

other locations if such activities constitute occasional lectures or consultations permitted by paragraph (g) of this section. All such sites of activity must be entered into SEVIS while the exchange visitor's SEVIS record is in Initial or Active status.

(g) *Occasional lectures or consultations.* Professors and research scholars may participate in occasional lectures and short-term consultations, if authorized to do so by his or her sponsor. Such lectures and consultations must be incidental to the exchange visitor's primary program activities. If wages or other remuneration are received by the exchange visitor for such activities, the exchange visitor must act as an independent contractor, as such term is defined in 8 CFR 274a.1(j), and the following criteria and procedures must be satisfied:

(1) *Criteria.* The occasional lectures or short-term consultations must:

- (i) Be directly related to the objectives of the exchange visitor's program;
- (ii) Be incidental to the exchange visitor's primary program activities;
- (iii) Not delay the completion date of the exchange visitor's program; and
- (iv) Be documented in SEVIS.

(2) *Procedures.* (i) To obtain authorization to engage in occasional lectures or short-term consultations involving wages or other remuneration, the exchange visitor must present to the responsible officer:

(A) A letter from the offeror setting forth the terms and conditions of the offer to lecture or consult, including the duration, number of hours, field or subject, amount of compensation, and description of such activity; and

(B) A letter from the exchange visitor's department head or supervisor recommending such activity and explaining how the activity would enhance the exchange visitor's program.

(ii) The responsible officer must review the letters required in paragraph (g)(2)(i) of this section and make a written determination whether such activity is warranted, will not interrupt the exchange visitor's original objective, and satisfies the criteria set forth in paragraph (g)(1) of this section.

(h) *Change of activity.* At the discretion and approval of the responsible officer, professors may freely engage in research and research scholars may freely engage in teaching and lecturing. Because these activities are intertwined, such a change of activity is not considered a change of category necessitating formal approval by the Department of State and does not require the issuance of a new Form DS-2019 to reflect a change in category.

Such change in activity does not extend the exchange visitor's maximum duration of program participation.

(i) *Duration of participation.* The permitted duration of program participation for a professor or research scholar is as follows:

(1) *General limitation.* A professor or research scholar may be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete his or her program, provided such time does not exceed five years. The five-year period of permitted program participation is continuous and begins with the initial program begin date documented in SEVIS or the date such status was acquired via a petition submitted and approved by the Department of Homeland Security (DHS) as documented in SEVIS and ends five years from such date.

(2) *Repeat participation.* Exchange participants who have entered the United States under the Exchange Visitor Program as a professor or research scholar, or who have acquired such status while in the United States, and who have completed his or her program are not eligible for participation as a professor or research scholar for a period of two years following the end date of such program participation as identified in SEVIS.

(3) *Extensions.* A responsible officer may not extend the period of program duration beyond the five-year period of maximum program duration authorized for professor and research scholar participants. The Department may, in its sole discretion, authorize an extension beyond the permitted five-year period, as submitted by a "G-7" program sponsor, upon successful demonstration of the following:

(i) The participant for whom an extension is requested is engaged in a research project under the direct sponsorship of a Federally Funded National Research and Development Center ("FFNRDC") or a U.S. Federal Laboratory;

(ii) The FFNRDC or U.S. Federal Laboratory requesting the extension on behalf of the participant has determined, through peer review, that the participant's continued involvement in the project is beneficial to its successful conclusion; and

(iii) The Secretary of the Department of Homeland Security has determined in his/her discretion that the extension may be approved;

(iv) The extension request is for not more than five years.

Dated: May 10, 2005.

Patricia S. Harrison,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 05-10020 Filed 5-18-05; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9202]

RIN 1545-BD25

Additional Rules for Exchanges of Personal Property Under Section 1031(a)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that replace the use of the Standard Industrial Classification (SIC) system with the North American Industry Classification System (NAICS) for determining what properties are of a like class for purposes of section 1031 of the Internal Revenue Code (Code). The regulations affect taxpayers that engage in like-kind exchanges of depreciable tangible personal property. **DATES:** *Effective Date:* These regulations are effective May 19, 2005.

Applicability Dates: For dates of applicability, see § 1.1031(a)-2(d).

FOR FURTHER INFORMATION CONTACT: J. Peter Baumgarten, (202) 622-4920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1. On August 13, 2004, the IRS and Treasury Department published in the **Federal Register** a notice of proposed rulemaking (REG-116265-04; 69 FR 50108) by cross reference to temporary regulations (TD 9151; 69 FR 50067) under section 1031(a). These amendments relate to the transition from the use of the four-digit codes under the SIC system to the six-digit NAICS for determining product classes of depreciable tangible personal property exchanged under section 1031. No written or electronic comments in response to the proposed regulations or requests to speak at a public hearing were received, and no hearing was held. The proposed regulations under section 1031 are adopted by this Treasury decision, and the temporary regulations are removed.

Effective Date

These final regulations apply to transfers of property made by taxpayers on or after August 12, 2004. However, taxpayers may apply the regulations to transfers of property made by taxpayers on or after January 1, 1997, in taxable years for which the period of limitation for filing a claim for refund or credit under section 6511 has not expired. Additionally, taxpayers may treat properties within the same product classes under a 4-digit SIC code as properties of like class for transfers of property made by taxpayers on or before May 19, 2005.

Special Analysis

It has been determined that these final regulations are 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, and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking that preceded these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these final regulations is J. Peter Baumgarten of the Office of the Associate Chief Counsel (Income Tax and Accounting). 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.

Adoption of Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.1031(a)–2 is amended by:

- 1. Revising paragraphs (b)(3) through (b)(6), *Example 3* and *Example 4* of paragraph (b)(7), and paragraph (d).
- 2. Adding paragraph (b)(8).

The revisions and addition read as follows.

§ 1.1031(a)–2 Additional rules for exchanges of personal property.

* * * * *

(b) * * *

(3) *Product classes.* Except as provided in paragraphs (b)(4) and (5) of this section, or as provided by the Commissioner in published guidance of general applicability, property within a product class consists of depreciable tangible personal property that is described in a 6-digit product class within Sectors 31, 32, and 33 (pertaining to manufacturing industries) of the North American Industry Classification System (NAICS), set forth in Executive Office of the President, Office of Management and Budget, *North American Industry Classification System*, United States, 2002 (NAICS Manual), as periodically updated. Copies of the NAICS Manual may be obtained from the National Technical Information Service, an agency of the U.S. Department of Commerce, and may be accessed on the internet. Sectors 31 through 33 of the NAICS Manual contain listings of specialized industries for the manufacture of described products and equipment. For this purpose, any 6-digit NAICS product class with a last digit of 9 (a miscellaneous category) is not a product class for purposes of this section. If a property is listed in more than one product class, the property is treated as listed in any one of those product classes. A property's 6-digit product class is referred to as the property's NAICS code.

(4) *Modifications of NAICS product classes.* The product classes of the NAICS Manual may be updated or otherwise modified from time to time as the manual is updated, effective on or after the date of the modification. The NAICS Manual generally is modified every five years, in years ending in a 2 or 7 (such as 2002, 2007, and 2012). The applicability date of the modified NAICS Manual is announced in the **Federal Register** and generally is January 1 of the year the NAICS Manual is modified. Taxpayers may rely on these modifications as they become effective in structuring exchanges under this section. Taxpayers may rely on the previous NAICS Manual for transfers of property made by a taxpayer during the one-year period following the effective date of the modification. For transfers of property made by a taxpayer on or after January 1, 1997, and on or before January 1, 2003, the NAICS Manual of 1997 may be used for determining

product classes of the exchanged property.

(5) *Administrative procedures for revising general asset classes and product classes.* The Commissioner may, through published guidance of general applicability, supplement, modify, clarify, or update the guidance relating to the classification of properties provided in this paragraph (b). (See § 601.601(d)(2) of this chapter.) For example, the Commissioner may determine not to follow (in whole or in part) a general asset class for purposes of identifying property of like class, may determine not to follow (in whole or in part) any modification of product classes published in the NAICS Manual, or may determine that other properties not listed within the same or in any product class or general asset class nevertheless are of a like class. The Commissioner also may determine that two items of property that are listed in separate product classes or in product classes with a last digit of 9 are of a like class, or that an item of property that has a NAICS code is of a like class to an item of property that does not have a NAICS code.

(6) *No inference outside of section 1031.* The rules provided in this section concerning the use of general asset classes or product classes are limited to exchanges under section 1031. No inference is intended with respect to the classification of property for other purposes, such as depreciation.

(7) *Examples.* * * *

Example 3. Taxpayer E transfers a grader to F in exchange for a scraper. Neither property is within any of the general asset classes. However, both properties are within the same product class (NAICS code 333120). The grader and scraper are of a like class and deemed to be of a like kind for purposes of section 1031.

Example 4. Taxpayer G transfers a personal computer (asset class 00.12), an airplane (asset class 00.21) and a sanding machine (NAICS code 333210), to H in exchange for a printer (asset class 00.12), a heavy general purpose truck (asset class 00.242) and a lathe (NAICS code 333210). The personal computer and the printer are of a like class because they are within the same general asset class. The sanding machine and the lathe are of a like class because they are within the same product class (although neither property is within any of the general asset classes). The airplane and the heavy general purpose truck are neither within the same general asset class nor within the same product class, and are not of a like kind.

(8) *Transition rule.* Properties within the same product classes based on the 4-digit codes contained in Division D of the Executive Office of the President, Office of Management and Budget, Standard Industrial Classification

Manual (1987), will be treated as property of a like class for transfers of property made by taxpayers on or before May 19, 2005.

* * * * *

(d) *Effective date.* Except as otherwise provided in this paragraph (d), this section applies to exchanges occurring on or after April 11, 1991. Paragraphs (b)(3) through (b)(6), *Example 3* and *Example 4* of paragraph (b)(7), and paragraph (b)(8) of this section apply to transfers of property made by taxpayers on or after August 12, 2004. However, taxpayers may apply paragraphs (b)(3) through (b)(6), and *Example 3* and *Example 4* of paragraph (b)(7) of this section to transfers of property made by taxpayers on or after January 1, 1997, in taxable years for which the period of limitation for filing a claim for refund or credit under section 6511 has not expired.

§ 1.1031(a)-2T [Removed]

■ **Par. 3.** Section 1.1031(a)-2T is removed.

§ 1.1031(j)-1 [Amended]

■ **Par. 4.** Section 1.1031(j)-1(d) is amended by removing the language “(SIC Code 3531)” in *Example 3(ii)(C)* and *Example 5(i)* and adding “(NAICS code 333120)” in its place.

Approved: May 12, 2005.

Cono R. Namorato,

Acting Deputy Commissioner for Services and Enforcement.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 05-9960 Filed 5-18-05; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[Docket No. IL-104-FOR]

Illinois Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Illinois regulatory program (Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Illinois proposed revisions to its regulations and statutes

regarding the Surface Mining Advisory Council, citation references, typographical errors, procedures for relocating or closing public roads, and subsidence control. Illinois intends to revise its program to provide additional safeguards and to clarify ambiguities.

DATES: *Effective Date:* May 19, 2005.

FOR FURTHER INFORMATION CONTACT:

Andrew R. Gilmore, Chief, Alton Field Division—Indianapolis Area Office. Telephone: (317) 226-6700. E-mail: IFOMAIL@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Illinois Program
- II. Submission of the Amendment
- III. OSM's Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. Procedural Determinations

I. Background on the Illinois Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, “a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.” See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior (Secretary) conditionally approved the Illinois program on June 1, 1982. You can find background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval, in the June 1, 1982, **Federal Register** (47 FR 23858). You can also find later actions concerning the Illinois program and program amendments at 30 CFR 913.10, 913.15, 913.16, and 913.17.

II. Submission of the Amendment

By letter dated December 10, 2004 (Administrative Record No. IL-5086), the Illinois Department of Natural Resources, Office of Mines and Minerals (Department) sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). The Department sent the amendment at its own initiative. The Department proposed to amend its regulations at 62 Illinois Administrative Code (IAC) parts 1700, 1761, 1762, 1772, and 1773 and its statutes at 225 Illinois Compiled Statutes (ILCS) 720/1.04.

We announced receipt of the proposed amendment in the February 8, 2005, **Federal Register** (70 FR 6602). In

the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on March 10, 2005. We did not receive any public comments.

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment.

A. Minor Revisions to Illinois' Regulations

Illinois proposed minor reference, wording, recodification, and typographical changes to the following previously-approved regulations:

1. 62 IAC 1700.17 Administration

In subsection (a), Illinois proposed to change its reference to SMCRA by changing it from “the Surface Mining Control and Reclamation Act of 1977” to “the Federal Act (30 USCA § 1201 *et seq.*)” Illinois proposed to update a citation reference, because of a previous recodification of statutes, by changing the citation from “(Ill. Rev. Stat. 1985, ch. 127, pars. 1 *et seq.*)” to “[20 ILCS 5].” Also, Illinois proposed to make various minor wording changes to clarify the general duties and powers of the Department. In subsections (a) through (d), because of a previous recodification of statutes, Illinois proposed to update citation references by changing the citations from “(Ill. Rev. Stat. 1985, ch. 96 ½, par. 7909)” to “[225 ILCS 720/9].”

2. 62 IAC 1761.16 Submission and Processing of Requests for Valid Existing Rights Determinations

Illinois proposed to correct two typographical errors in subsection (b)(3) by changing a reference from “subsection (b)(1)” to “subsection (b)(2)” and by changing a reference from “subsection (b)(2)” to “subsection (b)(1).”

3. 62 IAC 1762.15 Exploration on Lands Designated as Unsuitable for Surface Coal Mining Operations

Illinois proposed to correct two references by changing one reference from “this Part” to “62 Ill. Adm. Code 1761 through 1764” and by changing the other reference from “this Part, any approved State or Federal program, and other applicable requirements” to “62 Ill. Adm. Code 1700 through 1850 and other applicable requirements.”