

Dated: February 16, 2005.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.
[FR Doc. 05-4480 Filed 3-7-05; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9176]

RIN 1545-BC35

Elimination of Forms of Distribution in Defined Contribution Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to (TD 9176), which were published in the **Federal Register** on Tuesday, January 25, 2005 (70 FR 3475). These final regulations would modify the circumstances under which certain forms of distribution previously available are permitted to be eliminated from qualified defined contribution plans.

DATES: This correction is effective January 25, 2005.

FOR FURTHER INFORMATION CONTACT: Vernon S. Carter at (202) 622-6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9176) that are the subject of these corrections are under section 411(d)(6) of the Internal Revenue Code.

Need for Correction

As published, TD 9176 contains errors that may prove to be misleading and are 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 amendments:

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 * * *.

§ 1.411(d)-4 [Corrected]

■ Section 1.411(d)-4, A-2, paragraph (e)(3), *Example* (i) and (ii), in each location the year “2004” is removed, and the year “2005” is added in its place.

Cynthia E. Grigsby,

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

[FR Doc. 05-4502 Filed 3-7-05; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9164]

RIN 1545-BC33

Prohibited Allocations of Securities in an S Corporation; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document corrects temporary regulations (TD 9164) that were published in the **Federal Register** on Friday, December 17, 2004 (69 FR 75455) concerning requirements for employee stock ownership plans (ESOPs) holding stock of Subchapter S corporations.

DATES: This document is effective on December 17, 2004.

FOR FURTHER INFORMATION CONTACT: John T. Ricotta, (202) 622-6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations (TD 9164) that is the subject of this correction are under section 409(p).

Need for Correction

As published, the temporary regulations (TD 9164) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Parts 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 and continues to read in part as follows:

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

§ 1.409(p)-1T [Corrected]

■ Section 1.409(p)-1T(d)(2)(iv), is removed.

Cynthia E. Grigsby,

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

[FR Doc. 05-4506 Filed 3-7-05; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Regulatory Program

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

ACTION: Final rule.

SUMMARY: This final rule removes a suspension notation from our regulations pertaining to the Kentucky regulatory program (the “Kentucky program”). The suspension prohibited the issuance of new financial guarantees by the Kentucky Bond Pool because of insufficient funds that had resulted from the transfer of funds out of the bond pool. Kentucky has reimbursed its bond pool and the suspension notation concerning that issue is being removed because it is no longer necessary.

EFFECTIVE DATE: March 8, 2005.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Telephone: (859) 260-8400. Telefax number: (859) 260-8410.

SUPPLEMENTARY INFORMATION:

- I. Background on the Kentucky Program
- II. Submission Information
- III. OSM's Findings
- IV. Procedural Determinations

I. Background on the Kentucky 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 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 Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval in the May 18, 1982, **Federal Register** (47 FR 21434). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16 and 917.17.

II. Submission Information

In a **Federal Register** notice dated May 13, 2004, we published a final rule indicating that we were not approving an amendment to the Kentucky program (69 FR 26500). The amendment transferred \$3,840,000 from the Kentucky Bond Pool Fund to the General Fund for the 2002–2003 and 2003–2004 fiscal years. In the same notice, we also suspended Kentucky's use of the Bond Pool Fund to provide new financial guarantees. Our decision was codified at 30 CFR 917.17(c). By letter dated July 12, 2004, Kentucky notified us that \$3,840,000 would be transferred from the General Fund into the Bond Pool Fund by authority of the Governor (Administrative Record No. KY–1629). By letter dated July 15, 2004, we noted that Executive Order 2004–753 effected the transfer of the \$3,840,000 from the General Fund into the Bond Pool Fund and notified Kentucky that the transfer satisfies our concerns and that we were therefore terminating our suspension of the use of the Bond Pool Fund (Administrative Record No. KY–1632).

III. OSM's Findings

As a result of the transfer of \$3,840,000 into the Bond Pool Fund as specified in the letter dated July 12, 2004, and our subsequent termination of the suspension on July 15, 2004, the Director has determined that the suspension notation at 30 CFR 917.17(c) is no longer required, and should be removed. Accordingly, we are removing the suspension notation.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. The removal of the suspension notation at 30 CFR 917.17(c) merely acknowledges the transfer of funds into the Kentucky Bond Pool by the State.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

The basis for this determination is our decision on a State regulatory program and does not involve a Federal regulation involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

Administrative Procedure Act

This final rule has been issued without prior notice or opportunity for public comment. The Administrative Procedure Act (APA) (5 U.S.C. 553) provides an exception to the notice and comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are unnecessary. We have determined that under 5 U.S.C. 553(b)(3)(B), good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures. For the reasons previously stated, the rule removes a suspension status notation from the Code of Federal Regulations at 30 CFR 917.17(c). This action does not constitute our decision to terminate the suspension of Kentucky's use of the Bond Pool Fund. That decision was made on July 15, 2004. Rather, the removal of the suspension notation pertaining to the use of the Bond Pool Fund merely acknowledges the return of the \$3,840,000 previously transferred out of the Bond Pool Fund, and our July 15, 2004, decision to terminate our suspension. When we removed the suspension, we reactivated that portion of the State regulatory program previously approved. For these same reasons, we believe there is good cause under 5 U.S.C. 553(d)(3) of the APA to have the rule become effective on a date that is less than 30 days after the date of publication in the **Federal Register**.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute

major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The removal of the suspension notation from 30 CFR 917.17(c) acknowledges the transfer of funds by Kentucky into the Bond Pool Fund. The July 15, 2004, removal of the suspension should increase bonding options for coal operators and facilitate the approval of surface coal mining operations within the State.

Small Business Regulatory Enforcement Fairness Act

For the reasons previously discussed, this rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates

For the reasons previously discussed, this rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 11, 2005.

Brent Wahlquist,
Regional Director, Appalachian Regional Coordinating Center.

■ For the reasons set out in the preamble, 30 CFR part 917 is amended as set forth below:

PART 917—KENTUCKY

■ 1. The authority citation for part 917 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

§ 917.17 [Amended]

■ 2. In § 917.17, paragraph (c) is amended by removing the second sentence.

[FR Doc. 05-4386 Filed 3-7-05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 311-0471a; FRL-7878-3]

Revisions to the California State Implementation Plan, Kern County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Kern County Air Pollution Control District (KCAPCD) portion of the California State Implementation Plan (SIP). The revisions concern the emission of particulate matter (PM-10) from wood combustion and the rescission of a rule exempting wet plumes from opacity standards. We are approving the incorporation of a local rule and rescission of a rule that administer regulations and regulate emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on May 9, 2005, without further notice, unless EPA receives adverse comments by April 7, 2005. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Mail or e-mail comments to Andy Steckel, Rulemaking Office Chief

(AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, or e-mail to steckel.andrew@epa.gov, or submit comments at <http://www.regulations.gov>.

You can inspect a copy of the submitted rule revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted rule revisions and TSD at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Kern County Air Pollution Control District, 2700 "M" Street, Suite 302, Bakersfield, CA 93301.

A copy of the rules may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbltx.htm>. Please be advised that this is not an EPA Web site and may not contain the same version of the rules that were submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 947-4118 or petersen.alfred@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the date that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Action	Submitted
KCAPCD	403	General Limitations on the Discharge of Air Contaminants	11/29/93 Rescinded	03/29/94