

(iv) For taxable years ending on or after December 31, 1998, all passive income received during the taxable year that is subject to no withholding tax or other foreign tax shall be treated as one item of income, and all passive income received during the taxable year that is subject to no withholding tax but is subject to a foreign tax other than a withholding tax shall be treated as one item of income.

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(8) * * *

Example 11. In 2001, P, a U.S. citizen with a tax home in Country X, earns the following items of gross income: \$400 of foreign source, passive limitation interest income not subject to foreign withholding tax but subject to Country X income tax of \$100, \$200 of foreign source, passive limitation royalty income subject to a 5 percent foreign withholding tax (foreign tax paid is \$10), \$1,300 of foreign source, passive limitation rental income subject to a 25 percent foreign withholding tax (foreign tax paid is \$325), \$500 of foreign source, general limitation income that gives rise to a \$250 foreign tax, and \$2,000 of U.S. source capital gain that is not subject to any foreign tax. P has a \$900 deduction allocable to its passive rental income. P's only other deduction is a \$700 capital loss on the sale of stock that is allocated to foreign source passive limitation income under § 1.865-2(a)(3)(i). The \$700 capital loss is initially allocated to the group of passive income subject to no withholding tax but subject to foreign tax other than withholding tax. The \$300 amount by which the capital loss exceeds the income in the group must be reapportioned to the other groups under paragraph (c)(2)(ii)(B) of this section. The royalty income is thus reduced by \$100 to \$100 ($\$200 - (\$300 \times (200/600))$) and the rental income is thus reduced by \$200 to \$200 ($\$400 - (\$300 \times (400/600))$). The \$100 royalty income is not high-taxed and remains passive income because the foreign taxes do not exceed the highest United States rate of tax on that income. Under the high-tax kick-out, the \$200 of rental income and the \$325 of associated foreign tax are assigned to the general limitation category.

Example 12. The facts are the same as in *Example 11* except the amount of the capital loss that is allocated under § 1.865-2(a)(3)(i) and paragraph (c)(2) of this section to the group of foreign source passive income subject to no withholding tax but subject to foreign tax other than withholding tax is \$1,200. Under paragraph (c)(2)(ii)(B) of this section, the excess deductions of \$800 must be reapportioned to the \$200 of net royalty income subject to a 5 percent withholding tax and the \$400 of net rental income subject to a 15 percent or greater withholding tax. The income in each of these groups is reduced to zero, and the foreign taxes imposed on the rental and royalty income are considered related to general limitation income. The remaining loss of \$200 constitutes a separate limitation loss with respect to passive income.

Example 13. In 2001, P, a domestic corporation, earns a \$100 dividend that is

foreign source passive limitation income subject to a 30-percent withholding tax. A foreign tax credit for the withholding tax on the dividend is disallowed under section 901(k). A deduction for the tax is allowed, however, under sections 164 and 901(k)(7). In determining whether P's passive income is high-taxed, the \$100 dividend and the \$30 deduction are allocated to the first group of income described in paragraph (c)(3)(iv) of this section (passive income subject to no withholding tax or other foreign tax).

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Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: December 15, 1998.

Donald C. Lubick,

Assistant Secretary of the Treasury.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CCGD08-98-073]

RIN 2115-AE47

Temporary Drawbridge Regulation; Illinois Waterway, Illinois

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Commander, Eighth Coast Guard District is temporarily changing the regulation governing the McDonough Street Bridge, mile 287.3; Jefferson Street Bridge, mile 287.9; Cass Street Bridge, mile 288.1; Jackson Street Bridge, mile 288.4 and the Ruby Street Bridge, mile 288.7, Illinois Waterway. The drawbridges, with the exception of the Jefferson Street Bridge, will be allowed to remain closed to navigation from 7:30 a.m. to 9 a.m. and 4:15 to 5:15 p.m. Monday through Friday. On Saturdays, the drawbridges, save the Jefferson Street Bridge, will be allowed to remain closed to navigation from 7:30 a.m. to 8:30 a.m. and 4:15 to 5:15 p.m. This temporary rule is issued to facilitate land traffic management while the Jefferson Street Bridge remains in the open-to-navigation position for emergency repairs.

DATES: This temporary rule is effective from 7:30 a.m. December 3, 1998 until 7:30 a.m. on February 1, 1999.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice will be available for inspection and copying at room 2.107f in the Robert A. Young Federal Building at Director, Western Rivers Operations (ob), Eighth Coast Guard District, 1222 Spruce Street, St.

Louis, MO 63103-2832, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Roger K. Wiebusch, Bridge Administrator; Director, Western Rivers Operations, Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103-2832, telephone 314-539-3900 extension 378.

SUPPLEMENTARY INFORMATION:

Background

On October 23, 1998, the Jefferson Street Bridge, mile 287.9, Illinois Waterway in Joliet, Illinois was struck and seriously damaged by a vessel. The allision requires the Jefferson Street bridge to remain in the open-to-navigation position until repairs are completed. It is estimated that it will take three months until the repairs are complete. The Jefferson Street Bridge is one of five bascule leaf drawbridges within Joliet that carry vehicular traffic across the Illinois Waterway. The current regulations permits the bridges to remain closed to navigation during commuter hours of 7:30 a.m. to 8:30 a.m. and 4:15 p.m. to 5:15 p.m. Monday through Saturday. Damage to the Jefferson Street Bridge prevents its use by highway traffic and has increased traffic levels on the other bridges and travel time between bridges. The temporary rule was requested by the Illinois Department of Transportation in order to accommodate the additional vehicular traffic that has been diverted to the four remaining operable bridges.

In accordance with 5 U.S.C. 533, a notice of proposed rulemaking has not been published and good cause exists for making this rule effective in less than 30 days from publication since the change has been implemented to address an emergency situation. Specifically, the extensive damage to the Jefferson Street Bridge caused by a vessel allision. Thus, following normal rule making procedures would be impractical. Delaying implementation of the regulation will not adversely impact navigation; however, it would result in unnecessary prolonged traffic management problems within the City of Joliet, Illinois.

Discussion of Temporary Rule

The five Joliet area drawbridges have a minimum vertical clearance of 16.5 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. Presently, the draws of all Illinois Waterway bridges within Joliet open on signal for passage of river

traffic, except that they need not open from 7:30 a.m. to 8:30 a.m. and from 4:15 p.m. to 5:15 p.m. Monday through Saturday. This temporary drawbridge operation amendment has been coordinated with the commercial waterway operators who do not object. Extending the morning drawbridge closure period by 30 minutes during the week now until February 1, 1999, will not adversely impact navigation. It will, however, significantly facilitate traffic management in the City of Joliet.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget 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 the rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) is unnecessary. This is because river traffic will be extremely limited by lock closures and river ice during the period.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard was required to consider whether this action will have a significant economic impact on a substantial number of small entities. "Small entities" may include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their field and governmental jurisdictions with populations of less than 50,000.

The temporary rule only impacts vessel traffic for one half hour a day Monday through Friday during the late fall and winter months. This timeframe is a very inactive period for commercial navigation. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b), that this action will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This action 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 temporary rule under the principles and criteria contained in Executive Order

12612 and has determined that this temporary rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment. The authority to regulate the permits of bridges over the navigable waters of the U.S. belongs to the Coast Guard by Federal statutes.

Environmental

The Coast Guard considered the environmental impact of this temporary rule and concluded that under Figure 2-1, paragraph (32)(a) of Commandant Instruction M16475.1C this temporary rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard is amending part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. the authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. Sec. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Effective 7:30 a.m. on December 3, 1998, through 7:29 a.m. on February 1, 1999, paragraph (c) of § 117.393 is suspended and a new paragraph (e) is added to read as follows:

§ 117.393 Illinois Waterway.

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(c) The draws of the McDonough Street Bridge, mile 287.3; Cass Street Bridge, Mile 288.1; Jackson Street Bridge, mile 288.4 and the Ruby Street Bridge, mile 288.7; all of Joliet, shall open on signal, except that they need not open from 7:30 a.m. to 9 a.m. and from 4:15 p.m. to 5:15 p.m. Monday through Friday. On Saturday the draws need not open from 7:30 a.m. to 8:30 a.m. and from 4:15 p.m. to 5:15 p.m.

Dated December 3, 1998.

A.L. Gerfin, Jr.,

Captain, U.S. Coast Guard, Acting Commander, 8th Coast Guard Dist.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 207-0106a; FRL-6211-1]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Mojave Desert Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the California State Implementation Plan (SIP). The revisions concern for approval of Mojave Desert Air Quality Management District's (MDAQMD) Rules 474, 475, and 476 and rescission of MDAQMD Rule 68. These rules control oxides of nitrogen (NO_x) from fuel burning equipment, electric power generating equipment, and steam generating equipment. This action will replace the current version of three rules now in the SIP and remove one rule from the SIP. The intended effect of approving these rules is to regulate emissions of NO_x in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA is finalizing the approval of these rules into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: These rules are effective on March 12, 1999 without further notice, unless EPA receives adverse comments by February 10, 1999. If EPA received such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

Rulemaking Office (AIR-4), Air Division,
U.S. Environmental Protection Agency,
Region IX, 75 Hawthorne Street, San
Francisco, CA 94105.

Environmental Protection Agency, Air
Docket (6102), 401 "M" Street, SW.,
Washington, DC 20460.

California Air Resources Board, Stationary
Source Division, Rule Evaluation Section,
2020 "L" Street, Sacramento, CA 95812.