

Division Administrator no later than August 31 of each year the following reports related to the HSIP in accordance with 23 U.S.C. 148(g):

(1) A report with a defined one year reporting period describing the progress being made to implement the State HSIP that:

(i) Describes the progress in implementing the projects, including the funds available, and the number and general listing of the types of projects initiated. The general listing of the projects initiated shall be structured to identify how the projects relate to the State SHSP and to the State's safety goals and objectives. The report shall also provide a clear description of the project selection process;

(ii) Assesses the effectiveness of the improvements. This section shall: Provide a demonstration of the overall effectiveness of the HSIP; include figures showing the general highway safety trends in the State by number and by rate; and describe the extent to which improvements contributed to performance goals, including reducing the number of roadway crashes leading to fatalities and serious injuries.

(iii) Describes the High Risk Rural Roads program, providing basic program implementation information, methods used to identify high risk rural roads, information assessing the High Risk Rural Roads program projects, and a summary of the overall High Risk Rural Roads program effectiveness.

(2) A report describing progress being made to implement railway-highway grade crossing improvements in accordance with 23 U.S.C. 130(g), and the effectiveness of these improvements.

(3) A transparency report describing not less than 5 percent of a State's highway locations exhibiting the most severe safety needs that:

(i) Identifies potential remedies to those hazardous locations; estimates costs associated with the remedies; and identifies impediments to implementation other than cost associated with those remedies;

(ii) Emphasizes fatality and serious injury data;

(iii) At a minimum, uses the most recent three to five years of crash data;

(iv) Identifies the data years used and describes the extent of coverage of all public roads included in the data analysis;

(v) Identifies the methodology used to determine how the locations were selected; and

(vi) Is compatible with the requirements of 29 U.S.C. 794(d), Section 508 of the Rehabilitation Act.

(b) The preparation of the State's annual reports may be financed with

funds made available through 23 U.S.C. 104(b)(1), (3), and (5), 105, 402, and 505, and for metropolitan planning areas, 23 U.S.C. 104(f).

[FR Doc. E8-30168 Filed 12-23-08; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9434]

RIN 1545-BC88

Creditor Continuity of Interest; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to final regulations (TD 9434) that were published in the **Federal Register** on Friday, December 12, 2008 (73 FR 75566) providing guidance regarding when and to what extent creditors of a corporation will be treated as proprietors of the corporation in determining whether continuity of interest ("COI") is preserved in a potential reorganization. These final regulations are necessary to provide clarity to parties engaging in reorganizations of insolvent corporations, both inside and outside of bankruptcy. These final regulations affect corporations, their creditors, and their shareholders.

DATES: *Effective Date:* This correction is effective December 24, 2008 and is applicable on December 12, 2008.

FOR FURTHER INFORMATION CONTACT: Jean Brenner (202) 622-7790, Douglas Bates (202) 622-7550, or Bruce Decker (202) 622-7550 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this document are under section 368 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9434) contains an error that may prove to be misleading and is in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

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 1.368-1(e)(6)(ii)(A) is amended by revising the last sentence as follows:

§ 1.368-1 Purpose and scope of exception to reorganization exchanges.

(e) * * *

(6) * * *

(ii) * * *

(A) * * * When only one class (or one set of equal classes) of creditors receives issuing corporation stock in exchange for a creditor's proprietary interest in the target corporation, such stock will be counted for measuring continuity of interest provided that the stock issued by the issuing corporation is not de minimis in relation to the total consideration received by the insolvent target corporation, its shareholders, and its creditors.

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LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. E8-30716 Filed 12-23-08; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9434]

RIN 1545-BC88

Creditor Continuity of Interest; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to final regulations (TD 9434) that were published in the **Federal Register** on Friday, December 12, 2008 (73 FR 75566) providing guidance regarding when and to what extent creditors of a corporation will be treated as proprietors of the corporation in determining whether continuity of interest ("COI") is preserved in a potential reorganization. These final

regulations are necessary to provide clarity to parties engaging in reorganizations of insolvent corporations, both inside and outside of bankruptcy. These final regulations affect corporations, their creditors, and their shareholders.

DATES: *Effective Date:* This correction is effective December 24, 2008, and is applicable on December 12, 2008.

FOR FURTHER INFORMATION CONTACT: Jean Brenner (202) 622-7790, Douglas Bates (202) 622-7550, or Bruce Decker (202) 622-7550 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this document are under section 368 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9434) contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 9434), which was the subject of FR Doc. E8-29271, is corrected as follows:

On page 75566, column 3, in the preamble, under the paragraph heading "Explanation of Provisions", second paragraph of the column, line 13, the language "amount of acquiring corporation stock" is corrected to read "amount of issuing corporation stock".

LaNita Van Dyke,

Chief, Publications and Regulations, Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. E8-30717 Filed 12-23-08; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV-112-FOR; OSM-2008-0024]

West Virginia Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: We are approving two proposed amendments to the West Virginia regulatory program related to the State's cumulative hydrologic

impact assessment (CHIA) process and regarding material damage to the hydrologic balance. The West Virginia Department of Environmental Protection (WVDEP) proposed to delete its existing definition of "cumulative impact." The WVDEP also proposed to amend its regulation outlining CHIA requirements by adding a sentence defining "material damage to the hydrologic balance outside the permit area." We are approving both proposed amendments.

DATES: *Effective Date:* December 24, 2008.

FOR FURTHER INFORMATION CONTACT:

Roger Calhoun, Director, Charleston Field Office, Office of Surface Mining, 1027 Virginia Street East, Charleston, West Virginia 25301. Telephone: 304-347-7158, e-mail: *rcalhoun@osmre.gov*.

SUPPLEMENTARY INFORMATION:

- I. Background on the West Virginia Program
- II. Submission of the Amendments
- III. OSM's Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decisions
- VI. Procedural Determinations

I. Background on the West Virginia Program

Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1253(a), 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 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 the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia regulatory program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval in the January 21, 1981, **Federal Register** (46 FR 5915).

You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendments

A. Previous Submittal of the Amendments

In 2001, West Virginia House Bill 2663 was enacted as State law which, among other things, deleted the

definition of cumulative impact at West Virginia Code of State Regulations (CSR) 38-2-2.39 and added a sentence defining material damage to the hydrologic balance outside the permit area to CSR 38-2-3.22.e. The latter provision contains CHIA requirements that WVDEP must follow when processing permit applications for surface coal mining operations. By letter dated May 2, 2001, West Virginia submitted the proposed revisions as amendments to its permanent regulatory program (Administrative Record Number WV-1209). OSM approved both changes, along with several other proposed program amendments, on December 1, 2003 (68 FR 67035) (Administrative Record Number WV-1379).

On January 30, 2004, the Ohio River Valley Environmental Coalition, Inc., Hominy Creek Preservation Association, Inc., and the Citizens Coal Council filed a complaint and petition for judicial review of these two decisions with the United States District Court for the Southern District of West Virginia (Administrative Record Number WV-1382). On September 30, 2005, the United States District Court for the Southern District of West Virginia vacated both of OSM's decisions of December 1, 2003, at issue in the case and remanded the matter to the Secretary for further proceedings consistent with the court's decision. *Ohio River Valley Environmental Coalition v. Norton*, 2005 U.S. Dist. LEXIS 22265 (S.D. W.Va. 2005). (Administrative Record Number WV-1439).

In response to the court's decision of September 30, 2005, OSM notified the State on November 1, 2005, that its definition of material damage was not approved and could not be implemented. OSM also stated that the deletion of the definition of cumulative impact was not approved and directed the State to take action to add it back into the program. On November 22, 2005, the United States District Court for the Southern District of West Virginia amended its earlier decision. *Ohio River Valley Environmental Coalition v. Norton*, No. 3:04-0084 (S.D. W.Va. Nov. 22, 2005) (amended judgment order). In the amended decision, the court directed the Secretary to instruct the State that it may not implement the new language nor delete language from the State's program, and that the State must enforce only the State program approved by OSM prior to the amendments.

By letter dated January 5, 2006, OSM notified the State that the court's amended judgment order makes it clear