367. An applicant must apply to receive all business proprietary information on the record of the segment of a proceeding in question, but may waive service of business proprietary information it does not wish to receive from other parties to the proceeding. An applicant must serve an APO application on the other parties by the most expeditious manner possible at the same time that it files the application with the Department.

* * * * *

[FR Doc. 2011–16352 Filed 7–5–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

[Docket No. FDA–2011–N–0003]

New Animal Drugs; Change of Sponsor's Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of address for Huvepharma AD, a sponsor of approved new animal drug applications.

DATES: This rule is effective July 6, 2011.

FOR FURTHER INFORMATION CONTACT: Steven D. Vaughn, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 240–276–8300, e-mail: *steven.vaughn@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Huvepharma AD, 33 James Boucher Blvd., Sophia 1407, Bulgaria, has informed FDA that it has changed its address to 5th Floor, 3A Nikolay Haitov Str., 1113 Sofia, Bulgaria. Accordingly, the Agency is amending the regulations in 21 CFR 510.600 to reflect this change.

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 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

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 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1), revise the entry for ''Huvepharma AD''; and in the table in paragraph (c)(2), revise the entry for ''016592'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * *	*
Huvepharma AD, 5th Floor, 3A Nikolay Haitov Str., 1113 Sofia, Bulgaria	016592
* * * *	*

(2) * * *

Drug labeler code	Firm name and address
*	* * * *
016592	Huvepharma AD, 5th Floor, 3A Nikolay Haitov Str., 1113 Sofia, Bulgaria.
*	* * * *

Dated: June 24, 2011.

Elizabeth Rettie,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 2011–16845 Filed 7–5–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 48

[TD 9533]

RIN 1545–BK28

Modification of Treasury Regulations Pursuant to Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary regulations that remove any reference to, or requirement of reliance on, ''credit ratings'' in regulations under the Internal Revenue Code (Code) and provides substitute standards of credit-worthiness where appropriate. This action is required by the Dodd-Frank Wall Street Reform and Consumer Protection Act, which requires Federal agencies to remove any reference to, or requirement of reliance on, credit ratings from their regulations and to substitute such standard of credit-worthiness as the agency deems appropriate for such regulations. These regulations affect persons subject to various provisions of the Code. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on July 6, 2011.

Applicability Dates: For dates of applicability, see §§ 1.150–1T(a)(4), 1.171–1T(f), 1.197–2T(b)(7), 1.249–1T(f)(3), 1.475(a)–4T(d)(4), 1.860G–2T(g)(3), 1.1001–3T(d), (e), and (g), and 48.4101–1T(l)(5).

FOR FURTHER INFORMATION CONTACT: Arturo Estrada, (202) 622–3900 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 939A(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203 (124 Stat. 1376 (2010)), (the ''Dodd-Frank Act''), requires each Federal agency to review its regulations that require the use of an assessment of credit-worthiness of a security or money market instrument, and to review any references or requirements in those regulations regarding credit ratings. Section 939A(b) directs each agency to modify any regulation identified in the review required under section 939A(a) by removing any reference to, or requirement of reliance on, credit ratings and substituting a standard of credit-worthiness that the agency deems appropriate. Numerous provisions under the Code are affected.

These temporary regulations amend the Income Tax Regulations (26 CFR part 1) under sections 150, 171, 197, 249, 475, 860G, and 1001 of the Code. These sections were added to the Code during different years to serve different purposes. These temporary regulations also amend the Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48) under section 4101 that provides registration requirements related to Federal fuel taxes.

Explanation of Provisions

These temporary regulations remove references to ''credit ratings'' and ''credit agencies'' or functionally similar terms in the existing regulations. Some changes involve simple word deletions or substitutions. Others reflect the revision of a sentence to remove the credit rating references. In some cases, multiple sentences have been modified. Where appropriate, substitute standards of credit-worthiness replace the prior references to credit ratings, credit agencies or functionally similar terms. Language revisions serve solely to remove the references prohibited by section 939A of the Dodd-Frank Act and no additional changes are intended.

Section 1.150–1. Section 1.150–1 provides definitions for purposes of sections 103 and 141 through 150. Section 1.150–1(b) defines *issuance costs* to mean costs to the extent incurred in connection with, and allocable to, the issuance of an issue within the meaning of section 147(g). Section 1.150–1(b) lists as non-exclusive examples of issuance costs: Underwriters' spread; counsel fees; financial advisory fees; rating agency fees; trustee fees; paying agent fees; bond registrar, certification, and authentication fees; accounting fees; printing costs for bonds and offering documents; public approval process costs; engineering and feasibility study costs; guarantee fees, other than for qualified guarantees (as defined in § 1.148–4(f)); and similar costs. These temporary regulations replace the § 1.150–1(b) reference to rating agency fees with ''fees paid to an organization to evaluate the credit quality of the issue.'' No substantive change is intended.

Section 1.171–1. The temporary regulations change *credit rating* in § 1.171–1(f) *Example 2* (i) to *credit quality.* The change does not affect the analysis in the example. In addition, the temporary regulations make other nonsubstantive changes to the example (for example, the dates in the example are updated).

Section 1.197–2(b)(7). The temporary regulations remove ''the existence of a favorable credit rating'' from the examples of supplier-based intangibles in the third sentence of § 1.197–2(b)(7). No substantive change in the treatment of a favorable credit rating as a supplier-based intangible under section 197 is intended.

Section 1.249–1. The temporary regulations change *credit rating* and *ratings of credit rating services* in § 1.249–1(e)(2)(ii) to *credit quality* and *widely published financial information.* In the existing regulations, a change in the credit rating of an issuer or obligation is one of the facts and circumstances used to determine how much of a repurchase premium is attributable to the cost of borrowing and not to the conversion feature of a convertible bond. *Credit rating services* is used as a means to determine the credit rating of an issuer or obligation. None of these changes affect the substantive rules in the existing regulations.

Section 1.475(a)–4(d)(4). Example 1, Example 2, and *Example 3* in § 1.475(a)–4(d)(4) are revised to remove references to credit ratings or credit rating agencies. In these three examples in the existing regulations, *credit rating* or specific references to certain ratings by certain credit ratings agencies (such as AA/aa or AAA/aaa) were used to set up the factual scenario that illustrates the factors that go into the determination of whether it is appropriate for a dealer to take a credit risk adjustment. These terms were also used to describe the credit risk adjustment implicit in the yield curve used to discount the present value of the cash flows. This adjustment affects whether any additional credit risk adjustments are warranted. These examples also used *credit rating agency* to set up the factual scenario that a counterparty's credit-worthiness was based upon an industry standard of a certain credit quality and illustrates the factors that go into the determination of whether it is appropriate for a dealer to take a credit risk adjustment. The changes that have been made to the language of the examples do not alter the purpose of the illustrations and present the factual issues in a more generalized way.

Section 1.860G–2. Section 1.860G–2(g)(2) defines *qualified reserve fund* as an amount that is reasonably required to fund expenses of the REMIC or amounts due on regular or residual interests in the event of defaults on the underlying pool of mortgages. In defining the amount reasonably required, § 1.860G–2(g)(3)(ii) refers to the amount required by a nationally recognized independent rating agency as a condition of providing the rating for the REMIC interest desired by the sponsor. Because an alternative and fully adequate standard of reference is already set forth in these regulations, these temporary regulations remove the rating agency alternative standard.

Section 1.1001–3. Section 1.1001–3 provides rules for determining whether a modification of a debt instrument results in an exchange for purposes of § 1.1001–1(a). These temporary regulations remove the terms *rating* and *credit rating* from § 1.1001–3 and generally replace those terms with *credit quality.* Section 1.1001–3(d) *Example 9* is revised so that the event that triggers an option to increase a note's rate of interest is a breach of certain covenants in the note, rather than a specific decline in the corporation's credit rating. The temporary regulations also revise § 1.1001–3(g) *Example 5* so that the debt instrument described in the example allows a party to be substituted for the instrument's original obligor on the basis of the party's credit-worthiness, rather than the party's credit rating. The temporary regulations also revise § 1.1001–3(g) *Example 8* to explain that a bank's letter of credit supporting a debt instrument is substituted for another bank's letter of credit when the first bank encounters financial difficulty, thus removing references to *rating agencies* and either bank's *credit rating.*

Section 48.4101–1(f)(4). Section 4101 requires certain persons to be registered by the IRS for purposes of several fuel tax provisions of the Code. Under § 48.4101–1, the IRS will register an applicant for registration only if, among other conditions, the applicant has adequate financial resources to pay its expected fuel tax liability. To make this determination, § 48.4101–1(f)(4)(ii)(B) instructs the IRS to look to the applicant's financial information. These temporary regulations remove the examples of the types of documents the IRS should review and instructs the IRS to look at all information relevant to the applicant's financial status.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. 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 applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), please refer to the Special Analysis section in the preamble to the cross-referenced notice of proposed rulemaking 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

These regulations were drafted by personnel in the Office of Associate Chief Counsel (Financial Institutions and Products), the Office of Associate Chief Counsel (Income Tax and Accounting), the Office of the Associate Chief Counsel (International) and the Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 48

Excise taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 48 are 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 1.150–1 is amended as follows:

■ 1. Paragraph (a)(4) is added.

■ 2. In paragraph (b), the definition of *Issuance costs* is revised.

The additions and revisions read as follows:

§ 1.150–1 Definitions.

(a) * * *

(4) [Reserved] For further guidance, see § 1.150–1T(a)(4).

(b) * * *

Issuance costs [Reserved]. For further guidance, see § 1.150–1T(b), *Issuance costs.*

* * * * *

■ **Par. 3.** Section 1.150–1T is added to read as follows:

§ 1.150–1T Definitions (temporary).

(a) through (a)(3) [Reserved]. For further guidance, see § 1.150–1(a) through (a)(3).

(4) *Additional exception to the general applicability date.* Section 1.150–1T(b), *Issuance costs,* applies on and after July 6, 2011.

(5) *Expiration date.* The applicability of § 1.150–1T(b), *Issuance costs*, expires on or before July 1, 2014.

(b) *Bond* through the definition of *Governmental bond* [Reserved]. For further guidance, see § 1.150–1(b) *Bond* through the definition of *Governmental bond.*

Issuance costs means costs to the extent incurred in connection with, and allocable to, the issuance of an issue within the meaning of section 147(g). For example, issuance costs include the following costs but only to the extent incurred in connection with, and allocable to, the borrowing: Underwriters' spread; counsel fees; financial advisory fees; fees paid to an organization to evaluate the credit quality of an issue; trustee fees; paying agent fees; bond registrar, certification, and authentication fees; accounting fees; printing costs for bonds and offering documents; public approval process costs; engineering and feasibility study costs; guarantee fees, other than for qualified guarantees (as defined in § 1.148–4(f)); and similar costs.

(c) *Issue date* through paragraph (e) [Reserved]. For further guidance, see § 1.150–1(b) *Issue date* through paragraph (e).

■ **Par. 4.** Section 1.171–1(f) *Example 2* is revised to read as follows:

§ 1.171–1 Bond premium.

* * * * *

(f) * * *

Example 2. [Reserved]. For further guidance, see § 1.171–1T(f) *Example 2.*

* * * * *

■ **Par. 5.** Section 1.171–1T is added to read as follows:

§ 1.171–1T Bond premium (temporary).

(a) through (f) *Example 1* [Reserved]. For further guidance, see § 1.171–1(a) through (f) *Example 1.*

Example 2. Convertible bond—(i) *Facts.* On January 1, 2012, A purchases for $1,100 B corporation's bond maturing on January 1, 2015, with a stated principal amount of $1,000, payable at maturity. The bond provides for unconditional payments of interest of $30 on January 1 and July 1 of each year. In addition, the bond is convertible into 15 shares of B corporation stock at the option of the holder. On January 1, 2012, B corporation's nonconvertible, publicly-traded, three-year debt of comparable credit quality trades at a price that reflects a yield of 6.75 percent, compounded semiannually.

(ii) *Determination of basis.* A's basis for determining loss on the sale or exchange of the bond is $1,100. As of January 1, 2012, discounting the remaining payments on the bond at the yield at which B's similar nonconvertible bonds trade (6.75 percent, compounded semiannually) results in a present value of $980. Thus, the value of the conversion option is $120. Under § 1.171–1(e)(1)(iii)(A), A's basis is $980 ($1,100 − $120) for purposes of §§ 1.171–1 through 1.171–5. The sum of all amounts payable on the bond other than qualified stated interest is $1,000. Because A's basis (as determined under § 1.171–1(e)(1)(iii)(A)) does not exceed $1,000, A does not acquire the bond at a premium.

(iii) *Effective/applicability date.* This *Example 2* applies to bonds acquired on or after July 6, 2011.

(g) *Expiration date.* The applicability of this section expires on or before July 1, 2014.

■ **Par. 6.** Section 1.197–2 is amended by revising paragraph (b)(7) to read as follows:

§ 1.197–2 Amortization of goodwill and certain other intangibles.

* * * * *

(b) * * *

(7) [Reserved]. For further guidance, see § 1.197–2T(b)(7).

* * * * *

■ **Par. 7.** Section 1.197–2T is added to read as follows:

§ 1.197–2T Amortization of goodwill and certain other intangibles (temporary).

(a) through (b)(6) [Reserved]. For further guidance, see § 1.197–2(a) through (b)(6).

(7) *Supplier-based intangibles*—(i) *In general.* Section 197 intangibles include any supplier-based intangible. A *supplier-based intangible* is the value resulting from the future acquisition, pursuant to contractual or other relationships with suppliers in the ordinary course of business, of goods or services that will be sold or used by the taxpayer. Thus, the amount paid or incurred for supplier-based intangibles includes, for example, any portion of the purchase price of an acquired trade or business attributable to the existence of a favorable relationship with persons providing distribution services (such as favorable shelf or display space at a retail outlet), or the existence of favorable supply contracts. The amount

paid or incurred for supplier-based intangibles does not include any amount required to be paid for the goods or services themselves pursuant to the terms of the agreement or other relationship. In addition, see the exceptions in § 1.197–2(c), including the exception in § 1.197–2(c)(6) for certain rights to receive tangible property or services from another person.

(ii) *Effective/applicability date.* This section applies to supplier-based intangibles acquired after July 6, 2011.

(iii) *Expiration date.* The applicability of this section expires on or before July 1, 2014.

(b)(8) through (l) [Reserved]. For further guidance, see § 1.197–2(b)(8) through (l).

■ **Par. 8.** Section 1.249–1 is amended as follows:

■ 1. Paragraph (e)(2)(ii) is revised.

■ 2. The paragraph heading for paragraph (f) is revised.

■ 3. Paragraph (f)(3) is added.

The revisions and addition read as follows:

§ 1.249–1 Limitation on deduction of bond premium on repurchase.

* * * * *

(e) * * *

(2) * * *

(ii) [Reserved]. For further guidance, see § 1.249–1T(e)(2)(ii).

* * * * *

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

(3) [Reserved]. For further guidance, see § 1.249–1T(f)(3).

* * * * *

■ **Par. 9.** Section 1.249–1T is added to read as follows:

§ 1.249–1T Limitation on deduction of bond premium on repurchase (temporary).

(a) through (e)(2)(i) [Reserved]. For further guidance, see § 1.249–1(a) through (e)(2)(i).

(ii) In determining the amount under § 1.249–1(e)(2)(i), appropriate consideration shall be given to all factors affecting the selling price or yields of comparable nonconvertible obligations. Such factors include general changes in prevailing yields of comparable obligations between the dates the convertible obligation was issued and repurchased and the amount (if any) by which the selling price of the nonconvertible obligation was affected by reason of any change in the issuing corporation's credit quality or the credit quality of the obligation during such period (determined on the basis of widely published financial information or on the basis of other relevant facts and circumstances which reflect the relative credit quality of the corporation or the comparable obligation).

(e)(2)(iii) through (f)(2) [Reserved]. For further guidance, see § 1.249–1(e)(2)(iii) through (f)(2).

(3) *Portion of repurchase premium attributable to cost of borrowing.* Paragraph (e)(2)(ii) of this section applies to any repurchase of a convertible obligation occurring on or after July 6, 2011.

(g) [Reserved]. For further guidance, see § 1.249–1(g).

(h) *Expiration date.* The applicability of this section expires on or before July 1, 2014.

■ **Par. 10.** Section 1.475(a)–4 is amended by revising paragraph (d)(4) *Example 1, Example 2,* and *Example 3* to read as follows:

§ 1.475(a)–4 Valuation safe harbor.

* * * * *

(d) * * *

(4) * * *

Example 1. [Reserved]. For further guidance, see § 1.475(a)–4T(d)(4) *Example 1.*

Example 2. [Reserved]. For further guidance, see § 1.475(a)–4T(d)(4) *Example 2.*

Example 3. [Reserved]. For further guidance, see § 1.475(a)–4T(d)(4) *Example 3.*

* * * * *

■ **Par. 11.** Section 1.475(a)–4T is added to read as follows:

§ 1.475(a)–4T Valuation safe harbor (temporary).

(a) through (d)(4) introductory text [Reserved]. For further guidance, see § 1.475(a)–4(a) through (d)(4) introductory text.

Example 1. (i) X, a calendar year taxpayer, is a dealer in securities within the meaning of section 475(c)(1). X generally maintains a balanced portfolio of interest rate swaps and other interest rate derivatives, capturing bid-ask spreads and keeping its market exposure within desired limits (using, if necessary, additional derivatives for this purpose). X uses a mark-to-market method on a statement that it is required to file with the United States Securities and Exchange Commission and that satisfies § 1.475(a)–4(d)(2) with respect to both the contracts with customers and the additional derivatives. When determining the amount of any gain or loss realized on a sale, exchange, or termination of a position, X makes a proper adjustment for amounts taken into account respecting payments or receipts. X and all of its counterparties on the derivatives have the same general credit quality as each other.

(ii) Under X's valuation method, as of each valuation date, X determines a mid-market probability distribution of future cash flows under the derivatives and computes the present values of these cash flows. In computing these present values, X uses an industry standard yield curve that is appropriate for obligations by persons with this same general credit quality. In addition, based on information that includes its own knowledge about the counterparties, X adjusts some of these present values either upward or downward to reflect X's reasonable judgment about the extent to which the true credit status of each counterparty's obligation, taking credit enhancements into account, differs from the general credit quality used in the yield curve to present value the derivatives.

(iii) X's methodology does not violate the requirement in § 1.475(a)–4(d)(3)(iii) that the same cost or risk not be taken into account, directly or indirectly, more than once.

(iv) This *Example 1* applies to valuations of securities on or after July 6, 2011.

Example 2. (i) The facts are the same as in *Example 1,* except that X uses a better credit quality in determining the yield curve to discount the payments to be received under the derivatives. Based on information that includes its own knowledge about the counterparties, X adjusts these present values to reflect X's reasonable judgment about the extent to which the true credit status of each counterparty's obligation, taking credit enhancements into account, differs from this better credit quality obligation.

(ii) X's methodology does not violate the requirement in § 1.475(a)–4(d)(3)(iii) that the same cost or risk not be taken into account, directly or indirectly, more than once.

(iii) This *Example 2* applies to valuations of securities on or after July 6, 2011.

Example 3. (i) The facts are the same as in *Example 1,* except that, after computing present values using the discount rates that are appropriate for obligors with the same general credit quality, and based on information that includes X's own knowledge about the counterparties, X adjusts some of these present values either upward or downward to reflect X's reasonable judgment about the extent to which the true credit status of each counterparty's obligation, taking credit enhancements into account, differs from a better credit quality.

(ii) X's methodology violates the requirement in § 1.475(a)–4(d)(3)(iii) that the same cost or risk not be taken into account, directly or indirectly, more than once. By using the same general credit quality discount rate, X's method takes into account the difference between risk-free obligations and obligations with that lower credit quality. By adjusting values for the difference between a higher credit quality and that lower credit quality, X takes into account risks that it had already accounted for through the discount rates that it used. The same result would occur if X judged some of its counterparties' obligations to be of a higher credit quality but X failed to adjust the values of those obligations to reflect the difference between a higher credit quality and the lower credit quality.

(iii) This *Example 3* applies to valuations of securities on or after July 6, 2011.

Example 4 and *Example 5* and paragraphs (e) through (m). [Reserved]. For further guidance, see § 1.475(a)–4(d)(4) *Example 4* and *Example 5* and paragraphs (e) through (m).

(n) *Expiration date.* The applicability of this section expires on or before July 1, 2014.

■ **Par. 12.** Section 1.860G–2 is amended by revising paragraphs (g)(3)(ii)(B) and (C) and adding paragraph (D) to read as follows:

§ 1.860G–2 Other rules.

* * * * *

(g) * * *

(3) * * *

(ii) * * *

(B) [Reserved]. For further guidance, see § 1.860G–2T(g)(3)(ii)(B).

(C) [Reserved]. For further guidance, see § 1.860G–2T(g)(3)(ii)(C).

(D) [Reserved]. For further guidance, see § 1.860G–2T(g)(3)(ii)(D).

* * * * *

■ **Par. 13.** Section 1.860G–2T is added to read as follows:

§ 1.860G–2T Other rules (temporary).

(a) through (g)(3)(ii)(A) [Reserved]. For further guidance, see § 1.860G–2(a) through (g)(3)(ii)(A).

(B) *Presumption that a reserve is reasonably required.* The amount of a reserve fund is presumed to be reasonable (and an excessive reserve is presumed to have been promptly and appropriately reduced) if it does not exceed the amount required by a third party insurer or guarantor, who does not own directly or indirectly (within the meaning of section 267(c)) an interest in the REMIC (as defined in section 1.860D–1(b)(1)), as a condition of providing credit enhancement.

(C) *Presumption may be rebutted.* The presumption in § 1.860G–2(g)(3)(ii)(B) may be rebutted if the amounts required by the third party insurer are not commercially reasonable considering the factors described in § 1.860G–2(g)(3)(ii)(A).

(D) *Effective/applicability date.* Paragraphs (g)(3)(ii)(B) and (C) of this section apply on and after July 6, 2011.

(E) *Expiration date.* The applicability of paragraphs (g)(3)(ii)(B) and (C) of this section expires on or before July 1, 2014.

(h) through (k) [Reserved]. For further guidance, see § 1.860G–2(h) through (k).

■ **Par. 14.** Section 1.1001–3 is amended as follows:

■ 1. Paragraph (d) *Example 9* is revised.

■ 2. Paragraph (e)(4)(iv)(B) is revised.

■ 3. Paragraph (e)(5)(ii)(B)(*2*) is revised.

■ 4. Paragraph (g) *Examples 1, 5* and *8* are revised.

The revisions read as follows:

§ 1.1001–3 Modifications of debt instruments.

* * * * *

(d) * * *

Example 9. [Reserved]. For further guidance, see § 1.1001–3T(d) *Example 9.*

* * * * *

(e) * * *

(4) * * *

(iv) * * *

(B) [Reserved]. For further guidance, see § 1.1001–3T(e)(4)(iv)(B).

* * * * *

(5) * * *

(ii) * * *

(B) * * *

(*2*) [Reserved]. For further guidance, see § 1.1001–3T(e)(5)(ii)(B)(*2*).

* * * * *

(g) * * *

Example 1. [Reserved]. For further guidance, see § 1.1001–3T(g) *Example 1.*

* * * * *

Example 5. [Reserved]. For further guidance, see § 1.1001–3T(g) *Example 5.*

* * * * *

Example 8. [Reserved]. For further guidance, see § 1.1001–3T(g) *Example 8.*

* * * * *

■ **Par. 15.** Section 1.1001–3T is added to read as follows:

§ 1.1001–3T Modifications of debt instruments (temporary).

(a) through (d) *Example 8* [Reserved]. For further guidance, see § 1.1001–3(a) through (d) *Example 8.*

Example 9. Holder's option to increase interest rate. (i) A corporation issues an 8-year note to a bank in exchange for cash. Under the terms of the note, the bank has the option to increase the rate of interest by a specified amount if certain covenants in the note are breached. The bank's right to increase the interest rate is a unilateral option as described in § 1.1001–3(c)(3).

(ii) A covenant in the note is breached. The bank exercises its option to increase the rate of interest. The increase in the rate of interest occurs by operation of the terms of the note and does not result in a deferral or a reduction in the scheduled payments or any other alteration described in § 1.1001–3(c)(2). Thus, the change in interest rate is not a modification.

(iii) *Effective/applicability date.* This *Example 9* applies to modifications occurring on or after July 6, 2011.

(d) *Example 10* through (e)(4)(iv)(A) [Reserved]. For further guidance, see § 1.1001–3(d) *Example 10* through (e)(4)(iv)(A).

(B) *Nonrecourse debt instruments.* (*1*) A modification that releases, substitutes, adds or otherwise alters a substantial amount of the collateral for, a guarantee on, or other form of credit enhancement for a nonrecourse debt instrument is a significant modification. A substitution of collateral is not a significant modification, however, if the collateral is fungible or otherwise of a type where the particular units pledged are unimportant (for example, government securities or financial instruments of a particular type and credit quality). In addition, the substitution of a similar commercially available credit enhancement contract is not a significant modification, and an improvement to the property securing a nonrecourse debt instrument does not result in a significant modification.

(*2*) *Effective/applicability date.* This paragraph (e)(4)(iv)(B) applies to modifications occurring on or after July 6, 2011.

(e)(4)(v) through (e)(5)(ii)(B)(*1*) [Reserved]. For further guidance, see § 1.1001–3(e)(4)(v) through (e)(5)(ii)(B)(*1*).

(*2*) *Original collateral.* (*i*) A modification that changes a recourse debt instrument to a nonrecourse debt instrument is not a significant modification if the instrument continues to be secured only by the original collateral and the modification does not result in a change in payment expectations. For this purpose, if the original collateral is fungible or otherwise of a type where the particular units pledged are unimportant (for example, government securities or financial instruments of a particular type and credit quality), replacement of some or all units of the original collateral with other units of the same or similar type and aggregate value is not considered a change in the original collateral.

(*ii*) *Effective/applicability date.* This paragraph (e)(5)(ii)(B)(*2*) applies to modifications occurring on or after July 6, 2011.

(e)(6) through (g) introductory text [Reserved]. For further guidance, see § 1.1001–3(e)(6) through (g) introductory text.

Example 1. Modification of call right. (i) Under the terms of a 30-year, fixed-rate bond, the issuer can call the bond for 102 percent of par at the end of ten years or for 101 percent of par at the end of 20 years. At the end of the eighth year, the holder of the bond pays the issuer to waive the issuer's right to call the bond at the end of the tenth year. On the date of the modification, the issuer's credit quality is approximately the same as when the bond was issued, but market rates of interest have declined from that date.

(ii) The holder's payment to the issuer changes the yield on the bond. Whether the change in yield is a significant modification depends on whether the yield on the modified bond varies from the yield on the original bond by more than the change in yield as described in § 1.1001–3(e)(2)(ii).

(iii) If the change in yield is not a significant modification, the elimination of the issuer's call right must also be tested for significance. Because the specific rules of § 1.1001–3(e)(2) through (e)(6) do not address this modification, the significance of the modification must be determined under the general rule of § 1.1001–3(e)(1).

(iv) *Effective/applicability date.* This *Example 1* applies to modifications occurring on or after July 6, 2011.

Example 2 through *Example 4* [Reserved]. For further guidance, see § 1.1001–3(g) *Example 2* through *Example 4.*

Example 5. Assumption of mortgage with increase in interest rate. (i) A recourse debt instrument with a 9 percent annual yield is secured by an office building. Under the terms of the instrument, a purchaser of the building may assume the debt and be substituted for the original obligor if the purchaser is equally or more creditworthy than the original obligor and if the interest rate on the instrument is increased by one-half percent (50 basis points). The building is sold, the purchaser assumes the debt, and the interest rate increases by 50 basis points.

(ii) If the purchaser's acquisition of the building does not satisfy the requirements of § 1.1001–3(e)(4)(i)(B) or (C), the substitution of the purchaser as the obligor is a significant modification under § 1.1001–3(e)(4)(i)(A).

(iii) If the purchaser acquires substantially all of the assets of the original obligor, the assumption of the debt instrument will not result in a significant modification if there is not a change in payment expectations and the assumption does not result in a significant alteration.

(iv) The change in the interest rate, if tested under the rules of § 1.1001–3(e)(2), would result in a significant modification. The change in interest rate that results from the transaction is a significant alteration. Thus, the transaction does not meet the requirements of § 1.1001–3(e)(4)(i)(C) and is a significant modification under § 1.1001–3 (e)(4)(i)(A).

(v) *Effective/applicability date.* Notwithstanding § 1.1001–3(h), this *Example 5* applies to modifications occurring on or after July 6, 2011.

Example 6 through *Example 7* [Reserved]. For further guidance, see § 1.1001–3(g) *Example 6* through *Example 7.*

Example 8. Substitution of credit enhancement contract. (i) Under the terms of a recourse debt instrument, the issuer's obligations are secured by a letter of credit from a specified bank. The debt instrument does not contain any provision allowing a substitution of a letter of credit from a different bank. The specified bank, however, encounters financial difficulty. The issuer and holder agree that the issuer will substitute a letter of credit from another bank.

(ii) Under § 1.1001–3(e)(4)(iv)(A), the substitution of a different credit enhancement contract is not a significant modification of a recourse debt instrument unless the substitution results in a change in payment expectations. While the substitution of a new letter of credit by a different bank does not itself result in a change in payment expectations, such a substitution may result in a change in payment expectations under certain circumstances (for example, if the obligor's capacity to meet payment obligations is dependent on the letter of credit and the substitution substantially enhances that capacity from primarily speculative to adequate).

(iii) *Effective/applicability date.* This *Example 8* applies to modifications occurring on or after July 6, 2011.

Example 9 through (h) [Reserved]. For further guidance, see § 1.1001–3(g) *Example 9* through (h).

(i) *Expiration date.* The applicability of this section expires on or before July 1, 2014.

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

■ **Par. 16.** The authority citation for part 48 continues to read in part as follows:

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

■ **Par. 17.** Section 48.4101–1 is amended as follows:

■ 1. Paragraph (f)(4)(ii)(B) is removed and reserved.

■ 2. Paragraph (l)(5) is added and reserved.

The additions read as follows:

§ 48.4101–1 Taxable fuel; registration.

* * * * *

(f) * * *

(4) * * *

(ii) * * *

(B) [Reserved]. For further guidance, see § 48.4101–1T(f)(4)(ii)(B).

* * * * *

(l) * * *

(5) [Reserved]. For further guidance, see § 48.4101–1T(l)(5).

■ **Par. 18.** Section 48.4101–1T is amended as follows:

■ 1. Paragraphs (a) through (f)(4)(ii)(A) are reserved.

■ 2. Paragraph (f)(4)(ii)(B) is revised.

■ 3. Paragraphs (f)(4)(iii) through (h)(3)(iii) are reserved.

■ 4. Paragraphs (h)(3)(v) through (l)(4) are reserved.

■ 5. Paragraphs (l)(5) and (l)(6) are added.

The additions and revisions read as follows:

§ 48.4101–1T Taxable fuel; registration (temporary).

(a) through (f)(4)(ii)(A) [Reserved]. For further guidance see § 48.4104–1(a) through (f)(4)(ii)(A).

(B) *Basis for determination.* The determination under § 48.4101–1(f)(4)(ii) must be based on all information relevant to the applicant's financial status.

(f)(4)(iii) through (h)(3)(iii) [Reserved]. For further guidance, see § 48.4101–1(f)(4)(iii) through (h)(3)(iii).

* * * * *

(h)(3)(v) through (l)(4) [Reserved]. For further guidance, see § 48.4101–1(h)(3)(v) through (l)(4).

(l)(5) *Effective/applicability date.* Paragraph (f)(4)(ii)(B) of this section applies on July 6, 2011.

(l)(6) *Expiration date.* The applicability of paragraph (f)(4)(ii)(B) of this section expires on or before July 1, 2014.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: June 29, 2011.

Emily S. McMahon,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2011–16856 Filed 7–1–11; 11:15 am]

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OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2205

Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Occupational Safety and Health Review Commission

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Review Commission (''OSHRC'') is revising part 2205, which it promulgated to implement section 504 of the Rehabilitation Act of 1973, as amended. These revisions account for statutory and regulatory changes, and incorporate procedures for filing complaints under section 508 of the Rehabilitation Act of 1973, as amended. OSHRC is also making various corrections and technical amendments to this part.

DATES: Effective July 6, 2011.

FOR FURTHER INFORMATION CONTACT: Ron Bailey, Attorney-Advisor, Office of the General Counsel, by telephone at (202) 606–5410, by e-mail at *rbailey@oshrc.gov,* or by mail at: 1120–20th Street, NW., Ninth Floor, Washington, DC 20036–3457.

SUPPLEMENTARY INFORMATION: OSHRC published a notice of proposed rulemaking on May 24, 2011, 76 FR 30064, which would revise 29 CFR part 2205. Interested persons were afforded an opportunity to participate in the rulemaking process through submission of written comments on the proposed rule. OSHRC received no public comments. We have reviewed the