SUPPLEMENTARY INFORMATION section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Paul Hart, Center for Tobacco Products, Food and Drug Administration, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993, 1–877–287–1373, email: *AskCTP@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a revised guidance for industry entitled ''Requirements for the Submission of Data Needed to Calculate User Fees for Domestic Manufacturers and Importers of Tobacco Products; Small Entity Compliance Guide'' for the final user fee rules published July 10, 2014 (79 FR 39302). Also, published elsewhere in this edition of the **Federal Register**, FDA issued a final rule to amend 21 CFR part 1150 (part 1150) to require domestic manufacturers and importers of cigars and pipe tobacco to submit to FDA information needed to calculate the amount of user fees assessed under the Federal Food, Drug, and Cosmetic Act (FD&C Act). FDA issued this user fee final rule together with the final rule, ''Deeming Tobacco Products To Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Restrictions on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products'' (Deeming rule), which deems all products that meet the statutory definition of ''tobacco product,'' except accessories of the newly deemed tobacco products, to be subject to the FD&C Act. The Deeming rule, among other things, subjects domestic manufacturers and importers of cigars and pipe tobacco to the FD&C Act's user fee requirements. Consistent with the Deeming rule and the requirements of the FD&C Act, this user fee final rule requires the submission of the information needed to calculate user fee assessments for each manufacturer and importer of cigars and pipe tobacco to FDA. In compliance with section 212 of the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121), FDA is making available this revised SECG stating in plain language the legal requirements of the user fee final regulations set forth in part 1150.

II. Significance of Guidance

FDA is issuing this revised SECG as a level 2 guidance, consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public unless specific regulatory or statutory requirements are cited. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Electronic Access

Persons with access to the Internet may obtain an electronic version of the guidance at either *http://www.regulations.gov* or *http://www.fda.gov/TobaccoProducts/Labeling/RulesRegulationsGuidance/default.htm.*

Dated: May 3, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–10689 Filed 5–5–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–127199–15]

RIN 1545–BM94

Treatment of Certain Domestic Entities Disregarded as Separate From Their Owners as Corporations for Purposes of Section 6038A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that would treat a domestic disregarded entity wholly owned by a foreign person as a domestic corporation separate from its owner for the limited purposes of the reporting, record maintenance and associated compliance requirements that apply to 25 percent foreign-owned domestic corporations under section 6038A of the Internal Revenue Code. These changes are intended to provide the IRS with improved access to information that it needs to satisfy its obligations under U.S. tax treaties, tax information exchange agreements and similar international agreements, as well as to strengthen the enforcement of U.S. tax laws.

DATES: Written or electronic comments and requests for a public hearing must be received by August 8, 2016.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–127199–15), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–127199–15), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC., or sent electronically, via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–127199–15).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Ronald M. Gootzeit, (202) 317–6937; concerning submissions of comments and/or requests for a hearing, Regina Johnson, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1191. The estimated average annual recordkeeping burden per recordkeeper is 10 hours. The estimated reporting burden is being reported under Form 5472 (OMB # 1545–0123).

The collection of information in this proposed regulation is in sections 1.6038A–1 through 1.6038A–3 and 1.6038A–5. This information is required in order to provide the IRS with improved access to information that it needs to satisfy its obligations under U.S. tax treaties, tax information exchange agreements, and similar international agreements, as well as to strengthen the enforcement of U.S. tax laws. The likely respondents are foreign-owned domestic entities that are disregarded as separate from their owners.

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 Office of Management and Budget.

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.

Background

Sections 301.7701–1 through 301.7701–3 (''the entity classification regulations'') classify a business entity with two or more members as either a

corporation or a partnership, and a business entity with a single owner as either a corporation or an entity disregarded as separate from its owner (''disregarded entity''). Certain domestic business entities, such as limited liability companies (''LLCs''), are classified by default as partnerships (if they have more than one member) or as disregarded entities (if they have only one owner) but are eligible to elect for federal tax purposes to be classified as corporations. Under special rules, an entity that is otherwise disregarded is not disregarded for certain excise and employment tax purposes. Section 301.7701–2(c)(2)(iv) and (v).

Some disregarded entities are not obligated to file a return or obtain an employer identification number (''EIN''). In the absence of a return filing obligation (and associated record maintenance requirements) or the identification of a responsible party as required in applying for an EIN, it is difficult for the United States to carry out the obligations it has undertaken in its tax treaties, tax information exchange agreements and similar international agreements to provide other jurisdictions with relevant information on U.S. entities with owners that are tax resident in the partner jurisdiction or otherwise have a tax nexus with respect to the partner jurisdiction.

Section 6001 of the Internal Revenue Code (''Code'') provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep such records, render such statements, make such returns and comply with such rules and regulations as the Secretary may from time to time prescribe, and that whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax. Thus, the Treasury Department and the IRS have broad authority under section 6001 of the Code to promulgate regulations to require the keeping of records and the reporting of information by persons who may be liable for any tax. The Code also requires many categories of persons to file returns, even if no tax is owed in a particular year. For example, all corporations organized in the United States must file annual income tax returns, which may include schedules requiring the identification of owners exceeding specified ownership thresholds. Moreover, foreign corporations engaged in a trade or business in the United States (''U.S. trade or business'') must file annual income tax returns. Section 6012(a)(2); section 1.6012–2. Domestic partnerships must file information returns with schedules identifying each partner. Section 6031; section 1.6031(a)–1. In addition, domestic corporations that are at least 25% foreign-owned are subject to specific information reporting and record maintenance requirements. Section 6038A.

All entities, including disregarded entities, must have an EIN to file a required return. Section 6109(a)(1); *see* section 301.6109–1(a)(1)(ii)(C) and (b). An entity must also have an EIN in order to elect to change its classification. An entity that accepts its default classification and is not required to file a return need not obtain an EIN. Because a domestic single-member LLC is classified as a disregarded entity by default rather than by election and has no separate federal tax return filing requirements, there is typically no federal tax requirement for it to obtain an EIN. Other applicable federal or state laws may require an entity to obtain an EIN. For example, pursuant to federal law, financial institutions in the United States generally require an entity to have an EIN to open an account. *See* 31 CFR 1020.220(a)(1)(i)(A)(*4*).

An entity obtains an EIN by filing Form SS–4, Application for Employer Identification Number, in which the entity must identify a responsible party. The instructions to Form SS–4 define ''responsible party'' for an entity (including a disregarded entity) that is not traded on a public exchange or registered with the Securities and Exchange Commission as ''the individual who has a level of control over, or entitlement to, the funds or assets in the entity that, as a practical matter, enables the individual, directly or indirectly, to control, manage, or direct the entity and the disposition of its funds and assets.'' The entity must also report any subsequent change in the responsible party. *See* section 301.6109–1(d)(2)(ii).

When an entity, such as an LLC, is classified as a corporation or a partnership for tax purposes, general ownership and accounting information is available to the IRS through the return filing and EIN application requirements. However, a disregarded entity is not subject to a separate income or information return filing requirement. Its owner is treated as owning directly the entity's assets and liabilities, and the information available with respect to the disregarded entity depends on the owner's own return filings, if any are required. For a disregarded entity that is formed in the United States and wholly owned by a foreign corporation, foreign partnership, or nonresident alien individual, generally no U.S. income or information return must be filed if neither the disregarded entity nor its owner received any U.S. source income or was engaged in a U.S. trade or business during the taxable year. Moreover, if a disregarded entity only receives certain types of U.S. source income, such as portfolio interest or U.S. source income that is fully withheld upon at source, its owner may not have a U.S. return filing requirement. Even in cases when the disregarded entity has an EIN, as well as in cases when income earned through a disregarded entity must be reported on its owner's return (for example, income from a U.S. trade or business), it may be difficult to associate the income with the disregarded entity based solely on the owner's return.

Although ownership and accounting information is generally available under the reporting requirements established by the U.S. federal tax system with respect to many types of domestic entities, the absence of specific return filing and associated recordkeeping requirements for foreign-owned, single-member domestic entities hinders law enforcement efforts and compliance with international standards of transparency and cooperation in the area of tax information exchange. These difficulties have been noted in reviews of the U.S. legal system by international organizations, including the Financial Action Task Force and the Global Forum on Transparency and Exchange of Information for Tax Purposes, which is affiliated with the Organisation for Economic Co-operation and Development. The lack of ready access to information on ownership of, and transactions involving, these entities also makes it difficult for the IRS to ascertain whether the entity or its owner is liable for any federal tax.

In general, section 6038A imposes reporting and recordkeeping requirements (together with certain procedural compliance requirements) on domestic corporations that are 25-percent foreign-owned. They are required to file an annual return on Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business (Under Sections 6038A and 6038C of the Internal Revenue Code), with respect to each related party with which the reporting corporation has had any ''reportable transactions.'' *See* section 1.6038A–2. These corporations must keep the permanent books of account or records as required by section 6001 that are

sufficient to establish the accuracy of the federal income tax return of the corporation, including information, documents, or records to the extent they may be relevant to determine the correct U.S. tax treatment of transactions with related parties. *See* section 1.6038A–3.

Explanation of Provisions

These proposed regulations would amend section 301.7701–2(c) to treat a domestic disregarded entity that is wholly owned by one foreign person as a domestic corporation separate from its owner for the limited purposes of the reporting and record maintenance requirements (including the associated procedural compliance requirements) under section 6038A. As with the existing special rules with respect to employment and excise taxes, these proposed regulations would not alter the framework of the existing entity classification regulations, including the treatment of certain entities as disregarded. These regulations are intended to provide the IRS with improved access to information that it needs to satisfy its obligations under U.S. tax treaties, tax information exchange agreements and similar international agreements, as well as to strengthen the enforcement of U.S. tax laws.

Because the proposed regulations would treat the affected domestic entities as foreign-owned domestic corporations for the specific purposes of section 6038A under the proposed regulations, and because such entities are foreign-owned, they would be reporting corporations within the meaning of section 6038A. Consequently, they would be required to file the Form 5472 information return with respect to reportable transactions between the entity and its foreign owner or other foreign related parties (transactions that would have been regarded under general U.S. tax principles if the entity had been, in fact, a corporation for U.S. tax purposes) and would also be required to maintain records sufficient to establish the accuracy of the information return and the correct U.S. tax treatment of such transactions. In addition, because these entities would have a filing obligation, they would be required to obtain an EIN by filing a Form SS–4 that includes responsible party information.

To ensure that such entities are required to report all transactions with foreign related parties, these regulations would specify as an additional reportable category of transaction for these purposes any transaction within the meaning of section 1.482–1(i)(7) (with such entities being treated as separate taxpayers for the purpose of identifying transactions and being subject to requirements under section 6038A) to the extent not already covered by another reportable category. The term ''transaction'' is defined in section 1.482–1(i)(7) to include any sale, assignment, lease, license, loan, advance, contribution, or other transfer of any interest in or a right to use any property or money, as well as the performance of any services for the benefit of, or on behalf of, another taxpayer. For example, under these proposed regulations, contributions and distributions would be considered reportable transactions with respect to such entities. Accordingly, a transaction between such an entity and its foreign owner (or another disregarded entity of the same owner) would be considered a reportable transaction for purposes of the section 6038A reporting and record maintenance requirements, even though, because it involves a disregarded entity, it generally would not be considered a transaction for other purposes, such as making an adjustment under section 482. The penalty provisions associated with failure to file the Form 5472 and failure to maintain records would apply to these entities as well.

The proposed regulations would also provide that the exceptions to the record maintenance requirements in section 1.6038A–1(h) and (i) for small corporations and *de minimis* transactions will not apply to these entities.

Consistent with the changes contemplated by these proposed regulations, the IRS is also considering modifications to corporate, partnership, and other tax or information returns (or their instructions) to require the filer of these returns to identify all the foreign and domestic disregarded entities it owns.

The proposed regulations would impose a filing obligation on a foreign-owned disregarded entity for reportable transactions it engages in even if its foreign owner already has an obligation to report the income resulting from those transactions—for example, transactions resulting in income effectively connected with the conduct of a U.S. trade or business. The Treasury Department and the IRS request comments on possible alternative methods for reporting the disregarded entity's transactions in such cases.

Proposed Effective/Applicability Date

The regulations are proposed to be applicable for taxable years ending on or after the date that is 12 months after the date these regulations are published as final regulations in the **Federal Register**.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) and (d) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This certification is based on the fact that these regulations will primarily affect a small number of foreign-owned domestic entities that do not themselves otherwise have a U.S. return filing requirement, and that the requirement to file a return for these entities will not impose a significant burden on them. Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small entities.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on aspects of the proposed rules for which additional guidance is desired. All comments will be available at *www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, then notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Ronald M. Gootzeit, Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and part 301 are proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by revising the entries for §§ 1.6038A–1 and 1.6038A–2 to read in part as follows:

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

* * * * *

Section 1.6038A–1 also issued under 26 U.S.C. 6001.

Section 1.6038A–2 also issued under 26 U.S.C. 6001.

* * * * *

■ **Par. 2.** Section 1.6038A–1 is amended as follows:

■ 1. Paragraph (c)(1) is amended by adding a sentence at the end of the paragraph.

■ 2. The first sentence of paragraph (h) is revised.

■ 3. The first sentence of paragraph (i)(1) is revised.

■ 4. Paragraph (n)(1) is amended by adding a sentence at the end of the paragraph.

■ 5. Paragraph (n)(2) is amended by adding a sentence at the end of the paragraph.

The additions and revisions read as follows:

§ 1.6038A–1 General requirements and definitions.

* * * * *

(c) * * *

(1) * * * A domestic business entity that is wholly owned by one foreign person and that is otherwise classified under § 301.7701–3(b)(1)(ii) of this chapter as disregarded as an entity separate from its owner is treated as an entity separate from its owner and classified as a domestic corporation for purposes of section 6038A. *See* § 301.7701–2(c)(2)(vi) of this chapter.

* * * * *

(h) *Small corporation exception.* A reporting corporation (other than an entity that is treated as a reporting corporation by reason of § 301.7701–2(c)(2)(vi) of this chapter) that has less than $10,000,000 in U.S. gross receipts for a taxable year is not subject to §§ 1.6038A–3 and 1.6038A–5 for that taxable year.* * *

(i) *Safe harbor for reporting corporations with related party transactions of de minimis value*—(1) *In general.* A reporting corporation (other than an entity that is treated as a reporting corporation by reason of § 301.7701–2(c)(2)(vi) of this chapter) is not subject to §§ 1.6038A–3 and 1.6038A–5 for any taxable year in which the aggregate value of all gross payments it makes to and receives from foreign related parties with respect to related party transactions (including monetary, nonmonetary consideration, and the value of transactions involving less than full consideration) is not more than $5,000,000 and is less than 10 percent of its U.S. gross income.* * *

* * * * *

(n) * * *

(1) * * * The last sentence of paragraph (c)(1) of this section (relating to certain domestic business entities), the parenthetical language in paragraph (h) of this section (relating to entities that are treated as reporting corporations by reason of § 301.7701–2(c)(2)(vi) of this chapter), and the parenthetical language in paragraph (i)(1) of this section (relating to entities that are treated as reporting corporations by reason § 301.7701–2(c)(2)(vi) of this chapter) apply to taxable years of such entities ending on or after the date that is 12 months after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

(2) * * * Paragraphs (b)(3)(xi) and (b)(9) of this section and the last sentence of paragraph (d) of § 1.6038A–2 apply to taxable years of the entities described in § 301.7701–2(c)(2)(vi) of this chapter ending on or after the date that is 12 months after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

* * * * *

■ **Par. 3.** Section 1.6038A–2 is amended as follows:

■ 1. In paragraph (b)(3)(ix), remove the word ''and''.

■ 2. In paragraph (b)(3)(x), remove the period at the end of the paragraph and add ''; and'' in its place.

■ 3. Add paragraph (b)(3)(xi).

■ 4. Add paragraph (b)(9).

■ 5. Add a sentence at the end of paragraph (d).

The additions and revisions read as follows:

§ 1.6038A–2 Requirements of return.

* * * * *

(b) * * *

(3) * * *

(xi) With respect to an entity that is treated as a reporting corporation by reason of § 301.7701–2(c)(2)(vi) of this chapter, any other transaction as defined by § 1.482–1(i)(7), such as amounts paid or received in connection with the formation, dissolution, acquisition and disposition of the entity, including contributions to and distributions from the entity.

* * * * *

(9) *Examples.* The application of paragraph (b)(3) of this section may be illustrated by the following examples:

Example 1. (i) In year 1, W, a foreign corporation, forms and contributes assets to X, a domestic limited liability company that does not elect to be treated as a corporation under § 301.7701–3(c) of this chapter. In year 2, W contributes funds to X. In year 3, X makes a payment to W. In year 4, X, in liquidation, distributes its assets to W.

(ii) In accordance with § 301.7701–3(b)(1)(ii) of this chapter, X is disregarded as an entity separate from W. In accordance with § 301.7701–2(c)(2)(vi) of this chapter, X is treated as an entity separate from W and classified as a domestic corporation for purposes of section 6038A. In accordance with paragraphs (a)(2) and (b)(3) of this section, each of the transactions in years 1 through 4 is a reportable transaction with respect to X. Therefore, X has a section 6038A reporting and record maintenance requirement for each of those years.

Example 2. (i) The facts are the same as in *Example 1* of this paragraph (b)(9) except that in year 1 W also forms and contributes assets to Y, another domestic limited liability company that does not elect to be treated as a corporation under § 301.7701–3(c) of this chapter. In year 1, X and Y form and contribute assets to Z, another domestic limited liability company that does not elect to be treated as a corporation under § 301.7701–3(c) of this chapter. In year 2, X transfers funds to Z. In year 3, Z makes a payment to Y. In year 4, Z distributes its assets to X and Y in liquidation.

(ii) In accordance with § 301.7701–3(b)(1)(ii) of this chapter, Y and Z are disregarded as entities separate from each other, W, and X. In accordance with § 301.7701–2(c)(2)(vi) of this chapter, Y, Z and X are treated as entities separate from each other and W, and are classified as domestic corporations for purposes of section 6038A. In accordance with paragraph (b)(3) of this section, each of the transactions in years 1 through 4 involving Z is a reportable transaction with respect to Z. Similarly, the contribution to Y in year 1, the payment to Y in year 3, and the distribution to Y in year 4 are reportable transactions with respect to Y. Moreover, X's funds transfer to Z in year 2 is a reportable transaction. Therefore, Z has a section 6038A reporting and record maintenance requirement for years 1 through 4, Y has a section 6038A reporting and record maintenance requirement for years 1, 3 and 4, and X has a section 6038A reporting and record maintenance requirement in year 2 in

addition to its section 6038A reporting and record maintenance described in *Example 1 of this paragraph (b)(9).*

(d) * * * In the case of an entity that is treated as a reporting corporation by reason of § 301.7701–2(c)(2)(vi) of this chapter, Form 5472 must be filed at such time and in such manner as the Commissioner may prescribe in forms or instructions.

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 4.** The authority citation for part 301 continues in part to read as follows:

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

■ **Par. 5.** Section 301.7701–2 is amended by revising the last sentence of paragraph (a) and adding paragraphs (c)(2)(vi) and (e)(9) to read as follows:

§ 301.7701–2 Business entities; definitions.

(a) * * * But see paragraphs (c)(2)(iii) through (vi) of this section for special rules that apply to an eligible entity that is otherwise disregarded as an entity separate from its owner.

* * * * *

(c) * * *

(2) * * *

(vi) *Special rule for reporting under section 6038A*—(A) *In general.* An entity that is disregarded as separate from its owner for any purpose under this section is treated as an entity separate from its owner and classified as a corporation for purposes of section 6038A if—

(*1*) The entity is a domestic entity; and

(*2*) One foreign person has direct or indirect sole ownership of the entity.

(B) *Definitions*—(*1*) *Indirect sole ownership.* For purposes of paragraph (c)(2)(vi)(A)(*2*) of this section, indirect sole ownership means ownership by one person entirely through one or more entities disregarded as separate from their owners or through grantor trusts, regardless of whether any such disregarded entity or grantor trust is domestic or foreign.

(2) Entity disregarded as separate from its owner. For purposes of this paragraph (c)(2)(vi)(B), an entity disregarded as separate from its owner is an entity described in paragraph (c)(2)(i) of this section, without regard to the exceptions provided in paragraphs (c)(2)(ii) though (vi) of this section.

(*3*) *Grantor trust.* For purposes of this paragraph (c)(2)(vi)(B), a grantor trust is any portion of a trust that is treated as owned by the grantor or another person under subpart E of subchapter J of chapter 1 of the Code.

* * * * *

(e) * * *

(9) *Reporting required under section 6038A.* Paragraph (c)(2)(vi) of this section applies to taxable years ending on or after the date that is 12 months after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register**.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2016–10852 Filed 5–6–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG–2015–0729]

RIN 1625–AA01

Port of Miami Anchorage Area; Atlantic Ocean, Miami Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the Miami Anchorage. Under the proposal, the Miami Anchorage would be divided into two separate anchorage areas. This action is necessary to reduce potential damage to threatened coral posed by anchoring vessels. This proposed revision would update the regulation to clarify the regulatory text and to reflect the establishment of two anchorage areas instead of one area currently in place. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before July 11, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2015–0729 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LT Ruth Sadowitz, Sector Miami Waterways Management Division, U.S. Coast Guard; telephone 305–535–4307, email *Ruth.A.Sadowitz@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FDEP Florida Department of Environmental Protection
FR Federal Register
NMFS National Marine Fisheries Service
NPRM Notice of proposed rulemaking
§ Section
SEFCRI South East Florida Coral Reef Initiative
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On December 1, 2015, the Coast Guard published a Notice of Study and request for comments (80 FR 75020) advising that we were evaluating an amendment to the Miami Anchorage (33 CFR 110.188) that would divide the anchorage into two separate anchorage areas. The possible modification of the anchorage area was designed in coordination with local stakeholders in an effort to mitigate damage to coral that may be caused by vessels anchoring. Comments provided by these stakeholders, academic research, and environmental reports addressed a number of options to potentially reduce the likelihood of damage to the Florida Reef in the Miami Anchorage. Those documents, which may be found in the docket, influenced this Coast Guard's selection of the anchorage modification proposed in this notice.

In response to the Notice of Study, the Coast Guard received four comments. The first comment was from the non-profit organization, Miami Waterkeeper. Miami Waterkeeper supports the modifications to the anchorage area as those modifications would both better protect threatened species and critical coral habitat and still allow for safe navigation.

The second comment came from the National Marine Fisheries Service—Habitat Conservation Division (NFMS). NMFS stated that they support relocating the anchorage area in order to reduce continued degradation of the coral reef and, ultimately, allow for restoration of the reef.

The third comment was from NOAA. On December 1, 2015, NOAA submitted a comment to verify the coordinates of the possible amended anchorage area listed in the notice. The coordinates for the location of the amended anchorage areas were published incorrectly. The latitudinal coordinates were inadvertently published in the longitude column and vice versa. However, the numerical coordinates published in the chart was correct. The error has been