

responsible for radiation protection within 15 days following completion of the assembly.

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## PART 1040—PERFORMANCE STANDARDS FOR LIGHT-EMITTING PRODUCTS

■ 13. The authority citation for part 1040 continues to read as follows:

**Authority:** 21 U.S.C. 351, 352, 360, 360e–360j, 360hh–360ss, 371, 381.

■ 14. Section 1040.10 is amended by revising paragraph (a) to read as follows:

### § 1040.10 Laser products.

(a) *Applicability.* The provisions of this section and § 1040.11, are applicable to all laser products, except when:

(1) Incorporation of an uncertified laser product intended to be used as a component or replacement for an electronic product—The provisions of this section and § 1040.11 are not applicable to an uncertified laser product that is incorporated into an electronic product that is then certified by the manufacturer of such finished electronic product in accordance with § 1010.2 of this chapter, when:

(i) Such a laser product is either sold to a manufacturer of an electronic product for use as a component (or replacement) in such electronic product, or

(ii) Sold by or for such a manufacturer of an electronic product for use as a component (or replacement) in such electronic product, provided that such laser product:

(A) Is accompanied by a general warning notice that adequate instructions for the safe installation of the laser product are provided in servicing information available from the complete laser product manufacturer under paragraph (h)(2)(ii) of this section, and should be followed,

(B) Is labeled with a statement that it is designated for use solely as a component of such electronic product and therefore does not comply with the appropriate requirements of this section and § 1040.11 for complete laser products, and

(C) Is not a removable laser system as described in paragraph (c)(2) of this section; and

(iii) The manufacturer of such a laser product, if manufactured after August 20, 1986:

(A) Registers, and provides a listing by type of such laser products manufactured that includes the product name, model number and laser medium or emitted wavelength(s), and the name and address of the manufacturer. The

manufacturer must submit the registration and listing to the Director, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G609, Silver Spring, MD 20993–0002. Alternatively, reports may be submitted electronically through Center for Devices and Radiological Health eSubmitter.

(B) Maintains and allows access to any sales, shipping, or distribution records that identify the purchaser of such a laser product by name and address, the product by type, the number of units sold, and the date of sale (shipment). These records shall be maintained and made available as specified in § 1002.31 of this chapter.

(2) Incorporation of a certified laser product into another product—The provisions of this section and § 1040.11 are applicable to a manufacturer of a laser product and are not applicable as specified to a manufacturer who incorporates such laser product manufactured or assembled after August 1, 1976, into another product, when:

(i) The manufacturer of such incorporated laser product is not a laser product intended for use as a component or replacement as described in paragraphs (a)(1)(i) and (ii) of this section,

(ii) The manufacturer of the incorporated laser product certifies such a laser product under § 1010.2 of this chapter,

(iii) The incorporated laser product is not modified as defined in paragraph (i) of this section,

(iv) The incorporated laser product is installed in accordance with the instructions for the incorporated laser product as provided by the manufacturer of the incorporated laser product,

(v) The manufacturer of the incorporating product provides with the incorporating product the user information required under paragraph (h) of this section,

(vi) The labeling requirements of §§ 1010.3 of this chapter and 1040.10(g) for the incorporated laser product would be met when the incorporated laser product is removed from the incorporating product,

(vii) The labeling requirements of § 1040.10(g) for the incorporated laser product would be met in any service configuration of the incorporated laser product, even when that incorporated laser product could be serviced without removal from the incorporating product, and

(viii) The manufacturer of the incorporating product otherwise meets the requirements under this subchapter

applicable to distributors of laser products (§§ 1002.40 and 1002.41 of this chapter).

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## PART 1050—[REMOVED AND RESERVED]

■ 15. Remove and reserve part 1050.

Dated: March 19, 2019.

**Scott Gottlieb,**

*Commissioner of Food and Drugs.*

[FR Doc. 2019–05822 Filed 3–29–19; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG–124627–11]

RIN 1545–BK43

### Corporate Reorganizations; Guidance on the Measurement of Continuity of Interest

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Withdrawal of notice of proposed rulemaking.

**SUMMARY:** This document withdraws a notice of proposed rulemaking that would have provided guidance on how to determine whether certain transactions satisfy the continuity of interest (COI) requirement under § 1.368–1(e), applicable to certain corporate reorganizations described in section 368 of the Internal Revenue Code of 1986 (Code). The proposed regulations being withdrawn would have affected corporations and their shareholders.

**DATES:** As of April 1, 2019, the proposed amendment to § 1.368–1 in the notice of proposed rulemaking (REG–124627–11) that was published in the **Federal Register** (76 FR 78591) on December 19, 2011, is withdrawn.

**FOR FURTHER INFORMATION CONTACT:** Jean R. Broderick at (202) 317–6848 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

#### Background

The provisions of subchapter C, chapter 1, of the Code generally provide nonrecognition treatment for corporate transactions that are described as reorganizations in section 368. The COI requirement is one of a number of requirements that a transaction must satisfy in order to qualify as a reorganization. The COI requirement

prevents transactions that resemble sales from qualifying as reorganizations. *Pinellas Ice & Cold Storage Co. v. Commissioner*, 287 U.S. 462 (1933).

The COI requirement requires that, in substance, a substantial part of the value of the target corporation (Target) shareholders' proprietary interests (*i.e.*, stock) in Target be preserved. Section 1.368-1(e)(1)(i); *John A. Nelson Co. v. Helvering*, 296 U.S. 374 (1935). A Target shareholder's proprietary interest in Target is preserved to the extent it is exchanged for either the stock of the acquiring corporation (Acquiror) or, in the case of a triangular reorganization (as defined in § 1.358-6(b)(2)), the stock of a corporation in control (within the meaning of section 368(c)) of Acquiror (in either case, Issuing Corporation stock). To the extent the Target shareholders' proprietary interests are exchanged for money or other property, their proprietary interests are not preserved. Section 1.368-1(e)(1)(i).

To determine whether a substantial part of the Target shareholders' proprietary interests has been preserved, the value of the Issuing Corporation stock the Target shareholders received is compared to the aggregate value of the consideration the Target shareholders received. Prior to 2011, the determination of whether the COI requirement is satisfied had been based on the value of the Issuing Corporation stock "as of the effective date of the reorganization" (Closing Date). Rev. Proc. 77-37 (1977-2 C.B. 568).

On December 19, 2011, the Department of the Treasury (Treasury Department) and the IRS issued final regulations (TD 9565, 76 FR 78540) that include a special rule (Signing Date Rule) that applies if a binding contract to effect a potential reorganization provides for fixed consideration (as defined in § 1.368-1(e)(2)(iii)(A)) to be exchanged for the Target shareholders' proprietary interests. Section 1.368-1(e)(2)(i). If the Signing Date Rule applies, the consideration is valued as of the end of the last business day before the first date there is a binding contract (Pre-signing Date), rather than on the Closing Date.

On the same date, the Treasury Department and the IRS published proposed regulations (2011 Proposed Regulations) (REG-124627-11, 76 FR 78591) that identified situations, other than those covered by the Signing Date Rule, in which the value of Issuing Corporation stock could be determined based on a value other than its actual trading price on the Closing Date. In one of these situations, the 2011 Proposed Regulations would have allowed the parties to use an average of the trading

prices of Issuing Corporation stock over a number of days, in lieu of its actual trading price on the Closing Date, for purposes of determining whether the COI requirement is satisfied.

The Treasury Department and the IRS have determined that current law generally provides sufficient guidance to taxpayers with respect to the COI requirement. Therefore, the Treasury Department and the IRS have decided to withdraw the 2011 Proposed Regulations. However, after considering comments received on the 2011 Proposed Regulations, the IRS has concluded that, in certain circumstances, taxpayers should be able to rely on certain average stock valuation methods for purposes of measuring COI. Accordingly, the IRS issued a revenue procedure effective January 23, 2018, that provides the circumstances under which the IRS will not challenge a taxpayer's use of certain stock valuation methods to value certain Issuing Corporation stock for purposes of determining whether the COI requirement is satisfied. *See* Rev. Proc. 2018-12, I.R.B. 2018-6.

#### Statement of Availability of IRS Documents

Rev. Proc. 2018-12 is published in the Internal Revenue Bulletin and is available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <http://www.irs.gov>.

#### Drafting Information

The principal author of this withdrawal notice is Jean Broderick of the Office of Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in its development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Withdrawal of Notice of Proposed Rulemaking

■ Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG-124627-11) that was published in the **Federal Register** (76 FR 78591) on December 19, 2011, is withdrawn.

#### Kirsten Wielobob,

*Deputy Commissioner for Services and Enforcement.*

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## DEPARTMENT OF DEFENSE

### Department of the Navy

#### 32 CFR Part 775

[Docket No. USN-2018-HQ-0001]

RIN 0703-AB01

#### Policies and Responsibilities for Implementation of the National Environmental Policy Act Within the Department of the Navy

**AGENCY:** Department of the Navy, Department of Defense.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of the Navy (DoN) proposes to revise portions of its internal regulations that establish the responsibilities and procedures for complying with the National Environmental Policy Act (NEPA). An agency may determine that certain classes of actions normally do not individually or cumulatively have significant environmental impacts and therefore do not require further review under NEPA. Establishing these categories of activities, called categorical exclusions (CATEXs), in the agency's NEPA implementing procedures is a way to reduce unnecessary paperwork and delay. This revision clarifies what types of activities fall under CATEXs and normally do not require additional NEPA analysis.

**DATES:** Comments must be received by May 1, 2019.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

*Federal eRulemaking Portal:* <https://www.regulations.gov/>. Follow the instructions for submitting comments.

*Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, Regulatory and Advisory Committee Division, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350-1700.

*Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. J. Dan Cecchini, Office of the Deputy Assistant Secretary of the Navy (Environment), 703-614-1173.