

management was aware of FC's ability to file a protective return for those years. In Year 11, an Internal Revenue Service examiner contacted FC and asked FC's chief financial officer for an explanation of its failure to file U.S. income tax returns after Year 6. FC immediately engaged a U.S. tax advisor and cooperated with the Internal Revenue Service in determining FC's income tax liability, for example, by preparing and filing the appropriate income tax returns for Year 7 through Year 10 and by making FC's books and records available to the examiner. FC did not present evidence that intervening events beyond FC's control prevented FC from filing a return, and there were no other mitigating factors. FC has not met the standard described in paragraph (a)(3)(ii) of this section for waiver of any applicable filing deadlines in § 1.882-4(a)(3)(i).

(iv) Paragraphs (a)(3)(ii) and (iii) of this section are applicable to open years for which a request for a waiver is filed on or after January 29, 2002.

(a)(3)(v) through (b)(2) For further guidance, see § 1.882-4(a)(3)(v) through (b)(2).

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

Approved: January 4, 2002.

**Mark Weinberger,**

*Assistant Secretary of the Treasury.*

[FR Doc. 02-2044 Filed 1-28-02; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 1 and 602

[TD 8975]

RIN 1545-BA21

#### Certain Transfers of Property to Regulated Investment Companies [RICs] and Real Estate Investment Trusts [REITs]; Correction

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

**ACTION:** Correction to temporary regulations.

**SUMMARY:** This document contains corrections to temporary regulations that were published in the **Federal Register** on Wednesday, January 2, 2002 (67 FR 8) relating to certain transactions or events that result in a Regulated Investment Company [RIC] or a Real Estate Investment Trust [REIT] owning property that has a basis determined by reference to a C corporation's basis in the property under sections 631 and 633.

**DATES:** This correction is effective January 2, 2002.

**FOR FURTHER INFORMATION CONTACT:** Lisa A. Fuller, (202) 622-7750 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The temporary regulations that are the subject of these corrections is under sections 631 and 633 of the Internal Revenue Code.

##### Need for Correction

As published, the TD 8975 contain errors that may prove to be misleading and are in need of clarification.

##### Correction of Publication

Accordingly, the publication of TD 8975, that were the subject of FR Doc. 01-31969, is corrected as follows:

1. On page 10, column 1, in the preamble under the paragraph heading "*Section 1374 Operational Rules*", first paragraph, line 8, the language "The comments pointed out certain" is corrected to read "The commentators pointed out certain".

**LaNita Van Dyke,**

*Acting, Chief, Regulations Unit, Associate Chief Counsel (Income Tax and Accounting).*

[FR Doc. 02-2154 Filed 1-28-02; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD08-01-050]

RIN 2115-AE47

#### Drawbridge Operating Regulation; Mississippi River, Wisconsin and Minnesota

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary deviation.

**SUMMARY:** The Commander, Eighth Coast Guard District has authorized a temporary deviation from the regulation governing the LaCrosse Railroad Drawbridge, Mile 699.8, Upper Mississippi River at LaCrosse, Wisconsin. This deviation allows the drawbridge to remain closed to navigation for 56 days from 12:01 a.m., January 14, 2002, until 12:01 a.m., March 11, 2002, Central Standard Time. This action will facilitate maintenance work on the bridge.

**DATES:** This temporary deviation is effective from 12:01 a.m., January 14, 2002, until 12:01 a.m., March 11, 2002.

**ADDRESSES:** Unless otherwise indicated, documents referred to in this notice are

available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obr), Eighth Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103-2832. The Bridge Administration Branch maintains the public docket for this temporary deviation.

#### FOR FURTHER INFORMATION CONTACT:

Roger K. Wiebusch, Bridge Administrator, telephone (314) 539-3900, extension 378.

**SUPPLEMENTARY INFORMATION:** The Canadian Pacific Railway requested a temporary deviation on December 4, 2001 for the operation of the LaCrosse Railroad drawbridge (33 CFR 117.671(b)) to allow the bridge owner time for preventative maintenance.

The LaCrosse Railroad Drawbridge provides a vertical clearance of 21.9 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This deviation has been coordinated with waterway users. No objections were received.

This deviation allows the bridge to remain closed to navigation from 12:01 a.m., January 14, 2002 to 12:01 a.m., March 11, 2002. The drawbridge operation regulations, when not amended by a deviation, requires that the drawbridge open on signal.

**Roy J. Casto,**

*Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.*

[FR Doc. 02-2151 Filed 1-28-02; 8:45 am]

BILLING CODE 4910-15-U

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP MIAMI-01-122]

RIN 2116-AA97

#### Security Zones; Port Everglades, Fort Lauderdale, FL

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary fixed security zone encompassing the Intracoastal Waterway near Port Everglades, Florida. This security zone is needed for national security reasons to protect the public, ports, and waterways from potential subversive acts. Entry into this zone is prohibited, unless specifically authorized by the Captain of the Port,

Miami, Florida, or his designated representative.

**DATES:** This rule is effective from 8 a.m. on October 12, 2001 until 11:59 p.m. on June 15, 2002.

**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 [COTP Miami 01–122] and are available for inspection or copying at Marine Safety Office Miami, 100 MacArthur Causeway, Miami Beach, FL 33139, between 7:30 p.m. and 4 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Warren Weedon, Coast Guard Marine Safety Office Miami, at (305) 535–8701.

**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. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued, would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard will issue a broadcast notice to mariners and place Coast Guard vessels in the vicinity to advise mariners of the zone.

**Background and Purpose**

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to Port Everglades against tank vessels and cruise ships entering, departing and moored within these ports. United States Coast Guard and local police department patrol vessels will patrol this zone. The Captain of the Port has previously established a fixed security zone for high capacity passenger vessels, and vessels carrying cargoes of particular hazard in dockets COTP Miami–01–093 and COTP Miami–01–115 (67 FR 1101, January 9, 2002).

Unauthorized vessels are prohibited from entering this temporary fixed security zone. The zone encompasses the waters of the Intracoastal Waterway between a line connecting point 26°05.41' N, 080°06.97' W on the

northern tip of Port Everglades berth 22 near Bert and Jacks Restaurant and a point directly east across the Intracoastal Waterway to 26°05.41' N, 080°06.74' W; and a line drawn from the corner of Port Everglades berth 29 at point 26°04.72' N, 080°06.92' W, easterly across the Intracoastal Waterway to John U. Loyd Beach, State Recreational Area at point 26°04.72' N, 080°06.81' W. The temporary fixed security zones is activated when a high capacity passenger vessel or a vessel carrying cargoes of particular hazard as defined in Title 33 of the Code of Federal Regulations, part 126, enter or moor within this zone.

Vessels may transit the Intracoastal Waterway when cruise ships are berthed, by staying east of the law enforcement boats and cruise ship tenders which will mark a transit lane in the Intracoastal Waterway. Periodically, vessels may be asked to temporarily hold their positions while large commercial traffic operates in this area. Vessels near this security zone must follow the orders of the law enforcement vessels on scene. When cruise ships are not berthed on the Intracoastal Waterway, the zone will remain in place, but navigation will be unrestricted. Law enforcement vessels can be contacted on VHF Marine Band Radio, Channel 16 (156.8 MHz).

The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz) when the zone is activated. Entry into this security zone is prohibited unless specifically authorized by the Captain of the Port, Miami, Florida.

**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 Transportation (DOT) (44 FR 11040; February 26, 1979) because this zone is only in effect when certain vessels enter or moor at certain berths in Port Everglades. Moreover, traffic will be allowed to enter and pass through this zone under the direction of U.S. Coast Guard or assisting law enforcement vessels.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would

have a significant economic effect upon a substantial number of small entities. “Small entities” include 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.

Therefore, 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 because the zone will only be in effect during certain times and small entities may be allowed to enter the zone during scheduled vessel escorts.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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 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 requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

**Federalism**

A rule has implication 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, we do 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.

#### Environmental

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

#### 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 concern 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 relationships 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 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.

#### 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, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07-122 is added to read as follows:

##### § 165.T07-122 Security Zones; Ports Everglades, Fort Lauderdale, Florida.

(a) *Regulated area.* The Captain of the Port is establishing a temporary fixed security zone on the Intracoastal Waterway and prohibiting unauthorized vessels from entering the zone. The zone encompasses the waters of the Intracoastal Waterway between a line connecting point 26°05.41' N, 080°06.97' W on the northern tip of Port Everglades berth 22 near Burt and Jacks Restaurant and a point directly east across the Intracoastal Waterway to 26°05.41' N, 080°06.74' W; and a line drawn from the corner of Port Everglades berth 29 at point 26°04.72' N, 080°06.92' W, easterly across the Intracoastal Waterway to John U. Lloyd Beach, State Recreational Area at point 26°04.72' N, 080°06.81' W. This temporary fixed security zone is activated when a cruise ship or a vessel carrying cargoes of particular hazard, as defined in 33 CFR part 126, enter or moor within this zone.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port, a Coast Guard commissioned, warrant, or petty officer, or other law enforcement officer designated by him. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz) when the security zone is activated.

Vessels may transit the Intercoastal Waterway when cruise ships or vessels carrying cargoes of particular hazard are berthed, by staying east of the law enforcement boats and cruise ship tenders which will mark a transit lane

in the Intercoastal Waterway. Periodically, vessels may be asked to temporarily hold their positions while large commercial traffic operates in this area. Vessels near this security zone must follow the orders of the law enforcement vessels on scene. When cruise ships are not berthed on the Intercoastal Waterway, the zone will remain in place, but navigation will be unrestricted. Law enforcement vessels can be contacted on VHF Marine Band Radio, Channel 16 (156.8 MHz).

(c) *Dates.* This section is effective from 8 a.m. on October 12, 2001 until 11:59 p.m. on June 15, 2002.

Dated: October 11, 2001.

**J.A. Watson, IV,**

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

[FR Doc. 02-2153 Filed 1-28-02; 8:45 am]

**BILLING CODE 4910-15-U**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 62

[FRL-7134-7]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; States of Kansas, Missouri, and Nebraska

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the Commercial and Industrial Solid Waste Incineration (CISWI) section 111(d) negative declarations submitted by the states of Kansas, Missouri, and Nebraska. These negative declarations certify that CISWI units subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA) do not exist in these states.

**DATES:** This direct final rule will be effective April 1, 2002 unless EPA receives adverse comments by February 28, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents