

would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA PA E5 Mifflintown, PA (NEW)

Mifflintown Airport, Mifflintown, PA
(Lat. 40°36'04" N., long. 77°24'18" W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Mifflintown Airport, excluding the portion that coincides with the Reedsville, PA, Class E airspace area.

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Issued in Jamaica, New York, on December 10, 2004.

John G. McCartney,
Staff Manager of Eastern Terminal Area
Operations.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–129709–03]

RIN 1545–BC34

Prohibited Allocations of Securities in an S Corporation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that provide guidance on the definition and effects of a prohibited allocation under section 409(p), identification of disqualified persons and determination of a nonallocation year, calculation of synthetic equity under section 409(p)(5), and standards for determining whether a transaction is an avoidance or evasion of section 409(p). These proposed regulations would generally affect plan sponsors of, and participants in, ESOPs holding stock of Subchapter S corporations. The text of those temporary regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by March 17, 2005. Requests to speak (with outlines of oral comments to be discussed) at the public hearing scheduled for April 20, 2005, at 10 a.m. must be received by March 14, 2005.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–129709–03), Room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–129709–03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the IRS Internet site at <http://www.irs.gov/reg> or the Federal eRulemaking Portal at <http://www.regulations.gov> (indicate IRS and REG–129703–03).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, John Ricotta at (202) 622–6060; concerning submissions of comments, contact Guy Traynor at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 409(p). The temporary regulations contain rules relating to the definition and effects of a prohibited allocation under section 409(p), identification of disqualified persons and determination of a nonallocation year, calculation of synthetic equity under section 409(p)(5), and standards for determining whether a transaction is an avoidance or evasion of section

409(p). The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking 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. Because § 1.409(p)–1 imposes no new collection of information on small entities, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and 8 copies) or electronic comments that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for April 20, 2005, at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. All visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts at the Constitution Avenue entrance. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by March 14, 2005. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is John Ricotta of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read, in part, as follows:

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

Section 1.409(p)–1 also issued under 26 U.S.C. 409(p)(7)(A). * * *

Par. 2. Section 1.409(p)–1 is added to read as follows:

§ 1.409(p)–1 Prohibited allocation of securities in an S corporation.

[The text of proposed § 1.409(p)–1 is the same as the text of § 1.409(p)–1T published elsewhere in this issue of the **Federal Register**].

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 04–27295 Filed 12–16–04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 117**

[CGD01–04–126]

RIN 1625–AA09

Drawbridge Operation Regulations; Cheesequake Creek, NJ.

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the drawbridge operating regulations governing the operation of the S35 Bridge, mile 0.0, across Cheesequake Creek at Morgan, South Amboy, New Jersey. This proposed rule would allow the bridge to open on the hour only from 7 a.m. to 8 p.m., May 1 through October 30. In addition, this

proposed rule would also allow the bridge owner to require a 4-hour advance notice for openings from 11 p.m. to 7 a.m., all year, and all day from November 1 through April 30. This rule is expected to relieve the bridge owner of the burden of crewing the bridge at all times while still providing for the reasonable needs of navigation.

DATES: Comments must reach the Coast Guard on or before February 15, 2005.

ADDRESSES: You may mail comments and related material to Commander (obr), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joe Arca, Project Officer, First Coast Guard District, (212) 668–7069.

SUPPLEMENTARY INFORMATION:**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–04–126), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time

and place announced by a later notice in the **Federal Register**.

Background and Purpose

The S35 Bridge has a vertical clearance of 25 feet at mean high water and 30 feet at mean low water in the closed position. The existing drawbridge operation regulations listed at 33 CFR 117.709(a), require the bridge to open on signal; except that, from May 15 through October 15 from 7 a.m. to 7 p.m., the draw need only open on the hour. From December 1 through March 31 from 11 p.m. to 7 a.m., the draw need not be opened for the passage of vessels.

Cheesequake Creek is navigated predominately by small recreational vessels between April and November only. The bridge seldom opens during the winter months December through March.

The bridge owner, New Jersey Department of Transportation (NJDOT), requested that the drawbridge operation regulations for the S35 Bridge be changed to allow the bridge to open only on the hour 7 a.m. to 8 p.m., from May 1 through October 31. The hourly openings are currently in effect from 7 a.m. to 7 p.m. from May 15 through October 15.

In addition, this proposal would also allow the bridge owner to require a 4-hour advance notice for bridge openings from 11 p.m. to 7 a.m., all year round, and all day from November 1 through April 30.

Discussion of Proposal

This proposed rule would amend 33 CFR 117.709 by revising paragraph (a) extending the hourly bridge opening time period by 1 hour each day from May 1 through October 31. In addition, this proposed rule would allow the bridge owner to require a 4-hour advance notice for bridge openings from 11 p.m. to 7 a.m., all year round and all day from November 1 through April 30.

Regulatory Evaluation

This proposed 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 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under the regulatory policies and procedures of DHS, is unnecessary.