

afternoon. In order to pay the winnings to G without withholding the 30 percent tax, Casino B must apply for and obtain an ITIN for G because an expedited ITIN is available from the IRS at the time of the \$5000 payment to G.

*Example 3.* The facts are the same as *Example 1*, except G requests payment fifteen minutes before the time when the IRS begins issuing ITINs. Under these facts, it would be reasonable for Casino B to delay payment to G. Therefore, Casino B must apply for and obtain an ITIN for G if G wishes to claim an exemption from U.S. withholding tax under the U.S.—Y tax treaty at the time of payment.

*Example 4.* P, a citizen and resident of Country Z, is a lawyer and a well-known expert on real estate transactions. P is scheduled to attend a three-day seminar on complex real estate transactions, as a participant, at University U, a U.S. university, beginning on a Saturday and ending on the following Monday, which is a holiday. University U has entered into a special acceptance agent agreement with the IRS that permits University U to request an ITIN on an expedited basis. Country Z is a country with which the United States has an income tax treaty that exempts certain income earned from the performance of independent personal services from U.S. tax. It is P's first visit to the United States. On Saturday, prior to the start of the seminar, Professor Q, one of the lecturers at the seminar, cancels his lecture. That same day the Dean of University U offers P \$5000, to replace Professor Q at the seminar, payable at the conclusion of the seminar on Monday. P agrees. P gives her lecture Sunday afternoon. ITINs are not available from the IRS on that Saturday, Sunday, or Monday. After the seminar ends on Monday, P, who does not have an ITIN, requests payment for her teaching. P furnishes a beneficial owner withholding certificate, described in § 1.1441-1(e)(2), to University U that represents that P is a resident of Country Z (within the meaning of the U.S.—Z tax treaty) and meets all applicable requirements for claiming benefits under the U.S.—Z tax treaty. The beneficial owner withholding certificate does not, however, contain an ITIN for P. On Tuesday, University U faxes a completed Form W-7, including the required certification, for P, to the IRS for an expedited ITIN. Pursuant to paragraph (b) and (g)(2) of this section, absent actual knowledge or reason to know otherwise, University U may rely on the documentation furnished by P and pay \$5000 to P without withholding U.S. tax based on the treaty exemption.

(h) *Effective dates*—(1) *General rule.* This section applies to payments made after December 31, 2000, except for paragraph (g) of this section which applies to payments made after December 31, 2001.

\* \* \* \* \*

#### Section 1.1441-6T [Removed]

**Par. 6.** Section 1.1441-6T is removed.

## PART 301—PROCEDURE AND ADMINISTRATION

**Par. 7.** The authority for part 301 continues to read in part as follows:

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

**Par. 8.** In § 301.6109-1, paragraph (g)(3) is revised to read as follows:

#### § 301.6109-1 Identifying numbers.

\* \* \* \* \*

(g) \* \* \*

(3) *Waiver of prohibition to disclose taxpayer information when acceptance agent acts.* As part of its request for an IRS individual taxpayer identification number or submission of proof of foreign status with respect to any taxpayer identifying number, where the foreign person acts through an acceptance agent, the foreign person will agree to waive the limitations in section 6103 regarding the disclosure of certain taxpayer information. However, the waiver will apply only for purposes of permitting the Internal Revenue Service and the acceptance agent to communicate with each other regarding matters related to the assignment of a taxpayer identifying number, including disclosure of any taxpayer identifying number previously issued to the foreign person, and change of foreign status. This paragraph (g)(3) applies to payments made after December 31, 2001.

\* \* \* \* \*

#### § 301.6109-1T [Removed]

**Par. 9.** Section 301.6109-1T is removed.

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

Approved: November 13, 2002.

**Pamela F. Olson,**

*Assistant Secretary of the Treasury.*

[FR Doc. 02-29494 Filed 11-21-02; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP New Orleans-02-022]

RIN 2115-AA97

#### Safety Zone; Lower Mississippi River, Miles 87.2 to 91.2, Above Head of Passes, New Orleans, LA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for

the Lower Mississippi River beginning at mile 87.2 and ending at mile 91.2, above Head of Passes, extending the entire width of the river. This safety zone is needed to protect persons and vessels from the potential safety hazards associated with the weekly upbound and downbound transit of the cruise ship (C/S) CONQUEST beneath the Entergy Corporation power cable located at mile marker 89.2. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port New Orleans or his designated representative.

**DATES:** This rule is effective from 4:30 a.m. on November 12, 2002 until 8 p.m. on March 2, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [COTP New Orleans-02-022] and are available for inspection or copying at Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, Louisiana, 70112 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade (LTJG) Matthew Dooris, Marine Safety Office New Orleans, at (504) 589-4251.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Information was made available to the Coast Guard in insufficient time to publish an NPRM or for publication in the **Federal Register** 30 days prior to the event. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to protect vessels and mariners from the hazards associated with the weekly upbound and downbound transit of the C/S CONQUEST under the Entergy Corporation power cable, Lower Mississippi River, mile marker 89.2, above Head of Passes, New Orleans, Louisiana.

##### Background and Purpose

The Captain of the Port New Orleans is establishing a temporary safety zone on the Lower Mississippi River beginning at mile 87.2 and ending at mile 91.2, above Head of Passes, extending the entire width of the river. This safety zone is needed to protect persons and vessels from the potential

safety hazards associated with the weekly upbound and downbound transit of the C/S CONQUEST beneath the Entergy Corporation power cable located at mile marker 89.2. The C/S CONQUEST has an air draft of 208 feet and will be homeported at the Julia Street Wharf, Lower Mississippi River, mile marker 95.3, above Head of Passes, New Orleans, Louisiana. The Entergy Corporation power cable is 216.4 feet North American Vertical Datum (NAVD) at the center of the Lower Mississippi River and increases in height to a maximum of 312.7 feet NAVD on the East bank and a maximum of 342.6 feet NAVD on the West bank. As the C/S CONQUEST needs an air gap of 14 feet between it and the cable to prevent arcing, the vessel must maneuver within 600 feet of the East bank or within 700 feet of the West bank to safely transit under the Entergy Corporation power cable. Vessels transiting this area may restrict the maneuverability of the C/S CONQUEST through those safe passage lanes and possibly result in harm to life, damage to the cruise ship, the power cable, or nearby vessels.

The safety zone will be enforced from 4:30 a.m. until 5:30 a.m. and from 5 p.m. until 6 p.m. on November 12, November 15, November 19, November 21, and November 27, 2002. It will also be enforced from 4:30 a.m. until 5:30 a.m. and from 6:30 p.m. until 7:30 p.m. every Sunday between December 1, 2002 and March 2, 2003. Those periods of enforcement are based on the advance cruise schedule for the C/S CONQUEST and are potentially subject to change. Mariners will be advised of the periods the safety zone will be enforced via broadcast notice to mariners. Except as described in this rule, entry into the zone during the announced enforcement periods is prohibited to all vessels unless authorized by the Captain of the Port New Orleans or his designated representative. Moored vessels or vessels anchored in a designated anchorage area are permitted to remain within the safety zone.

#### **Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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 Transportation (DOT) (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 under paragraph 10(e) of the regulatory policies procedures of DOT is unnecessary. This regulation will only affect maritime traffic for short periods of time and notifications to the marine community will be made through broadcast notice to mariners. The impact on routine navigation is expected to be minimal as the zone will only be in effect for a few hours each week.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601—612), we have 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 of 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 rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Lower Mississippi River from miles 87.2 to 91.2 while the C/S CONQUEST is transiting inbound and outbound. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule will be in effect for only a short period of time each week.

If you are a small business entity and are significantly affected by this regulation please contact LTJG Matthew Dooris, Marine Safety Office New Orleans, at (504) 589-4251.

#### **Assistance for Small Entities**

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

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 and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### **Collection of Information**

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### **Federalism**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, so we discuss the effects of this rule elsewhere in this preamble.

#### **Taking of Private Property**

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### **Civil Justice Reform**

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### **Protection of Children**

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### **Indian Tribal Governments**

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and

responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A "Categorical Exclusion Determination" is available for inspection or copying where indicated under ADDRESSES.

### List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T08-122 is added to read as follows:

#### § 165.T08-122 Safety Zone; Lower Mississippi River, Miles 87.2 to 91.2, Above Head of Passes, New Orleans, LA.

(a) *Location.* The following area is a safety zone: the waters of the Lower Mississippi River, above Head of Passes, beginning at mile 87.2 and ending at mile 91.2, extending the entire width of the river.

(b) *Effective date.* This section is effective from 4:30 a.m. on November 12, 2002 until 8 p.m. on March 2, 2003.

(c) *Periods of enforcement.* This rule will be enforced from 4:30 a.m. until 5:30 a.m. and from 5 p.m. until 6 p.m. on November 12, November 15, November 19, November 21, and November 27, 2002. It will also be enforced from 4:30 a.m. until 5:30 a.m. and from 6:30 p.m. until 7:30 p.m. every Sunday between December 1, 2002 and March 2, 2003. Those periods of enforcement are based on the predicted cruise schedule for the C/S CONQUEST and are subject to change. The Captain of the Port New Orleans will inform the public via broadcast notice to mariners of the enforcement periods for the safety zone.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, except as described in this rule, entry into this zone is prohibited unless authorized by the Captain of the Port New Orleans or his designated representative.

(2) The Captain of the Port New Orleans will inform the public via broadcast notice to mariners of the enforcement periods for the safety zone.

(3) Moored vessels or vessels anchored in a designated anchorage area are permitted to remain within the safety zone.

(4) Vessels requiring entry into or passage through the zone during the enforcement periods must request permission from the Captain of the Port New Orleans or his designated representative. The Captain of the Port may be contacted via VHF Channel 13 or 16 or by telephone at (504) 589-6261.

(5) All persons and vessels shall comply with the instruction of the Captain of the Port New Orleans and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: November 1, 2002.

#### R.W. Branch,

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

[FR Doc. 02-29654 Filed 11-21-02; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[DE061-DE066-1036; FRL-7411-3]

### Approval and Promulgation of Air Quality Implementation Plans; Six Control Measures to Meet EPA-Identified Shortfalls in Delaware's One-Hour Ozone Attainment Demonstration

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware. This revision consists of six control measures to meet EPA-identified shortfalls in Delaware's one-hour ozone attainment demonstration. The intended effect of this action is to approve the six control measures.

**EFFECTIVE DATE:** This final rule is effective on December 23, 2002.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 814-2182, or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Background

On September 12, 2002 (67 FR 5776), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of the Delaware SIP revision for six control measures based on the model rules developed by the Ozone Transport Commission (OTC), to meet EPA-identified attainment shortfalls for the Philadelphia-Wilmington-Trenton nonattainment area and 19 counties within 100 kilometers of the nonattainment area. The six control measures are: (1) Control of volatile organic compound (VOC) emissions from mobile equipment repair and refinishing; (2) control of VOC emissions from solvent cleaning and drying; (3) control of VOC emissions from Architectural and Industrial Maintenance (AIM) coatings; (4) control of VOC emissions from consumer products; (5) control of VOC emissions from portable fuel containers; and (6)