supplement provides for revision of an effectiveness claim and pathogen nomenclature. The supplemental NADA is approved as of May 8, 2008, and the regulations in 21 CFR 558.630 are amended to reflect the approval.

Approval of this supplemental NADA did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

■ 2. Revise § 558.630 to read as follows:

§ 558.630 Tylosin and sulfamethazine.

(a) *Specifications.* Type A medicated articles containing equal amounts of tylosin phosphate and sulfamethazine, available in concentrations of 4, 5, 10, 20, or 40 grams each, per pound.

(b) *Approvals.* See sponsor numbers in § 510.600(c) of this chapter for use as in paragraph (e) of this section.

(1) No. 000986: 10 or 40 grams per pound each for use as in paragraph (e)(2)(i) of this section.

(2) No. 021930: 2 grams per pound each for use as in paragraph (e)(2)(i) of this section.

(3) No. 051311: 40 grams per pound each for use as in paragraph (e)(2)(ii) of this section.

(4) No. 017139: 4, 10, or 20 grams per pound each for use as in paragraph (e)(2)(ii) of this section.

(5) Nos. 000986, 010439, 016968, 021930, 024174, 030841, 034936, 035098, 046573, 046987, and 051359: 5, 10, 20, or 40 grams per pound each for use as in paragraph (e)(2)(ii) of this section.

(6) No. 000986: 40 grams per pound each for use as in paragraph (e)(2)(iii) of this section.

(c) *Special considerations.* Labeling shall bear the statement: ''Do not use in medicated feeds containing in excess of 2% bentonite.''

(d) *Related tolerances.* See §§ 556.670 and 556.740 of this chapter.

(e) *Conditions of use.* It is used in feed for swine as follows:

(1) *Amount per ton.* 100 grams tylosin and 100 grams sulfamethazine.

(2) *Indications for use*–(i) Maintaining weight gains and feed efficiency in the presence of atrophic rhinitis; lowering the incidence and severity of *Bordetella bronchiseptica* rhinitis; prevention of swine dysentery (vibrionic); control of swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*); for reducing the incidence of cervical lymphadenitis (jowl abscesses) caused by Group E *Streptococci.* Only the sulfamethazine portion of this combination is active in controlling jowl abscesses.

(ii) Maintaining weight gains and feed efficiency in the presence of atrophic rhinitis; lowering the incidence and severity of *Bordetella bronchiseptica* rhinitis; prevention of swine dysentery (vibrionic); control of swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*).

(iii) For maintaining weight gains and feed efficiency in the presence of atrophic rhinitis; lowering the incidence and severity of *Bordetella bronchiseptica* rhinitis; prevention of swine dysentery associated with *Brachyspira hyodysenteriae*; and control of swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Arcanobacterium pyogenes*).

(3) *Limitations.* Withdraw 15 days before swine are slaughtered.

Dated: June 9, 2008.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. E8–13606 Filed 6–16–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9401]

RIN 1545–BH33

Alternative Simplified Credit Under Section 41(c)(5)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to the election and calculation of the alternative simplified credit under section 41(c)(5) of the Internal Revenue Code. The final and temporary regulations implement changes to the credit for increasing research activities under section 41 made by the Tax Relief and Health Care Act of 2006. The final and temporary regulations will affect certain taxpayers claiming credit under section 41. The text of these temporary regulations also serves as the text of the proposed regulations (REG–149405–07) published in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on June 17, 2008.

Applicability Date: For dates of applicability, see §§ 1.41–6T(j), 1.41–8T(b)(5), and 1.41–9T(d).

FOR FURTHER INFORMATION CONTACT: David A. Selig (202) 622–3040 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document amends 26 CFR part 1 to provide rules relating to the alternative simplified credit (ASC), which may be elected under section 41(c)(5) of the Internal Revenue Code (Code).

General Overview

Section 41(a) provides an incremental tax credit for increasing research activities (research credit), and is based on a percentage of a taxpayer's qualified research expenses (QREs) above a base amount. The Tax Relief and Health Care Act of 2006 (Pub. L. 109–432, 120 Stat. 2922, December 20, 2006) (the Act) made certain changes to the research credit, including the addition of another method of computation that taxpayers may elect to use in computing the amount of the research credit. The relevant Act provisions are effective generally for tax years after December 31, 2006, but provide certain

transitional rules for fiscal year taxpayers.

Prior to the Act changes, there were two ways a taxpayer could determine the research credit under section 41(a). One way, commonly referred to as the regular credit, is determined by following the rules and percentages stated under section 41(a)(1). Under the regular credit, the base amount is generally determined with reference to the gross receipts of the taxpayer for the four prior taxable years preceding the taxable year in which credit is being determined (credit year) and the QREs and gross receipts over the five-year base period from 1984–1988. The base amount cannot be less than 50 percent of the taxpayer's QREs for the credit year. Special rules are provided for certain start-up companies.

The second way a taxpayer could compute the research credit prior to the Act was to elect, in lieu of the regular credit, the alternative incremental credit (AIRC) under section 41(c)(4). Under the AIRC, the base amount is determined with reference to the gross receipts of the taxpayer for the four prior taxable years.

The Act added a third way, the ASC, under section 41(c)(5), which a taxpayer may elect to compute the research credit. Section 41(c)(5)(A) provides the general rule that, at the election of the taxpayer, the credit determined under section 41(a)(1) shall be equal to 12 percent of so much of the QREs for the taxable year as exceeds 50 percent of the average QREs for the three taxable years preceding the taxable year for which the credit is being determined. Section 41(c)(5)(B) provides a special rule that the credit shall be equal to 6 percent of the QREs for the taxable year if the taxpayer does not have QREs in each of the three taxable years preceding the year for which credit is being determined.

Section 41(c)(5)(C) provides that an ASC election under section 41(c)(5) shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. It further provides that an ASC election under section 41(c)(5) may not be made for any taxable year to which an AIRC election under section 41(c)(4) applies.

Explanation of Provisions

The primary objective of these temporary regulations is to provide guidance on the ASC under section 41(c)(5). The temporary regulations provide rules for the ASC similar to some of the rules relating to the AIRC as contained in § 1.41–8 of the current regulations. However, because there are also differences, such as the formula calculation for the ASC, the ASC rules are provided in a new § 1.41–9T. These final and temporary regulations also make conforming and clarifying changes to §§ 1.41–1, 1.41–6, and 1.41–8.

Section 1.41–9T provides that, at the election of the taxpayer, the credit determined under section 41(a)(1) equals the amount determined under the ASC under section 41(c)(5). Generally, a taxpayer may elect the ASC for any taxable year of the taxpayer ending after December 31, 2006. However, for certain transitional rules, see Division A, section 104(b)(3), (c)(2), and (c)(4) of the Act. Because the transitional rules are of limited duration and have already been described and implemented in the 2006 version of Form 6765, ''Credit for Increasing Research Activities,'' these regulations do not address the transitional rules.

The temporary regulations generally provide the same rules related to elections and revocations as those provided for the AIRC in § 1.41–8 in the current regulations. If a taxpayer makes an ASC election under section 41(c)(5), the election applies to the taxable year for which made and all subsequent taxable years unless revoked. An ASC election under section 41(c)(5) is made by completing the portion of Form 6765, ''Credit for Increasing Research Activities,'' (or successor form) relating to the election of the ASC, and attaching the completed form to the taxpayer's timely filed (including extensions) original return for the taxable year to which the election applies. The election may not be revoked except with the consent of the Commissioner. A taxpayer is deemed to have requested, and to have been granted, the consent of the Commissioner to revoke the election if the taxpayer completes the portion of Form 6765 (or successor form) relating to the credit determined under section 41(a)(1) or the AIRC and attaches the completed form to the taxpayer's timely filed (including extensions) original return for the year to which the revocation applies. As is the case with a revocation of an AIRC election under § 1.41–8, an election under section 41(c)(5) may not be made or revoked on an amended return. Accordingly, for purposes of further clarification, the temporary regulations also provide that an extension of time to make or revoke an election under section 41(c)(5) (and similarly, under section 41(c)(4)) will not be granted under § 301.9100–3.

In the case of a controlled group of corporations, all the members of which are not included on a single consolidated return, an election or revocation must be made by the designated member by satisfying the requirements described above. The election or revocation by the designated member is binding on all the members of the group for the credit year to which the election or revocation relates. If the designated member fails to timely make or revoke an election, each member of the group must compute the group credit using the method used to compute the group credit for the immediately preceding credit year.

The term *designated member* means that member of the group that is allocated the greatest amount of the group credit under § 1.41–6(c) based on the amount of credit reported on the original timely-filed Federal income tax return (even if that member subsequently is determined not to be the designated member). If the members of a group compute the group credit using different methods (the method described in section 41(a), the AIRC method, or the ASC method) and at least two members of the group qualify as the designated member, then the term *designated member* means that member that computes the group credit using the method that yields the greatest group credit.

The temporary regulations provide several special rules. Section 1.41–9T(c) provides that unless a taxpayer has QREs in each of the three taxable years preceding the taxable year for which the credit is being determined, the credit equals the percentage of the QREs for the taxable year provided by section 41(c)(5)(B)(ii).

The temporary regulations also provide special rules relating to consistency and short taxable years. The temporary regulations provide that in computing the credit, QREs for the three taxable years preceding the credit year must be determined on a basis consistent with the definition of QREs for the credit year, without regard to the law in effect for the three taxable years preceding the credit year. This consistency requirement applies even if the period for filing a claim for credit or refund has expired for any of the three taxable years preceding the credit year. The regulations also provide special rules similar to the rules in § 1.41–3(b) of the existing regulations for taxpayers that have a short taxable year. If one or more of the three taxable years preceding the credit year is a short taxable year, then the QREs for such year are deemed to be equal to the QREs actually paid or incurred in that year multiplied by 12 and divided by the number of months in that year. Additionally, the temporary regulations provide that if a credit year is a short taxable year, then the average QREs for

the three taxable years preceding the credit year are modified by multiplying that amount by the number of months in the short taxable year and dividing the result by 12.

The regulations also clarify that the average QREs for the three taxable years preceding the taxable year for which credit is being determined will be considered the base amount for purposes of the computation under section 41(h)(2). Therefore, if the research credit expires during the credit year, the average QREs for the three taxable years preceding the credit are multiplied by the ratio of the number of days for which the research credit is effective to the total number of days in the credit year.

The Treasury Department and the IRS note that the rules generally applicable under section 6001 provide sufficient detail about required documentary substantiation for purposes of the research credit. Section 1.6001–1 requires the keeping of records ''sufficient to establish the amount of * * * * * required to be shown* * *.'' The IRS may deny the credit for failure to provide sufficient records substantiating the claimed credit for any method used in determining the research credit.

Effective/Applicability Date

Sections 1.41–6T(j), 1.41–8T(b)(5), and 1.41–9T(d) of these regulations apply to taxable years ending after December 31, 2006, the effective date of section 41(c)(5), and terminate on or before June 13, 2011.

For certain transitional rules under section 41, see Division A, sections 104(b)(3), (c)(2), (c)(4), and 123(a) of the Act.

The IRS and Treasury Department are committed to providing appropriate relief to taxpayers that have used methodologies inconsistent with the short taxable year rules provided in these regulations on tax returns filed after the effective date of section 41(c)(5) and prior to the publication of these regulations.

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 also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act, refer to the Special Analyses section of the preamble to the cross-referenced notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is David Selig, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

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 is amended by adding entries in numerical order to read in part as follows:

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

Section 1.41–8T also issued under 26 U.S.C. 41(c)(4)(B);

Section 1.41–9T also issued under 26 U.S.C. 41(c)(5)(C); * * *

§ 1.41–0 [Amended]

■ **Par. 2.** Section 1.41–0 is amended by:

■ 1. Revising the introductory text.

§ 1.41–6 [Amended]

■ 2. Revising the paragraph heading for § 1.41–6(j) and adding entries for paragraphs (j)(1), (j)(2), and (j)(3).

§ 1.41–8 [Amended]

■ 3. Revising the section heading for § 1.41–8 and entries for paragraphs (a) and (b)(5).

■ 4. Adding § 1.41–9.

The additions and revisions read as follows:

§ 1.41–0 Table of contents.

This section lists the table of contents for §§ 1.41–1 through 1.41–9.

* * * * *

§ 1.41–6 Aggregation of expenditures.

* * * * *

(j) Effective/applicability date.

(1) In general.

(2) Consolidated group rule.

(3) Taxable years ending on or before December 31, 2006.

* * * * *

§ 1.41–8 Alternative incremental credit.

(a) Determination of credit.

(b) * * *

(5) Effective/applicability dates.

§ 1.41–9 Alternative simplified credit.

[Reserved]. For further guidance, see the entries for § 1.41–9T in § 1.41–0T.

■ **Par. 3.** Section 1.41–0T is added to read as follows:

§ 1.41–0T Table of contents (temporary).

This section lists the table of contents for §§ 1.41–6T, 1.41–8T, and 1.41–9T.

§ 1.41–6T Aggregation of expenditures (temporary).

(a) [Reserved]. For further guidance, see the entry for § 1.41–6(a) in § 1.41–0.

(b) Computation of the group credit.

(1) In general.

(2) [Reserved]. For further guidance, see the entry for § 1.41–6(b)(2) in § 1.41–0.

(c) Allocation of the group credit.

(1) [Reserved]. For further guidance, see the entry for § 1.41–6(c)(1) in § 1.41–0.

(2) Stand-alone entity credit.

(d) [Reserved]. For further guidance, see the entry for § 1.41–6(d) in § 1.41–0.

(e) Example.

(f) through (i) [Reserved]. For further guidance, see the entries for § 1.41–6(f) through (i) in § 1.41–0.

(j) Effective/applicability dates.

* * * * *

§ 1.41–8T Alternative incremental credit (temporary).

(a) [Reserved]. For further guidance, see the entry for § 1.41–8(a) in § 1.41–0.

(b) Election.

(1) In general.

(2) Time and manner of election.

(3) Revocation.

(4) Special rules for controlled groups.

(i) In general.

(ii) Designated member.

(5) Effective/applicability dates.

§ 1.41–9T Alternative simplified credit (temporary).

(a) Determination of credit.

(b) Election.

(1) In general.

(2) Time and manner of election.

(3) Revocation.

(4) Special rules for controlled groups.

(i) In general.

(ii) Designated member.

(c) Special rules.

(d) Effective/applicability dates.

(e) Expiration date.

■ **Par. 4.** Section 1.41–1 is amended by adding a sentence to the end of paragraph (a) to read as follows:

§ 1.41–1 Credit for increasing research activities.

(a) * * * For taxable years ending after December 31, 2006, and at the

election of the taxpayer, the portion of the credit determined under section 41(a)(1) may be calculated using either the alternative incremental credit set forth in section 41(c)(4), or the alternative simplified credit set forth in section 41(c)(5).

* * * * *

■ **Par. 5.** Section 1.41–6 is amended by:

■ 1. Revising paragraph (e) introductory text and the paragraph heading for paragraph (j).

■ 2. Adding paragraph (j)(3).

The revision and addition reads as follows:

§ 1.41–6 Aggregation of expenditures.

* * * * *

(e) *Examples.* The following examples illustrate the provisions of this section. Unless otherwise stated, no members of a controlled group are members of a consolidated group, no member of the group made any basic research payments or paid or incurred any amounts to an energy research consortium, and the group has not made an AIRC election (except as provided in Example 6) or an ASC election. For an example illustrating the calculation of the alternative simplified credit under section 41(c)(5), which is applicable for taxable years ending after December 31, 2006, see § 1.41–6T(e).

* * * * *

(j) *Effective/applicability dates.* * * *

(3) *Taxable years ending on or before December 31, 2006.* Paragraphs (b)(1) and (c)(2) of this section are applicable for taxable years ending on or before December 31, 2006. For taxable years ending after December 31, 2006, see § 1.41–6T.

■ **Par. 6.** Section 1.41–6T is added to read as follows:

§ 1.41–6T Aggregation of expenditures (temporary).

(a) [Reserved]. For further guidance, see § 1.41–6(a).

(b) *Computation of the group credit*—(1) *In general.* All members of a controlled group are treated as a single taxpayer for purposes of computing the research credit. The group credit is computed by applying all of the section 41 computational rules on an aggregate basis. All members of a controlled group must use the same method of computation, either the method described in section 41(a)(1), the alternative incremental credit (AIRC) method described in section 41(c)(4), or the alternative simplified credit (ASC) method described in section 41(c)(5), in computing the group credit for a credit year.

(2) [Reserved]. For further guidance, see § 1.41–6(b)(2).

(c) *Allocation of the group credit.* (1) [Reserved]. For further guidance, see § 1.41–6(c)(1).

(2) *Stand-alone entity credit.* The term *stand-alone entity credit* means the research credit (if any) that would be allowable to a member of a controlled group if the credit were computed as if section 41(f)(1) did not apply, except that the member must apply the rules provided in § 1.41–6(d)(1) (relating to consolidated groups) and § 1.41–6(i) (relating to intra-group transactions). Each member's stand-alone entity credit for any credit year must be computed under whichever method (the method described in section 41(a), the method described in section 41(c)(4), or the method described in section 41(c)(5)) results in the greatest stand-alone entity credit for that member, without regard to the method used to compute the group credit.

(d) [Reserved]. For further guidance see § 1.41–6(d).

(e) Example. Group alternative simplified credit. The following example illustrates a group computation in a year for which the ASC method under section 41(c)(5) is in effect. No members of the controlled group are members of a consolidated group and no member of the group made any basic research payments or paid or incurred any amounts to an energy research consortium.

Example. (i) *Facts.* Q, R, and S, all of which are calendar-year taxpayers, are members of a controlled group. The research credit under section 41(a)(1) is not allowable to the group for the 2008 taxable year (the credit year) because the group's aggregate QREs for the credit year are less than the group's base amount. The group does not use the AIRC method of section 41(c)(4) because its aggregate QREs for the credit year do not exceed 1 percent of the average annual gross receipts for the four years preceding the credit year. The group credit is computed using the ASC rules of section 41(c)(5).

Assume that each member of the group had QREs in each of the three years preceding the credit year. For purposes of computing the group credit for the credit year, Q, R, and S had the following:

	Q	R	S	Group aggregate
Credit Year QREs	$0x	$20x	$30x	$50x
Average QREs for 3 Years Preceding the Credit Year	10x	20x	10x	40x

(ii) *Computation of the group credit.* The research credit allowable to the group is computed as if Q, R, and S are one taxpayer. The group credit is equal to 12 percent of so much of the QREs for the credit year as exceeds 50 percent of the average QREs for the three taxable years preceding the credit year. The group credit is 0.12 x ($50x − (0.5 x $40x)), which equals $3.6x.

(iii) *Allocation of the group credit.* Under paragraph (c)(2) of this section, the stand-alone entity credit for each member of the group must be computed using the method that results in the greatest stand-alone entity credit for that member. The stand-alone entity credit for Q is zero under all three methods. Assume that the stand-alone entity credit for each of R ($1.2x) and S ($3x) is greatest using the ASC method. Therefore, the stand-alone entity credits for each of R and S must be computed using the ASC method. The sum of the stand-alone entity credits of the members of the group is $4.2x. Because the group credit of $3.6x is less than the sum of the stand-alone entity credits of all the members of the group ($4.2x), the group credit is allocated among the members of the group based on the ratio that each member's stand-alone entity credit bears to the sum of the stand-alone entity credits of all the members of the group. The $3.6x group credit is allocated as follows:

	Q	R	S	Total
Stand-Alone Entity Credit	$0x	$1.2x	$3x	$4.2x
Allocation Ratio (Stand-Alone Entity Credit/Sum of Stand-Alone Entity Credits)	0/4.2	1.2/4.2	3/4.2	
Multiplied by: Group Credit	$3.6x	$3.6x	$3.6x	
Equals: Credit Allocated to Member	$0x	$1.03x	$2.57x	$3.6x

(f) through (i) [Reserved]. For further guidance see § 1.41–6(f) through (i).

(j) *Effective/applicability dates.* This section is applicable for taxable years ending after December 31, 2006. For taxable years ending on or before December 31, 2006, see § 1.41–6.

(k) *Expiration date.* The applicability of this section will expire on or before June 13, 2011.

■ **Par. 7.** Section 1.41–8 is amended by:

■ 1. Revising the section heading and the heading of paragraph (a).

■ 2. Removing the language ''paragraph (c) of this section'' from the first sentence of paragraph (b)(4)(ii) and adding ''§ 1.41–6(c)'' in its place.

■ 3. Revising the paragraph heading and adding two sentences at the end of paragraph (b)(5).

The revisions and additions read as follows:

§ 1.41–8 Alternative incremental credit.

(a) *Determination of credit.* * * *

(b) * * *

(5) *Effective/applicability dates.* * * * Paragraphs (b)(3) and (b)(4)(ii) of this section are applicable for taxable years ending on or before December 31, 2006. For taxable years ending after December 31, 2006, see § 1.41–8T.

■ **Par. 8.** Section 1.41–8T is added to read as follows:

§ 1.41–8T Alternative incremental credit (temporary).

(a) [Reserved]. For further guidance, see § 1.41–8(a).

(b) *Election*—(1) [Reserved]. For further guidance, see § 1.41–8(b)(1).

(2) *Time and manner of election.* An election under section 41(c)(4) is made by completing the portion of Form 6765, ''Credit for Increasing Research Activities,'' (or successor form) relating to the election of the AIRC, and attaching the completed form to the taxpayer's timely filed (including extensions) original return for the taxable year to which the election applies. An election under section 41(c)(4) may not be made on an amended return. An extension of time to make an election under section 41(c)(4) will not be granted under § 301.9100–3 of this chapter.

(3) *Revocation.* An election under this section may not be revoked except with the consent of the Commissioner. A taxpayer is deemed to have requested, and to have been granted, the consent of the Commissioner to revoke an election under section 41(c)(4) if the taxpayer completes the portion of Form 6765, ''Credit For Increasing Research Activities,'' (or successor form) relating to the amount determined under section 41(a)(1) (the regular credit) or the alternative simplified credit (ASC) and attaches the completed form to the taxpayer's timely filed (including extensions) original return for the year to which the revocation applies. An election under section 41(c)(4) may not be revoked on an amended return. An extension of time to revoke an election under section 41(c)(4) will not be granted under § 301.9100–3 of this chapter.

(4) *Special rules for controlled groups*—(i) [Reserved]. For further guidance, see § 1.41–8(b)(4)(i).

(ii) *Designated member.* For purposes of this paragraph (b)(4), for any credit year, the term *designated member* means that member of the group that is allocated the greatest amount of the group credit under § 1.41–6(c) based on the amount of credit reported on the original timely-filed Federal income tax return (even if that member subsequently is determined not to be the designated member). If the members of a group compute the group credit using different methods (the method described in section 41(a)(1), the AIRC method of section 41(c)(4), or the ASC method of section 41(c)(5)) and at least two members of the group qualify as the designated member, then the term *designated member* means that member that computes the group credit using the method that yields the greatest group credit. For example, A, B, C, and D are members of a controlled group but are not members of a consolidated group. For the 2008 taxable year (the credit year), the group credit using the method described in section 41(a)(1) is $10x. Under this method, A would be allocated $5x of the group credit, which would be the largest share of the group credit under this method. For the credit year, the group credit using the AIRC method is $15x. Under the AIRC method, B would be allocated $5x of the group credit, which is the largest share of the group credit computed using the AIRC method. For the credit year, the group credit using the ASC method is $10x. Under the ASC method, C would be allocated $5x of the group credit, which is the largest share of the group credit computed using the ASC method. Because the group credit is greatest using the AIRC method and B is allocated the greatest amount of credit under that method, B is the designated member. Therefore, if B makes a section 41(c)(4) election on its original timely-filed return for the credit year, that election is binding on all members of the group for the credit year.

(5) *Effective/applicability dates.* This section is applicable for taxable years ending after December 31, 2006. For taxable years ending on or before December 31, 2006, see § 1.41–8.

(6) *Expiration date.* This applicability of this section expires on or before June 13, 2011.

■ **Par. 9.** Sections 1.41–9 and 1.41–9T are added to read as follows:

§ 1.41–9 Alternative simplified credit.

[Reserved]. For further guidance, see § 1.41–9T.

§ 1.41–9T Alternative simplified credit (temporary).

(a) *Determination of credit.* At the election of the taxpayer, the credit determined under section 41(a)(1) equals the amount determined under section 41(c)(5).

(b) *Election*—(1) *In general.* A taxpayer may elect to apply the provisions of the alternative simplified credit (ASC) in section 41(c)(5) for any taxable year of the taxpayer ending after December 31, 2006. If a taxpayer makes an election under section 41(c)(5), the election applies to the taxable year for which made and all subsequent taxable years unless revoked in the manner prescribed in paragraph (b)(3) of this section.

(2) *Time and manner of election.* An election under section 41(c)(5) is made by completing the portion of Form 6765, ''Credit for Increasing Research Activities,'' (or successor form) relating to the election of the ASC, and attaching the completed form to the taxpayer's timely filed (including extensions) original return for the taxable year to which the election applies. An election under section 41(c)(5) may not be made on an amended return. An extension of time to make an election under section 41(c)(5) will not be granted under § 301.9100–3 of this chapter.

(3) *Revocation.* An election under this section may not be revoked except with the consent of the Commissioner. A taxpayer is deemed to have requested, and to have been granted, the consent of the Commissioner to revoke an election under section 41(c)(5) if the taxpayer completes the portion of Form 6765 (or successor form) relating to the credit determined under section 41(a)(1) (the regular credit) or the alternative incremental credit (AIRC) and attaches the completed form to the taxpayer's timely filed (including extensions) original return for the year to which the revocation applies. An election under section 41(c)(5) may not be revoked on an amended return. An extension of time to revoke an election under section 41(c)(5) will not be granted under § 301.9100–3 of this chapter.

(4) *Special rules for controlled groups*—(i) *In general.* In the case of a

controlled group of corporations, all the members of which are not included on a single consolidated return, an election (or revocation) must be made by the designated member by satisfying the requirements of paragraph (b)(2) or (b)(3) of this section (whichever applies), and such election (or revocation) by the designated member shall be binding on all the members of the group for the credit year to which the election (or revocation) relates. If the designated member fails to timely make (or revoke) an election, each member of the group must compute the group credit using the method used to compute the group credit for the immediately preceding credit year.

(ii) *Designated member*. For purposes of this paragraph (b)(4), for any credit year, the term *designated member* means that member of the group that is allocated the greatest amount of the group credit under § 1.41–6(c) based on the amount of credit reported on the original timely-filed Federal income tax return (even if that member subsequently is determined not to be the designated member). If the members of a group compute the group credit using different methods (the method described in section 41(a), the AIRC method of section 41(c)(4), or the ASC method of section 41(c)(5)) and at least two members of the group qualify as the designated member, then the term *designated member* means that member that computes the group credit using the method that yields the greatest group credit. For example, A, B, C, and D are members of a controlled group but are not members of a consolidated group. For the 2008 taxable year (the credit year), the group credit using the method described in section 41(a)(1) is $10x. Under this method, A would be allocated $5x of the group credit, which would be the largest share of the group credit under this method. For the credit year, the group credit using the AIRC method is $10x. Under the AIRC method, B would be allocated $5x of the group credit, which is the largest share of the group credit computed using the AIRC method. For the credit year, the group credit using the ASC method is $15x. Under the ASC method, C would be allocated $5x of the group credit, which is the largest share of the group credit computed using the ASC method. Because the group credit is greatest using the ASC method and C is allocated the greatest amount of credit under that method, C is the designated member. Therefore, if C makes a section 41(c)(5) election on its original timely-filed return for the credit year, that election is binding on all members of the group for the credit year.

(c) *Special rules*—(1) *Qualified research expenses (QREs) required in all years*. Unless a taxpayer has QREs in each of the three taxable years preceding the taxable year for which the credit is being determined, the credit equals that percentage of the QREs for the taxable year provided by section 41(c)(5)(B)(ii).

(2) *Section 41(c)(6) applicability*. QREs for the three taxable years preceding the credit year must be determined on a basis consistent with the definition of QREs for the credit year, without regard to the law in effect for the three taxable years preceding the credit year. This consistency requirement applies even if the period for filing a claim for credit or refund has expired for any of the three taxable years preceding the credit year.

(3) *Section 41(h)(2) applicability*. Solely for purposes of the computation under section 41(h)(2), the average QREs for the three taxable years preceding the taxable year for which the credit is being determined shall be treated as the base amount.

(4) *Short taxable years*. If one or more of the three taxable years preceding the credit year is a short taxable year, then the QREs for such year are deemed to be equal to the QREs actually paid or incurred in that year multiplied by 12 and divided by the number of months in that year. If a credit year is a short taxable year, then the average QREs for the three taxable years preceding the credit year are modified by multiplying that amount by the number of months in the short taxable year and dividing the result by 12.

(5) *Controlled groups*. For purposes of computing the group credit under § 1.41–6, a controlled group must apply the rules of this paragraph (c) on an aggregate basis. For example, if the controlled group has QREs in each of the three taxable years preceding the taxable year for which the credit is being determined, the controlled group applies the credit computation provided by section 41(c)(5)(A) rather than section 41(c)(5)(B)(ii).

(d) *Effective/applicability dates*. This section is applicable for taxable years ending after December 31, 2006. For certain transitional rules, see Division A, section 104(b)(3), (c)(2), and (c)(4) of the Tax Relief and Health Care Act of 2006 (Pub. L. 109–432, 120 Stat. 2922).

(e) *Expiration date*. The applicability of this section expires on or before June 13, 2011.

Dated: June 6, 2008.

Steven T. Miller,

Acting Deputy Commissioner for Services and Enforcement.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 104

[Docket No. USCG–2008–0028]

RIN 1625–AB26

Implementation of Vessel Security Officer Training and Certification Requirements—International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as Amended

AGENCY: Coast Guard, DHS.

ACTION: Interim rule; correction.

SUMMARY: On May 20, 2008, the Coast Guard published in the **Federal Register** an interim rule with request for comments to amend its regulations to implement the vessel security officer training and certification amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, and the Seafarers' Training, Certification and Watchkeeping Code. In the interim rule a clerical error was made stating as an option that to qualify for a VSO endorsement, a person must ''have approved sea service of not less than 90 days on any vessel subject to section 104.215 of this part * * *.'' Instead, the option should have stated that a person must have not less than six months to qualify for a VSO endorsement, not 90 days. This document corrects that error.

DATES: This interim rule is effective June 19, 2008.

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, contact Ms. Mayte Medina, Maritime Personnel Qualifications Division, Coast Guard, by telephone 202–372–1406 or by e-mail at *Mayte.Medina2@uscg.mil*. If you have questions on viewing or submitting material to the docket, contact Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: