfers of grouped assets.

C. Definition of a Recurring Transfer Group

Under the proposed regulations, a recurring transfer group would be defined as a group of frequently recurring transfers between a section 987 QBU and its owner (or another eligible QBU of the owner) that are made in the ordinary course of a trade or business. Proposed § 1.987–2(f)(2)(i). Only transfers made in connection with sales of inventory, payments for services, or rent or royalty transactions in which arm's length compensation (determined by applying the principles of the arm's length standard of § 1.482–1(b)(1)) has been paid would be included in a recurring transfer group. Proposed § 1.987–2(f)(2)(ii). For this purpose, the principles of the arm's length standard apply as if the section 987 QBU were a corporation that is separate from its owner and, thus, as if the disregarded transaction were a controlled transfer within the meaning of § 1.482–1(i)(8). A recurring transfer group would not include a transfer between the section 987 QBU and its owner if the transfer (or a portion of the transfer) would be treated as a distribution with respect to stock, or an exchange for stock (or a contribution to

capital), for U.S. tax purposes if the QBU were treated as a separate corporation. Proposed § 1.987–2(f)(2)(iii). Those transfers are unlikely to be made in the ordinary course of a trade or business and could be used to manipulate the computation of unrecognized section 987 gain or loss.

The definition of a recurring transfer group in § 1.987–2(f)(2) is tailored to identify ordinary business transactions for which the use of the yearly average exchange rate would not cause significant distortions and which could be burdensome to account for under the rules of the final regulations. The Treasury Department and the IRS request comments as to whether other transfers should be included in a recurring transfer group. For example, comments are requested as to whether intercompany lending transactions (or other transactions) of a bank or other financial entity should be included in a recurring transfer group and, if so, how the scope of the covered transactions should be defined. Although lending transactions are made in the ordinary course of a bank's trade or business, it may be difficult to distinguish between ordinary course loans and extraordinary transactions that could be used to manipulate a taxpayer's unrecognized section 987 gain or loss.

D. Exception for Disproportionate Transfers

The rules of proposed § 1.987–2(f)(4) and (5) would not apply in a taxable year in which a disproportionate amount of the assets transferred as part of a recurring transfer group are transferred during one or more quarters of the taxable year. Proposed § 1.987–2(f)(6). In particular, proposed § 1.987–2(f)(4) and (5) would not apply if either (i) more than 50 percent of the total amount transferred during the taxable year is transferred during one quarter of the taxable year or (ii) more than 80 percent of the total amount transferred during the taxable year is transferred during two quarters of the taxable year.

The exception in proposed § 1.987–2(f)(6) is intended to prevent significant distortions that could arise from using the yearly average exchange rate to translate transfers that primarily occur in only part of the taxable year, while being flexible enough to accommodate ordinary course disregarded transactions between a section 987 QBU and its owner. The Treasury Department and the IRS request comments as to whether other standards could be used to identify transfers that can appropriately be translated at the yearly average exchange rate. For example, comments are requested as to whether more flexibility should be provided in taxable years in which exchange rates do not significantly fluctuate.

Applicability Dates

Once finalized, the regulations would apply to taxable years beginning after the date the Treasury Decision adopting these rules as final regulations is published in the **Federal Register**. A taxpayer may rely on these proposed regulations for a taxable year in which the final regulations (that is, the final regulations that are being published concurrently with the proposed regulations) apply, provided the taxpayer and each member of its consolidated group and section 987 electing group, as applicable, consistently follow the proposed regulations in their entirety and in a consistent manner.

In addition, for a taxable year in which the final regulations apply, a taxpayer may continue to rely on the parts of the proposed regulations published in the **Federal Register** (REG–128276–12, 81 FR 88882) on December 8, 2016 (the ''2016 proposed regulations'') that have not been finalized or withdrawn, provided that the taxpayer and each member of its consolidated group and section 987 electing group, as applicable, consistently follow these parts in their entirety and in a consistent manner. The following parts of the 2016 proposed regulations have not been finalized or withdrawn: (1) rules regarding QBUs with the U.S. dollar as their functional currency (*see* §§ 1.987–1 and 1.987–6 of the 2016 proposed regulations); and (2) rules requiring the deferral of certain section 988 loss that arises with respect to related-party loans (*see* § 1.988–2 of the 2016 proposed regulations).

Comments and Request for Public Hearing

I. In General

Before these proposed regulations are adopted as final regulations, consideration will be given to comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. In addition to the specific requests for comments in parts II.C and II.D of the Explanation of Provisions, the Treasury Department and the IRS request comments on all other aspects of the proposed regulations as well as on the specific issues identified in part II of this Comments and Request for Public Hearing section. Any comments submitted will be made available at *https://www.regulations.gov* or upon request.

A public hearing concerning the proposed regulations will be scheduled if requested in writing by any person who timely submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**.

II. Additional Requests for Comments

A. Treatment of Partnerships for Purposes of Sections 987 and 989(a)

The final regulations do not provide detailed rules concerning the application of section 987 to partnerships, and they reserve on the treatment of a partnership as a QBU under section 989(a). *See* part VIII.B.1 of the Summary of Comments and Explanation of Revisions in the preamble to the final regulations. *See* also part VIII of the Explanation of Provisions in the preamble to the 2023 proposed regulations. The Treasury Department and the IRS continue to study those issues and therefore request comments on the following topics:

1. Should section 987 be applied to partnerships using an entity approach, an aggregate approach, or a hybrid approach? Comments recommending an entity approach should address the concerns raised in the preamble to the 2023 proposed regulations regarding the potential for unrecognized section 987 gain or loss to be shifted between partners upon a sale of a partnership interest. *See* part VIII.C of the Explanation of Provisions in the preamble to the 2023 proposed regulations.

2. Should a partnership be treated as a per se QBU under section 989(a) and § 1.989(a)–1(b)(2)(i)?

3. Should different rules be provided for purposes of sections 987 and 989(a) depending on whether the partners in the partnership are related parties? Comments recommending an entity approach for partnerships owned by related parties should address the concerns raised in the preamble to the 2023 proposed regulations regarding the potential for a group of related parties to hold an eligible QBU through a partnership (rather than directly) in order to alter the section 987 treatment of the eligible QBU without meaningfully altering the group's economic position. *See* part VIII.E of the Explanation of Provisions in the preamble to the 2023 proposed regulations.

4. Under an entity approach, if a partnership's functional currency differs from that of its partners, how should the

partners account for currency gain or loss with respect to their partnership interests?

Comments submitted in response to the 2023 proposed regulations do not need to be resubmitted in response to these proposed regulations.

B. Application of Section 987 to CFCs

As discussed in part II.A.3 of the Summary of Comments and Explanation of Revisions in the preamble to the final regulations, a comment on the 2023 proposed regulations recommended that the application of section 987 be simplified by applying rules similar to section 986(c) to section 987 QBUs owned by CFCs in lieu of applying section 987. In response to this comment, the preamble to the final regulations explained that the Treasury Department and the IRS are of the view that it would not be feasible to adopt this comment, but nonetheless are studying whether there are instances in which it would be possible to simplify the application of section 987 by modifying the application of section 987(3) (and the related regulations, including §§ 1.987–4 through 1.987–6, 1.987–8, and 1.987–11 through 1.987–13) to certain entities.

In considering the appropriateness of such a rule, it is helpful to consider United States persons (''U.S. persons'') and foreign persons separately. In the case of a U.S. person, except to the extent that the Code specifically provides otherwise, the taxable income of the U.S. person should reflect that person's accession to wealth, as measured in the U.S. dollar. Accordingly, when the amount of the U.S. person's basis in its assets or the amount of its liabilities fluctuates as a result of fluctuations in the functional currency of a section 987 QBU, section 987(3) is necessary to ensure that currency gain or loss is taken into account to prevent these fluctuations from artificially increasing or decreasing the taxpayer's income, gain, deduction, and loss, as measured in the U.S. dollar. In contrast, in the case of a foreign person, such as a CFC or a partnership with only foreign partners, the Treasury Department and the IRS are studying whether the U.S. tax system appropriately tracks and taxes the foreign person's accession to wealth given that its functional currency may not be the U.S. dollar.

The Treasury Department and the IRS agree with the comment that the compliance and administrative burdens of the section 987 regulations would be substantially reduced if section 987(3) and the related regulations did not apply to CFCs or to partnerships with only foreign partners. Under such an approach, a CFC or a partnership with only foreign partners would not calculate net unrecognized section 987 gain or loss with respect to a section 987 QBU and would not recognize section 987 gain or loss on a remittance or termination. Instead, if a section 987 QBU owned by the CFC or partnership transferred assets or liabilities to its owner, the CFC or partnership would merely take a basis in the assets or measure the amount of the liabilities by translating from the section 987 QBU's functional currency into the CFC or partnership's functional currency at the spot rate on the date of the transfer.

Relatedly, the Treasury Department and the IRS are concerned about the ability of foreign entities to manipulate the recognition of section 987 gain and loss under section 987(3) and the related regulations. This concern is not entirely alleviated by the loss-to-the-extent-of-gain-rule in § 1.987–11, which suspends the recognition of section 987 loss for taxpayers that make a current rate election.

Accordingly, the Treasury Department and the IRS are studying whether, in certain cases, it would be appropriate to not apply section 987(3) and the related regulations to CFCs and partnerships with only foreign partners. However, the Treasury Department and the IRS have a number of concerns, including that, under this approach, the amount of currency gain (or loss) that would have been taken into account under section 987(3) would give rise to an increase (or decrease) in a CFC's aggregate inside asset basis without a corresponding change in the CFC's earnings and profits, and the resulting mismatch between inside asset basis and earnings and profits could produce inappropriate results.

For example, over time, it would be common for a CFC's aggregate inside asset basis to be greater or less than the sum of its (i) earnings and profits determined under the principles of § 1.367(b)–2(d) but without regard to whether the exchanging shareholder is a U.S. person or foreign person, (ii) total basis in the stock of the CFC; and (iii) the amount of the CFC's liabilities. Although it is possible for a CFC to have aggregate inside asset basis in excess of these amounts (''excess asset basis'')[2] under current law, the Treasury Department and the IRS are concerned that, if CFCs were not required to recognize currency gain or loss under section 987(3), excess asset basis would become more prevalent. If the United States shareholder (''U.S. shareholder'') ultimately sells its stock in the CFC, the U.S. shareholder would generally recognize the appropriate amount of gain or loss on the sale of stock (notwithstanding the potential excess asset basis of the CFC). However, if, in lieu of a sale of stock, the CFC merges or liquidates into a domestic corporation pursuant to an inbound asset reorganization or liquidation described in § 1.367(b)–3, the excess asset basis could be imported into the United States without a corresponding inclusion of income or gain under § 1.367(b)–3, and thus permanently escape U.S. taxation.

Accordingly, the Treasury Department and the IRS request comments concerning the following topics:

1. Should the final regulations be modified to provide that section 987(3) and the related regulations do not apply to CFCs or to partnerships with only foreign partners? If so, how should currency gain or loss be recognized with respect to the section 987 QBU (if at all)?

2. If section 987(3) did not apply to CFCs and partnerships with only foreign partners, what other rules would be needed to prevent value equal to the amount of excess asset basis from permanently escaping U.S. taxation upon an inbound transaction such as an asset reorganization or liquidation described in § 1.367(b)–3? For example, should the importation of excess asset basis trigger the recognition of gain in the same manner that § 1.367(b)–3 triggers a deemed dividend to a shareholder? If so, are there circumstances in which excess asset basis should not trigger gain (such as excess asset basis arising by reason of section 362(e) or by reason of minority interests)? How should excess asset basis be computed? What additional rules would be needed to similarly prevent taxpayers from planning into the permanent avoidance or indefinite deferral of gain or acceleration of losses?

3. If section 987(3) and the related regulations continue to apply to CFCs and partnerships with only foreign partners generally, are any modifications needed to the calculation of section 987 gain and loss for these entities?

Special Analyses

I. Regulatory Planning and Review—Economic Analysis

Pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order

[2] For a discussion of ''excess asset basis,'' see the preambles accompanying issuance of § 1.367(b)–3(g) (TD 10004, 89 FR 58275) and proposed § 1.367(b)–3(g) (88 FR 69559), respectively.

12866 (June 9, 2023), tax regulatory actions issued by the IRS are not subject to the requirements of section 6 of Executive Order 12866, as amended. Therefore, a regulatory impact assessment is not required.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the OMB.

The collections of information in the proposed regulations with respect to section 987 are in proposed § 1.987–2(f)(1) (and the related election rules in § 1.987–1(g) of the final regulations). The likely respondents are individuals who file a Form 1040 and businesses that file a Form 1065 or Form 1120.

The collection of information in proposed § 1.987–2(f)(1) is required only when a taxpayer makes or revokes a recurring transfer group election under proposed § 1.987–2(f)(1). In the first year in which the section 987 regulations apply to a taxpayer, or the first year in which the taxpayer or a member of its consolidated group or section 987 electing group is the owner of a section 987 QBU, the taxpayer is permitted to make a recurring transfer group election without the Commissioner's consent. Thereafter, the taxpayer may make or revoke a recurring transfer group election only with the consent of the Commissioner, which may be granted with a private letter ruling. When a taxpayer makes or revokes an election, the collection of information is mandatory. The collection of information required by proposed § 1.987–2(f)(1) will be used by the IRS for tax compliance purposes.

The Treasury Department and the IRS intend that the information required by § 1.987–1(g) with respect to a recurring transfer group election under proposed § 1.987–2(f)(1) will be collected by attaching a statement to a taxpayer's return (such as the appropriate Form 1040, Form 1120, Form 1065, or other appropriate forms). For purposes of the PRA, the reporting burden associated with those collections of information will be reflected in the PRA submissions associated with those forms. The OMB Control Numbers for the forms will be approved under 1545–0074 for individuals and under 1545–0123 for business entities.

To the extent that a taxpayer makes or revokes an election by obtaining a private letter ruling, the reporting burden associated with those collections of information will be reflected in the PRA submissions associated with revenue procedures governing private letter rulings. The OMB Control Number for those revenue procedures is control number 1545–1522. The proposed regulations would only require taxpayers to follow the procedures under Revenue Procedure 2024–1, IRB 2024–1 (or future revenue procedures governing private letter rulings) and would not change the collection requirements of the Revenue Procedure.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

III. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this rulemaking will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act. The proposed regulations affect individuals and corporations (other than S corporations) with foreign branch operations.

The number of small entities potentially affected by the proposed regulations is unknown; however, it is unlikely to be a substantial number because taxpayers with wholly owned foreign operations are typically larger businesses. The Treasury Department and the IRS estimate that the total number of corporations (other than S corporations) with a foreign branch subject to section 987 is approximately 2,000. This estimate is based on the number of corporations (other than S corporations) that filed a Form 8858 in 2022 that showed that the filer: (1) owned at least one disregarded entity or branch with a functional currency different from the functional currency of the owner, and (2) indicated that the disregarded entity or branch was a section 989 QBU. As shown in the following table, only a small percentage of those filers are small entities.

Total receipts/positive income (2022)	Percentage of filers
Under $5 Million	7
$5 Million to $10 Million	2
$10 Million to $25 Million	4
Over $25 Million	87

The number of affected corporations (other than S corporations) with total receipts of less than $25 million represents 0.02% of all corporations (other than S corporations) with total receipts of less than $25 million.

These proposed regulations generally modify the rules that would otherwise apply under the final regulations by providing taxpayers with an election that reduces the compliance burden of applying section 987. Small entities generally would not be affected by these rules unless they choose to make an election to reduce their compliance burden.

A portion of the economic impact of the proposed regulations may derive from the collection of information requirements imposed under proposed § 1.987–2(f)(1) (and the related election rules in § 1.987–1(g) of the final regulations). The Treasury Department and the IRS have determined that the average burden is 1.95 hours per response. The IRS's Research, Applied Analytics, and Statistics division estimates that the appropriate wage rate for this set of taxpayers is $99.87 per hour. Thus, the annual burden per taxpayer from each collection of information requirement is $194.75. The requirements of proposed § 1.987–2(f)(1) apply only if a taxpayer chooses to make or revoke an election (and only in the year of the election or revocation).

IV. Section 7805(f)

Pursuant to section 7805(f) of the Code, this proposed regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. The proposed regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

VI. Executive Order 13132: Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. The proposed regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Drafting Information

The principal authors of these proposed regulations are Adam G. Province and Raphael J. Cohen of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 1 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 * * *

* * * * *

Section 1.987–2 also issued under 26 U.S.C. 987, 989, and 1502.

* * * * *

Section 1.987–4 also issued under 26 U.S.C. 987 and 989.

* * * * *

Section 1.987–9 also issued under 26 U.S.C. 987, 989, and 6001.

* * * * *

Section 1.987–15 also issued under 26 U.S.C. 987 and 989.

* * * * *

■ **Par. 2.** Section 1.987–2 is amended by adding paragraph (f) to read as follows:

§ 1.987–2 Attribution of items to eligible QBUs; definition of a transfer and related rules.

* * * * *

(f) Recurring transfer group election—(1) In general. For a taxable year in which a current rate election is in effect, the owner of a section 987 QBU may elect to use the yearly average exchange rate to translate all assets that are transferred to or from the section 987 QBU in a taxable year as part of a recurring transfer group (a recurring transfer group election). The rules of this paragraph (f) apply to all transfers that are part of a recurring transfer group in any taxable year to which the recurring transfer group election applies (regardless of whether transfers of the same kind occurred in the first year to which the election applied).

(2) Recurring transfer group. A recurring transfer group is a group of frequently recurring transfers made between a section 987 QBU and its owner (or another eligible QBU of the owner) in a taxable year that meet the requirements of paragraphs (f)(2)(i) through (iii) of this section.

(i) Ordinary course transfers. The transfers must be made in the ordinary course of a trade or business.

(ii) Specified transactions. The transfers must be made as part of one or more disregarded transactions described in paragraphs (f)(2)(ii)(A) through (C) of this section between the section 987 QBU and its owner (or another eligible QBU of the owner), the compensation for which would satisfy the principles of the arm's length standard (within the meaning of § 1.482–1(b)) if the section 987 QBU were treated as a separate corporation. Transfers made in connection with different disregarded transactions described in paragraphs (f)(2)(ii)(A) through (C) of this section in the same taxable year are treated as part of a single recurring transfer group.

(A) Sales of inventory;

(B) Payments for services;

(C) Rents or royalties.

(iii) *Distributions and contributions excluded.* A transfer is not included in a recurring transfer group if the transfer (or any portion of the transfer) would be treated as a distribution with respect to stock, or an exchange for stock (or a contribution to capital), if the section 987 QBU were treated as a separate corporation.

(3) *Consistency requirement.* The determination as to which transfers are included in a recurring transfer group must be made consistently from year to year. However, this determination may change from one year to the next based on changes in the nature and timing of the relevant transfers.

(4) *Effect of recurring transfer group election.* Except as provided in paragraph (f)(6) of this section, in a taxable year in which a recurring transfer group election is in effect, assets that are transferred to or from a section 987 QBU in a taxable year as part of a recurring transfer group (*grouped assets*) are translated under paragraph (d) of this section and §§ 1.987–4(d)(2) and 1.987–5(f) by deeming the spot rate applicable on the date of each transfer to be equal to the yearly average exchange rate for the taxable year. However, if the Commissioner determines that the use of the yearly average exchange rate to translate grouped assets in a taxable year does not clearly reflect income, the Commissioner may require some or all transfers of the grouped assets to be excluded from the recurring transfer group or may prescribe the use of a different exchange rate to translate the grouped assets.

(5) *Accounting for a disregarded transfer group in determining unrecognized section 987 gain or loss for the taxable year*—(i) *In general.* Except as provided in paragraph (f)(5)(ii) or (f)(6) of this section, in a taxable year in which a recurring transfer group election is in effect, transfers of grouped assets are disregarded for purposes of § 1.987–4(d)(2) and (3) (steps 2 and 3).

(ii) *Exception.* Paragraph (f)(5)(i) of this section does not apply to a section 987 QBU in a taxable year in which the owner determines QBU net value with respect to the section 987 QBU under the steps provided in § 1.987–4(e)(2)(iii) (alternative formula for determining QBU net value without preparing an adjusted balance sheet).

(6) *Exception for taxable years in which a disproportionate amount of grouped assets is transferred in one or more quarters of the taxable year*—(i) *In general.* Paragraphs (f)(4) and (5) of this section do not apply to a section 987 QBU in a taxable year in which—

(A) More than 50 percent of the total amount of grouped assets transferred to or from the section 987 QBU during the taxable year is transferred during one quarter of the taxable year; or

(B) More than 80 percent of the total amount of grouped assets transferred to or from the section 987 QBU during the taxable year is transferred during two quarters of the taxable year.

(ii) *Amount of grouped assets transferred.* For the purpose of applying paragraph (f)(6)(i) of this section, the amount of grouped assets transferred to or from a section 987 QBU in a taxable year and in each quarter of the taxable year is determined in the functional currency of the section 987 QBU by reference to the aggregate of the amount of functional currency transferred and the basis of the other assets transferred (taking into account the total gross amount of both the transfers from the section 987 QBU to the owner or another eligible QBU of the owner and

the transfers from the owner or another eligible QBU of the owner to the section 987 QBU). For this purpose, amounts transferred from the owner (or another eligible QBU of the owner) to the section 987 QBU are translated into the section 987 QBU's functional currency at the yearly average exchange rate.

(iii) *Short taxable year.* For purposes of applying this paragraph (f)(6) in a short taxable year, each quarter comprises a number of days equal to one fourth of the total number of days in the taxable year. If a section 987 QBU did not exist for the full taxable year of the owner, this paragraph (f)(6) is applied with respect to the section 987 QBU by treating the taxable year as comprising the portion of the taxable year in which the section 987 QBU existed.

(7) *Examples.* The following examples illustrate the application of this paragraph (f). For purposes of the examples, DC1 is a domestic corporation that owns Business A, a section 987 QBU that has the euro as its functional currency. In year 1, DC1's home office provides services to Business A in exchange for arm's length cash payments (within the meaning of § 1.482–1(b)). The payments are made in the ordinary course of the Business A trade or business. A current rate election and a recurring transfer group election are in effect for year 1. DC1 does not determine QBU net value with respect to Business A under the steps provided in § 1.987–4(e)(2)(iii).

(i) *Example 1: Transfers treated as part of a recurring transfer group*—(A) *Facts.* In year 1, Business A made 50 payments for services to DC1's home office, totaling €30,000x. Of this amount, Business A paid €5,000x in the first quarter of year 1, €7,500x in the second quarter of year 1, €10,000x in the third quarter of year 1, and €7,500x in the fourth quarter of year 1. No other transfers were made between Business A and DC1 for year 1.

(B) *Analysis*—(*1*) *Recurring transfer group.* Under paragraph (c)(2) of this section, each payment for services is treated as a transfer of assets from Business A to DC1. These transfers qualify as a recurring transfer group under paragraph (f)(2) of this section because they are frequently recurring payments for services made in the ordinary course of the Business A trade or business that would satisfy the principles of the arm's length standard (within the meaning of § 1.482–1(b)) if Business A were treated as a separate corporation. In addition, the exception in paragraph (f)(6) of this section does not apply because Business A did not transfer more than 50 percent of the total amount of grouped assets transferred in year 1 in any one quarter, and Business A did not transfer more than 80 percent of the total amount of grouped assets transferred in year 1 in any two quarters.

(*2*) *Effect of recurring transfer group election.* Under paragraph (f)(4) of this section, because Business A's transfers to DC1 comprise a recurring transfer group, DC1 applies § 1.987–5(f) by deeming the spot rate applicable on the date of each transfer to be equal to the yearly average exchange rate for year 1. As a result, DC1 determines its basis in the euros received from Business A by translating the total amount of euros transferred in year 1 at the yearly average exchange rate for year 1. In addition, under paragraph (f)(5) of this section, the transfers are disregarded for purposes of determining unrecognized section 987 gain or loss for year 1 under § 1.987–4(d)(2).

(ii) *Example 2: Disproportionate transfers*—(A) *Facts.* The facts are the same as in paragraph (f)(7)(i) of this section (*Example 1*), except that most of the payments are made in the fourth quarter of year 1 to compensate DC1's home office for additional services provided at the end of year 1. Specifically, of the €30,000 paid by Business A for services in year 1, €18,000x is transferred in the fourth quarter of year 1, and €4,000x is transferred in each of the first three quarters of year 1.

(B) *Analysis.* The amount of grouped assets transferred in the fourth quarter (€18,000x) exceeds 50 percent of the total amount of grouped assets transferred in year 1 (€30,000x). Therefore, under paragraph (f)(6) of this section, paragraphs (f)(4) and (5) of this section do not apply. As a result, DC1 determines its basis in the euros received from Business A by translating each transfer at the applicable spot rate under § 1.987–5(f), and DC1 must take each transfer into account for purposes of determining unrecognized section 987 gain or loss for year 1 under § 1.987–4(d)(2).

(iii) *Example 3: Determination of the transfers including in a recurring transfer group over multiple taxable years*—(A) *Facts.* The facts in year 1 are the same as in paragraph (f)(7)(i) of this section (*Example 1*). The recurring transfer group election remains in effect in years 2 and 3. In year 2, DC1's home office continues to provide services to Business A in exchange for arm's length cash payments made in the ordinary course of the Business A trade or business. Additionally, in year 2, Business A begins to sell Product X inventory to Business B, an eligible QBU of DC1 that is not a section 987 QBU, in exchange for arm's length cash payments. In year 3, DC1's home office no longer provides services to Business A, but Business A continues to sell Product X inventory to Business B in exchange for arm's length cash payments. Additionally, in year 3, Business A begins to sell Product Y inventory to Business B in exchange for arm's length cash payments. In each of years 1, 2, and 3, the transfers to and from Business A are made on a frequent basis in the ordinary course of the Business A trade or business.

(B) *Analysis.* In year 1, the cash payments for services made by Business A to DC1's home office are part of a recurring transfer group. In year 2, the recurring transfer group includes the cash payments for services made by Business A to DC1's home office, the transfers of Product X inventory from Business A to Business B, and the cash payments made by Business B to Business A in connection with the inventory sales. In year 3, the recurring transfer group includes the transfers of Product X inventory and Product Y inventory from Business A to Business B and the cash payments made by Business B to Business A in connection with the inventory sales. Therefore, in each of years 1, 2, and 3, unless the exception in paragraph (f)(6) of this section applies, the grouped assets are translated at the yearly average exchange under paragraph (f)(4) of this section, and the transfers of the grouped assets are disregarded for purposes of determining unrecognized section 987 gain or loss under § 1.987–4(d)(2) and (3).

* * * * *

■ **Par 3.** Section 1.987–4 is amended by adding paragraph (d)(10)(ii)(D) to read as follows:

§ 1.987–4 Determination of net unrecognized section 987 gain or loss of a section 987 QBU.

* * * * *

(d) * * *

(10) * * *

(ii) * * *

(D) *Recurring transfer group.* In order to determine the residual increase or decrease to net assets under this paragraph (d)(10) in a taxable year in which transfers of grouped assets are disregarded under § 1.987–2(f)(5), the transfers of grouped assets are disregarded for purposes of applying steps 2 and 3 (paragraphs (d)(2) and (3) of this section) in the functional currency of the section 987 QBU.

* * * * *

■ **Par 4.** Section 1.987–9 is amended by revising paragraphs (b)(5) and (6) to read as follows:

§ 1.987–9 Recordkeeping requirements.

* * * * *

(b) * * *

(5) The amount of assets and liabilities transferred by the owner to the section 987 QBU determined in the functional currency of the owner and the section 987 QBU (to the extent those amounts are taken into account in applying § 1.987–4 or § 1.987–5).

(6) The amount of assets and liabilities transferred by the section 987 QBU to the owner determined in the functional currency of the owner and the section 987 QBU (to the extent those amounts are taken into account in applying § 1.987–4 or § 1.987–5).

* * * * *

■ **Par 5.** Section 1.987–15 is amended by adding paragraph (e) to read as follows:

§ 1.987–15 Applicability date.

* * * * *

(e) *Recurring transfer group election.* Sections 1.987–2(f),1.987–4(d)(10)(ii)(D), and 1.987–9(b)(5) and (6) apply to taxable years beginning after [DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

Douglas W. O'Donnell,

Deputy Commissioner.

[FR Doc. 2024–28371 Filed 12–10–24; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2024–0417; FRL–12279–01–R9]

Air Plan Conditional Approval; California; Bay Area Air Quality Management District

Correction

In Proposed Rule document 2024–27518 beginning on page 94633 in the issue of Friday, November 29th, 2024, make the following correction:

On page 94633, in the first column, in the **DATES** section, in the second line, ''December 30, 2025'' should read ''December 30, 2024''.

[FR Doc. C1–2024–27518 Filed 12–10–24; 8:45 am]

BILLING CODE 0099–10–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2024–0316; FRL–11777–01–R3]

Air Plan Approval; Pennsylvania; Redesignation of the Allegheny County Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan for the 2010 1-Hour Primary Sulfur Dioxide National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision and redesignation request submitted on November 14, 2023, by the Pennsylvania Department of Environmental Protection (PADEP) on behalf of the Allegheny County Health Department (ACHD). The SIP revision asks the EPA to redesignate the Allegheny County, Pennsylvania area from nonattainment to attainment for the 2010 1-hour primary sulfur dioxide (SO_2) national ambient air quality standard (NAAQS). The revision also asks the EPA to approve into the SIP Allegheny County's maintenance plan for the 2010 1-hour primary SO_2 standard for the Allegheny County area. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before January 10, 2025.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2024–0316 at *www.regulations.gov,* or via email to *talley.david@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Philip McGuire, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2251. Mr. McGuire can also be reached via electronic mail at *mcguire.philip@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Nonattainment Designation

On June 22, 2010, the EPA revised the primary SO_2 NAAQS, establishing a new 1-hour primary standard of 75 parts per billion (ppb).[1] Under the EPA's regulations at title 40 of the Code of Federal Regulations (CFR) part 50, the 2010 1-hour SO_2 NAAQS is met at a monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb (based on the rounding convention in 40 CFR part 50, appendix T).[2] Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. A year meets data completeness requirements when all four quarters are complete, and a quarter is complete when at least 75 percent of the sampling days for each quarter have complete data. A sampling day has complete data if 75 percent of the hourly concentration values, including State-flagged data affected by exceptional events which have been approved for exclusion by the Administrator, are reported.[3]

Upon promulgation of a new or revised NAAQS, the CAA requires the EPA to designate as nonattainment any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the NAAQS.[4] On August 5, 2013, the EPA designated a portion of Allegheny County, Pennsylvania (hereafter the ''Allegheny County NAA''), as nonattainment for the 2010 1-hour primary SO_2 NAAQS, effective October

[1] 75 FR 35520, June 22, 2010.

[2] 40 CFR 50.17.

[3] 40 CFR part 50, appendix T, section 3(b).

[4] CAA section 107(d)(1)(A)(i).