

under the Exchange Act. The amendment to Rule 10b-18, as adopted, should not adversely affect small entities because it does not impose any new reporting, recordkeeping or compliance requirements. Therefore, it is not feasible to further clarify, consolidate or simplify the rule for small entities.

### VIII. Paperwork Reduction Act

Certain provisions of the amendment to Rule 10b-18 contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 (PRA);<sup>39</sup> the Commission has submitted them to the Office of Management and Budget for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title for the collection of information is: "Purchases of certain equity securities by the issuer and others." This collection of information has previously been assigned OMB Control No. 3235-0474. An agency may not sponsor, conduct, or require a response to an information collection unless a currently valid OMB control number is displayed. In the Proposing Release, the Commission solicited comment on its evaluation of the proposal's estimated burden. The Commission received no comments specifically addressing these issues.

Rule 10b-18 provides that an issuer or any affiliated purchaser of an issuer will not incur liability under Sections 9(a)(2) and 10(b) of the Exchange Act, or Rule 10b-5 under the Exchange Act if its purchases of the issuer's common stock are made in compliance with the manner, timing, price, and volume limitations of the rule. The amendment to the Rule's timing condition expands the safe harbor's availability during the trading session following a market-wide trading suspension.

The adopted amendment to Rule 10b-18 would not increase or decrease the current reporting burdens by imposing any new reporting, recordkeeping, or other compliance requirements. In the Proposing Release, the Commission noted that the Rule does implicitly require an issuer, seeking to avail itself of the safe harbor, to collect information regarding the manner, timing, price, and volume of its purchases of the issuer's common stock, on a transaction by transaction basis, in order to verify compliance with the Rule's safe harbor conditions. Under the adopted amendment to Rule 10b-18, issuers would continue to collect and keep such records should they make Rule 10b-18 purchases during the trading session following a market-wide trading

suspension. The Commission also notes that any costs related to complying with Rule 10b-18, and the adopted amendment, are assumed voluntarily because the Rule provides an optional rather than mandatory safe harbor that issuers may use for purchasing their securities.

### IX. Statutory Basis and Text of Adopted Amendment

The rule amendment is being adopted pursuant to Sections 2, 3, 9(a)(6), 10(b), 13(e), 15(c) and 23(a), 15 U.S.C. 78b, 78c, 78i(a)(6), 78j(b), 78m(e), 78o(c) and 78w(a).

#### List of Subjects in 17 CFR Part 240

Broker-dealers, Issuers, Securities.

For the reasons set forth in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

#### PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation to part 240 continues to read in part as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll(d), 78mm, 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

\* \* \* \* \*

2. Section 240.10b-18 is amended by adding paragraphs (a)(15) and (d) and revising paragraph (c) to read as follows:

#### § 240.10b-18 Purchases of certain equity securities by the issuer and others.

(a) *Definitions.* \* \* \*

(15) The term *market-wide trading suspension* means either:

(i) A market-wide trading halt imposed pursuant to the rules of a national securities exchange or a registered national securities association, in response to a market-wide decline during a single trading session; or

(ii) A market-wide trading suspension ordered by the Commission pursuant to Section 12(k) of the Act, 15 U.S.C. 78l(k).

\* \* \* \* \*

(c) *Conditions following a market-wide trading suspension.* The conditions of paragraph (b) of this section shall apply in connection with a Rule 10b-18 bid or a Rule 10b-18 purchase effected during a trading session following the termination of a market-wide trading suspension, except that the time of purchase condition in paragraph (b)(2) of this section shall not apply, either:

(1) From the reopening of trading until the scheduled close of trading; or

(2) At the opening of trading on the next trading day, if a market-wide trading suspension is in effect at the scheduled close of a trading session.

(d) No presumption shall arise that an issuer or affiliated purchaser of an issuer has violated the anti-manipulation provisions of sections 9(a)(2) or 10(b) of the Act, 15 U.S.C. 78i(a)(2) or 78j(b), or § 240.10b-5, if the Rule 10b-18 bids or Rule 10b-18 purchases of such issuer or affiliated purchaser do not meet the conditions specified in paragraphs (b) or (c) of this section.

By the Commission.

Dated: September 23, 1999.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP New Orleans, LA Regulation 99-022]

RIN 2115-AA97

#### Safety Zone Regulations; Mile 94.0 to Mile 96.0, Lower Mississippi River, Above Head of Passes

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone from mile 94.0 to mile 96.0, Lower Mississippi River, Above Head of Passes, extending the entire width of the river. The safety zone has been established to protect personnel involved in pollution response and underwater diving operations within the channel. Entry into this zone while divers are deployed is prohibited to all vessels, with the exception of towing vessels operating without tows, unless authorized by the Captain of the Port. Entry into this zone while divers are not deployed will be managed by the Coast Guard Traffic Light Operator at Governor Nicholls Traffic Light, VHF-FM Channel-67. The Governor Nicholls and Gretna Traffic Lights will be in operation until the safety zone expires. Authorization to enter the safety zone while divers are deployed will only be granted during emergency situations which affect the safety of vessels or the safety of the port.

**EFFECTIVE DATES:** This temporary final rule is effective from 6:00 p.m. (CDT)

<sup>39</sup> 44 U.S.C. 3501 *et seq.*

September 17, 1999, to 6:00 p.m. (CDT) October 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** COTP New Orleans representative, LT(jg) Kevin Lynn at (504) 589-4221.

**SUPPLEMENTARY INFORMATION:**

**Regulatory History**

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 an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to the potential hazards to local marine traffic and personnel involved in pollution response and diving operations.

**Background and Purpose**

The hazardous condition requiring this regulation is a result of personnel involved in pollution response and diving operations on the Lower Mississippi River between 94.0 and mile 96.0 Above Head of Passes. A safety zone is needed to protect personnel involved in pollution response and underwater diving operations in the area. Entry into this zone is prohibited to all vessels, with the exception of towing vessels operating without tows, unless authorized by the Captain of the Port. This regulation is issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for all of Part 165.

**Regulatory Evaluation**

This temporary final rule is not a significant regulatory evaluation under Executive Order 12866 and is not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. This regulation will only be in effect for a short period of time, and the impacts on routine navigation are expected to be minimal.

**Collection of Information**

This temporary final rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

**Federalism**

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Environment**

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2-1, paragraph (34)(g) of the Commandant Instruction M16475.1C, this proposal is categorically excluded from further environmental documentation.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Since the impact of this regulation on non-participating small entities is expected to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will only be in effect for several days and the impacts on small entities are expected to be minimal.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

**Regulation**

In consideration of the foregoing, Subpart F of Part 165 of Chapter 33, Code of Federal Regulations, is amended as follows:

**PART 165—[AMENDED]**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 1605; 49 CFR 1.46.

2. A new § 165.T08-034 is added to read as follows:

**§ 165.T08-034 Safety Zone.**

(a) *Location.* The following area is a safety zone: Lower Mississippi River from mile 94.0 to mile 96.0 Above Head of Passes, in the vicinity of Algiers Point extending the entire width of the river.

(b) *Effective date.* This section will become effective on September 17, 1999 at 6:00 p.m. (CDT). It will be terminated on October 1, 1999, at 6:00 p.m. (CDT), unless sooner terminated by the Captain of the Port. The Captain of the Port will notify the public of changes in the status of this zone by Marine Radio Safety

Broadcasts on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone by any vessel, with the exception of towing vessels operating without tows, is prohibited unless authorized by the Captain of the Port New Orleans.

Dated: September 16, 1999.

**S.W. Rochon,**

*Captain, U.S. Coast Guard, Captain of the Port.*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[NH-038-7165a; A-1-FRL-6445-4]

**Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Stage II Comparability and Clean Fuel Fleets**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving two State Implementation Plan (SIP) revisions that the New Hampshire Department of Environmental Services (DES) submitted to EPA: New Hampshire's Stage II comparability demonstration submitted on July 9, 1998, and Clean Fuel Fleets opt out submitted on June 7, 1994. The intended effect of this action is to approve both submittals into the New Hampshire SIP. This action is being taken in accordance with the Clean Air Act (CAA).

**DATES:** This direct final rule is effective on November 29, 1999 without further notice, unless EPA receives adverse comment by October 29, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Boston, MA 02114-2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th