

Center for Veterinary Medicine, 21 CFR part 573 is amended as follows:

**PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS**

■ 1. The authority citation for 21 CFR part 573 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

■ 2. Section 573.870 is amended in paragraph (a) in the table by revising the entries for “Heavy metals such as lead” and “Arsenic” to read as follows:

**§ 573.870 Poly(2-vinylpyridine-co-styrene).**

\* \* \* \* \*

(a) \* \* \*

Component/property	Limitation
Heavy metals such as lead	10 parts per million maximum.
Arsenic	3 parts per million maximum.

\* \* \* \* \*

■ 3. Section 573.914 is amended in the tables in paragraphs (b)(1) and (b)(2) by revising the entries for “Arsenic” and “Heavy metals as lead” to read as follows:

**§ 573.914 Salts of volatile fatty acids.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

Components	Amount
Arsenic	3 parts per million maximum.
Heavy metals such as lead	10 parts per million maximum.

(2) \* \* \*

Components	Amount
Arsenic	3 parts per million maximum.
Heavy metals such as lead	10 parts per million maximum.

\* \* \* \* \*

Dated: March 8, 2005.

**Stephen F. Sundlof,**  
Director, Center for Veterinary Medicine.  
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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 9191]

RIN 1545-BD16

**Time and Manner of Making Section 163(d)(4)(B) Election To Treat Qualified Dividend Income as Investment Income**

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

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations relating to an election that may be made by noncorporate taxpayers to treat qualified dividend income as investment income for purposes of calculating the deduction for investment interest. The regulations reflect changes to the law made by the Jobs and Growth Tax Relief Reconciliation Act of 2003. The regulations affect taxpayers making the election under section 163(d)(4)(B) to treat qualified dividend income as investment income.

**DATES: Effective Date:** These regulations are effective March 18, 2005.

**Applicability Dates:** For dates of applicability, see § 1.163(d)-1(d).

**FOR FURTHER INFORMATION CONTACT:** Amy Pfalzgraf, (202) 622-4950 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

This document contains amendments to 26 CFR part 1 under section 163(d) of the Internal Revenue Code (Code). On August 5, 2004, temporary regulations (TD 9147) were published in the **Federal Register** (69 FR 47364) relating to an election that may be made by noncorporate taxpayers to treat qualified dividend income as investment income for purposes of calculating the deduction for investment interest. A notice of proposed rulemaking (REG-171386-03) cross-referencing the temporary regulations also was published in the **Federal Register** (69 FR 47395) on August 5, 2004. No comments in response to the notice of proposed rulemaking or requests to speak at a public hearing were received, and no hearing was held. This Treasury decision adopts the proposed regulations and removes the temporary regulations.

**Special Analyses**

It has been determined that this Treasury decision is 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 proposed regulations preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

**Drafting Information**

The principal author of these regulations is Amy Pfalzgraf of the Office of Associate Chief Counsel (Income Tax & 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 1.163(d)-1 is revised to read as follows:

**§ 1.163(d)-1 Time and manner for making elections under the Omnibus Budget Reconciliation Act of 1993 and the Jobs and Growth Tax Relief Reconciliation Act of 2003.**

(a) *Description.* Section 163(d)(4)(B)(iii), as added by section 13206(d) of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66, 107 Stat. 467), allows an electing taxpayer to take all or a portion of certain net capital gain attributable to dispositions of property held for investment into account as investment income. Section 163(d)(4)(B), as amended by section 302(b) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Pub. L. 108-27, 117 Stat. 762), allows an electing taxpayer to take all or a portion of qualified dividend income, as defined in section 1(h)(11)(B), into account as investment income. As a consequence, the net capital gain and qualified dividend

income taken into account as investment income under these elections are not eligible to be taxed at the capital gains rates. An election may be made for net capital gain recognized by noncorporate taxpayers during any taxable year beginning after December 31, 1992. An election may be made for qualified dividend income received by noncorporate taxpayers during any taxable year beginning after December 31, 2002, but before January 1, 2009.

(b) *Time and manner for making the elections.* The elections for net capital gain and qualified dividend income must be made on or before the due date (including extensions) of the income tax return for the taxable year in which the net capital gain is recognized or the qualified dividend income is received. The elections are to be made on Form 4952, "Investment Interest Expense Deduction," in accordance with the form and its instructions.

(c) *Revocability of elections.* The elections described in this section are revocable with the consent of the Commissioner.

(d) *Effective date.* The rules set forth in this section regarding the net capital gain election apply beginning December 12, 1996. The rules set forth in this section regarding the qualified dividend income election apply to any taxable year beginning after December 31, 2002, but before January 1, 2009.

■ **Par. 3.** Section 1.163-1T is removed.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

Approved: March 10, 2005.

**Eric Solomon,**

*Acting Assistant Secretary of the Treasury.*  
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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[CGD01-04-127]

RIN 1625-AA09

#### Drawbridge Operation Regulations: Shrewsbury River, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard has changed the drawbridge operation regulations that govern the operation of the Route 36 Bridge, mile 1.8, across the Shrewsbury River at Highlands, New

Jersey. This change to the drawbridge operation regulations will allow the bridge owner to require an advance notice for bridge openings during periods the bridge has received few requests to open from 11 p.m. to 7 a.m., each day, and during the winter months from December 1 through March 31. This action is expected to help relieve the bridge owner from the burden of crewing the bridge at all times while continuing to meet the present needs of navigation.

**DATES:** This rule is effective April 18, 2005.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-04-127) and are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary Kassof, Bridge Administrator, First Coast Guard District, (212) 668-7165.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On December 13, 2004, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Shrewsbury River, New Jersey, in the **Federal Register** (69 FR 72138). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

##### Background and Purpose

The Route 36 Bridge, mile 1.8, across the Shrewsbury River at Highlands, New Jersey, has a vertical clearance of 35 feet at mean high water and 39 feet at mean low water.

The existing regulations listed at 33 CFR 117.755, require the Route 36 Bridge to open on signal; except that, from May 15 through October 15, 7 a.m. to 8 p.m., the draw need open only on the hour and half hour.

The bridge owner, New Jersey Department of Transportation (NJDOT), requested a change to the drawbridge operation regulations that govern the Route 36 Bridge to allow the bridge owner to require a 4-hour advance notice for bridge openings from 11 p.m. to 7 a.m., each day, and all day from December 1 through March 31. The bridge rarely opens after 11 p.m. and during the winter months. A summary of the regulations and the advance notice contact number shall be posted at the bridge.

This final rule relieves the bridge owner from the burden of crewing the bridge during time periods when the bridge has had few requests to open.

##### Discussion of Comments and Changes

The Coast Guard received no comments in response to the notice of proposed rulemaking and as a result, no changes have been made to this final rule.

##### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3), of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

This conclusion is based on the fact that the bridge will continue to open for vessel traffic at all times after the advance notice to open is given.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact that the bridge will continue to open for vessel traffic at all times after the advance notice to open is given.

##### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

No small entities requested Coast Guard assistance and none was given.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman