

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 178.2010 is amended in the table in paragraph (b) by alphabetically adding a new entry under the headings "Substances" and "Limitations" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* * *
2,4-Dimethyl-6-(1-methylpentadecyl)phenol (CAS Reg. No. 134701-20-5)	For use only: 1. At levels not to exceed 0.3 percent by weight of acrylonitrile-butadiene-styrene copolymers used in accordance with applicable regulations in parts 175, 176, 177, and 181 of this chapter, under conditions of use C through H as described in Table 2 of § 176.170(c) of this chapter. 2. At levels not to exceed 0.033 percent by weight of rigid polyvinyl chloride, under conditions of use A through H as described in Table 2 of § 176.170(c) of this chapter.
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Dated: July 24, 1997.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 97-20390 Filed 7-31-97; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****21 CFR Part 522****Implantation or Injectable Dosage Form New Animal Drugs***CFR Correction*

In Title 21 of the Code of Federal Regulations, parts 500 to 599, revised as of April 1, 1997, on page 270, in the second column, in § 522.2610(b)(2), "017220" should read "011716".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 1**

[TD 8727]

RIN 1545-AV23

Remedial Amendment Period

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to the remedial amendment period, during which a sponsor of a qualified retirement plan or an employer that maintains a qualified retirement plan can make retroactive amendments to the plan to eliminate certain qualification defects for the entire period. These final and temporary regulations clarify the scope of the Commissioner's authority to provide relief from plan disqualification under the regulations, to enable the Commissioner to provide appropriate relief for plan amendments relating to changes to the plan qualification rules made in the Small Business Job Protection Act of 1996 and the Uruguay Round Agreements Act of 1994. These final and temporary regulations affect sponsors of qualified retirement plans, and employers that maintain qualified retirement plans. The text of the 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: These regulations are effective August 1, 1997.

FOR FURTHER INFORMATION CONTACT: Linda S. F. Marshall, (202) 622-6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:**Background**

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 401(b). The temporary regulations provide guidance

to clarify the scope of the Commissioner's authority to provide relief from plan disqualification under section 401(b) and the regulations. This guidance will enable the Commissioner to provide appropriate relief concerning the timing of plan amendments relating to changes to the plan qualification rules made in the Small Business Job Protection Act of 1996, Pub. L. No. 104-188, and the Uruguay Round Agreements Act of 1994, Pub. L. No. 103-465, as well as for other plan amendments that may be needed as a result of future changes to the Internal Revenue Code.

Explanation of Provisions

Section 401(b) provides that a plan is considered to satisfy the qualification requirements of section 401(a) for the period beginning with the date on which it was put into effect, or for the period beginning with the earlier of the date on which any amendment that caused the plan to fail to satisfy those requirements was adopted or put into effect, and ending with the time prescribed by law for filing the employer's return for the taxable year in which that plan or amendment was adopted (including extensions) or such later time as the Secretary may designate. The relief provided under section 401(b) applies only if all provisions of the plan needed to satisfy the qualification requirements are in effect by the end of the specified period and have been made effective for all purposes for the entire period.

Section 1.401(b)-1(b) lists the plan provisions that may be amended

retroactively pursuant to rules of section 401(b). These plan provisions, termed "disqualifying provisions," include the plan provisions listed in section 401(b), as well as plan provisions that result in failure of a plan to satisfy the qualification requirements of the Code by reason of a change in those requirements effected by the legislation listed in § 1.401(b)-1(b)(2)(i) and (ii). Under § 1.401(b)-1(b)(2)(ii), a disqualifying provision also includes a plan provision that is integral to a qualification requirement changed by specified legislation. Section 1.401(b)-1(b)(2)(iii), as in effect prior to amendment by the final regulations, provided that a disqualifying provision includes a plan provision that results in failure of the plan to satisfy the Code's qualification requirements by reason of a change in those requirements effected by amendments to the Code, that is designated by the Commissioner, at the Commissioner's discretion, as a disqualifying provision.

Former § 1.401(b)-1(c), which has been redesignated § 1.401(b)-1(d) under the final regulations, provides rules for determining the period for which the relief provided under section 401(b) applies (the "remedial amendment period"). Former § 1.401(b)-1(c)(1) defines the beginning of the remedial amendment period for the disqualifying provisions listed in § 1.401(b)-1(b)(1) and § 1.401(b)-1(b)(2)(i) and (ii).

The temporary regulations make certain changes to clarify the scope of the Commissioner's authority to provide relief from plan disqualification under section 401(b). These changes are needed to clarify the rules relating to the plan provisions that may be designated by the Commissioner as disqualifying provisions based on amendments to the

plan qualification requirements of the Internal Revenue Code. Section 1.401(b)-1T(b)(3) provides that a disqualifying provision includes a plan provision designated by the Commissioner, at the Commissioner's discretion, as a disqualifying provision that either (1) results in the failure of the plan to satisfy the qualification requirements of the Code by reason of a change in those requirements; or (2) is integral to a qualification requirement of the Code that has been changed. Section 1.401(b)-1T(c)(2) provides the Commissioner with explicit authority to impose limits and provide additional rules regarding the amendments that may be made with respect to disqualifying provisions during the remedial amendment period. Section 1.401(b)-1T(d)(1)(iv) and (v) provide conforming rules regarding the beginning of the remedial amendment period for disqualifying provisions described in § 1.401(b)-1T(b)(3).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 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 regulation does 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 Internal Revenue Code, these temporary regulations will be 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 Linda S. F. Marshall, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). 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.

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 is amended by adding one entry for § 1.401(b)-1 to read in part as follows:

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

§ 1.401(b)-1 also issued under 26 U.S.C. 401(b). * * *

§ 1.401(b)-1 [Amended]

Par. 2. Section 1.401(b)-1 is amended as follows:

1. Paragraphs (c), (d) and (e) are redesignated as paragraphs (d), (e) and (f), respectively.

2. Following newly redesignated paragraph (d)(2)(iv), the two undesignated paragraphs are designated as paragraphs (d)(3) and (d)(4), respectively.

Par. 3. In the list below, for each section indicated in the left column, remove the language in the middle column, and add the language in the right column.

Section	Remove	Add
1.401(b)-1 (a), first sentence	(c), (d) and (e)	(d), (e) and (f).
1.401(b)-1 (b)(1)	Effective or	Effective
1.401(b)-1 (d)(1)(ii)	Earlier, or	Earlier),
1.401(b)-1 (d)(1)(iii)	Such provision	Such provision, or
1.401(b)-1 (d)(2) introductory text	Paragraph (d)	Paragraph (e).
1.401(b)-1 (d)(3)	(c)(2)(i), (c)(2)(ii), and (c)(2)(iii)	(d)(2)(i), (d)(2)(ii) and (d)(2)(iii).
1.401(b)-1 (d)(4)	(c)(2)	(d)(2).
1.401(b)-1 (d)(4)	(c)(2)(i)	(d)(2)(i).
1.401(b)-1 (e)(1)(ii)(C), third sentence	Paragraph (d)(1)	Paragraph (e)(1).
1.401(b)-1 (e)(2)(ii)(C), third sentence	Paragraph (d)(2)	Paragraph (e)(2).
1.401(b)-1 (e)(3) introductory text	This paragraph (d)	This paragraph (e).
1.401(b)-1 (e)(3) introductory text	Which paragraph (d)(1) or (2)	Which paragraph (e)(1) or (2).
1.401(b)-1 (e)(3) introductory text	In paragraph (d)(1) or (2)	In paragraph (e)(1) or (2).
1.401(b)-1 (e)(4)	Paragraph (d)(3)	Paragraph (e)(3).
1.401(b)-1 (e)(4)	Paragraph (c)	Paragraph (d).
1.401(b)-1(e)(5) introductory text	Subdivisions (i), (ii) and (iii) of this sub-paragraph.	Paragraphs (e)(5)(i), (ii) and (iii) of this section.
1.401(b)-1 (e)(5) introductory text	Paragraph (c)	Paragraph (d).
1.401(b)-1 (e)(5)(iii)	Paragraph (d)(5)(ii)	Paragraph (e)(5)(ii).

Par. 4. Section 1.401(b)-1 is further amended as follows:

1. Paragraph (b)(2)(iii) is removed.
2. Paragraphs (b)(3), (c) and (d)(1)(iv) are added. The additions read as follows:

§ 1.401(b)-1 Certain retroactive changes in plan.

* * * * *

(b) * * *

(3) A plan provision described in § 1.401(b)-1T(b)(3).

(c) *Special rules applicable to disqualifying provisions.* For special rules applicable to disqualifying provisions, see § 1.401(b)-1T(c).

(d) * * *

(1) * * *

(iv) In the case of a disqualifying provision described in § 1.401(b)-1T(b)(3), the date described in § 1.401(b)-1T(d)(1)(iv) or (v), whichever applies to the disqualifying provision.

Par. 5. Section 1.401(b)-1T is added to read as follows:

§ 1.401(b)-1T Certain retroactive changes in plan (temporary).

(a) [Reserved]. For further information, see § 1.401(b)-1(a).

(b) *Disqualifying provisions.* For purposes of § 1.401(b)-1, with respect to a plan described in § 1.401(b)-1(a), the term "disqualifying provision" means:

(1) and (2) [Reserved]. For further information, see § 1.401(b)-1(b) (1) and (2).

(3) A plan provision designated by the Commissioner, at the

Commissioner's discretion, as a disqualifying provision that either—

(i) Results in the failure of the plan to satisfy the qualification requirements of the Code by reason of a change in those requirements; or

(ii) Is integral to a qualification requirement of the Code that has been changed.

(c) *Special rules applicable to disqualifying provisions—*

(1) *Absence of plan provision.* For purposes of paragraph (b)(3) of this section and § 1.401(b)-1(b)(2), a disqualifying provision includes the absence from a plan of a provision required by, or, if applicable, integral to the applicable change to the qualification requirements of the Internal Revenue Code, if the plan was in effect on the date the change became effective with respect to the plan.

(2) *Method of designating of disqualifying provisions.* The Commissioner may designate a plan provision as a disqualifying provision pursuant to paragraph (b)(3) of this section only in revenue rulings, notices, and other guidance published in the

Internal Revenue Bulletin. See § 601.601(d)(2)(ii)(b) of this chapter.

(3) *Authority to impose limitations.* In the case of a provision that has been designated as a disqualifying provision by the Commissioner pursuant to paragraph (b)(3) of this section, the Commissioner may impose limits and provide additional rules regarding the amendments that may be made with respect to that disqualifying provision during the remedial amendment period. The Commissioner may impose these limits and provide these additional rules only in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See § 601.601(d)(2)(ii)(b) of this chapter.

(d) *Remedial amendment period.* (1) The remedial amendment period with respect to a disqualifying provision begins:

(i) through (iii) [Reserved]. For further information, see § 1.401(b)-1(d)(1) (i) through (iii).

(iv) In the case of a disqualifying provision described in paragraph (b)(3)(i) of this section, the date on which the change effected by an amendment to the Internal Revenue Code became effective with respect to the plan, or

(v) In the case of a disqualifying provision described in paragraph (b)(3)(ii) of this section, the first day on which the plan was operated in accordance with such provision, as amended, unless another time is specified by the Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin. See § 601.601(d)(2)(ii)(b) of this chapter.

(2) [Reserved]

Dated: July 22, 1997.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

[FR Doc. 97-20037 Filed 7-31-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Jacksonville 97-035]

RIN 2115-AA97

Security Zone; Port Canaveral, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a 200 yard moving security zone around HMS Vigilant while the vessel is underway in U.S. waters in the

vicinity of Port Canaveral, Florida. The zone is needed to safeguard HMS Vigilant against destruction from sabotage or other subversive acts, accidents, or other causes of a similar nature while the vessel transits through the Port Canaveral Entrance Channel to and from the East Basin in Port Canaveral, Florida. Entry into this zone is prohibited unless authorized by the Captain of the Port.

DATES: These regulations become effective at 7 a.m. on July 31, 1997, and terminate at 7 a.m. on November 1, 1997, unless terminated earlier by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT:

Ensign C. A. Purtell, Waterways Management Officer, USCG Marine Safety Office, Jacksonville at (904) 232-2957.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The event requiring this regulation is the arrival and departure of HMS Vigilant into U.S. waters enroute to and from Port Canaveral, Florida. The vessel is scheduled to make multiple entries and exits into the Port of Canaveral between August 1 and October 31, 1997. A security zone is necessary to safeguard HMS Vigilant from sabotage, or other subversive acts, accidents, or other causes of a similar nature within U.S. waters. The security zone will be enforced by representatives of the Captain of the Port Jacksonville, Florida. The Captain of the Port may be assisted by other Federal agencies and civil law enforcement authorities.

The security zone will be established in an area 200 yards in all directions around HMS Vigilant when entering or departing Port Canaveral. The security zone will be enforced for a period of approximately two hours during the arrival and departure of this vessel. The Coast Guard will assign a patrol and issue a Broadcast Notice to Mariners to advise marine interests of the security zone in advance of the vessel's arrival and departure. This security zone will be enforced only during the time indicated in the Broadcast Notice to Mariners.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent potential damage to HMS Vigilant as the