

into a special acceptance agent agreement with the IRS that permits Casino B to request an ITIN on an expedited basis. During that visit, on a Sunday, G wins \$5000 in slot machine play at Casino B and requests immediate payment from Casino B. ITINs are not available from the IRS on Sunday and would not again be available until Monday. G, who does not have an individual taxpayer identification number, furnishes a beneficial owner withholding certificate, described in § 1.1441-1(e)(2), to the Casino upon winning at the slot machine. The beneficial owner withholding certificate represents that G is a resident of Country Y (within the meaning of the U.S.—Y tax treaty) and meets all applicable requirements for claiming benefits under the U.S.—Y tax treaty. The beneficial owner withholding certificate does not, however, contain an ITIN for G. On the following Monday, Casino B faxes a completed Form W-7, including the required certification, for G, to the IRS, Philadelphia Service Center for an expedited ITIN. Pursuant to § 1.1441-6(b) and paragraph (h)(2) of this section, absent actual knowledge or reason to know otherwise, Casino B, may rely on the documentation furnished by G at the time of payment and pay the \$5000 to G without withholding U.S. tax based on the treaty exemption.

**Example 2.** The facts are the same as *Example 1*, except G visits Casino B on Monday. G requests payment Monday 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 U.S. 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 U.S. 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, Philadelphia Service Center, for an expedited ITIN. Pursuant to § 1.1441-6(b) and paragraph (h)(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.

(6) *Effective date.* This paragraph (h) applies to payments made after December 31, 2001.

## PART 301—PROCEDURE AND ADMINISTRATION

**Par. 5.** The authority for part 301 continues to read in part as follows:

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

**Par. 6.** In § 301.6109-1, paragraph (g)(3) is revised to read as follows:

### § 301.6109-1 Identifying numbers.

\* \* \* \* \*

(g) \* \* \*

(3) [Reserved]. For further guidance, see § 301.6109-1T(g)(3).

\* \* \* \* \*

**Par. 7.** Section 301.6109-1T is added to read as follows:

### § 301.6109-1T Identifying numbers (temporary).

(a) Through (g)(2) [Reserved]. For further guidance, see § 301.6109-1(a) through (g)(2).

(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.

(h) through (j)(2)(iii). For further guidance, see § 301.6109(h) through (j)(2)(iii).

Approved: December 21, 2001.

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

**Mark Weinberger,**

*Assistant Secretary of the Treasury.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Parts 84 and 183

### 46 CFR Part 25

[USCG-1999-6580]

RIN 2115-AF70

### Certification of Navigation Lights for Uninspected Commercial Vessels and Recreational Vessels

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** The Coast Guard is delaying the effective date of the final rule on Certification of Navigation Lights for Uninspected Commercial Vessels and Recreational Vessels published in the *Federal Register* on November 1, 2001. The final rule requires domestic manufacturers of vessels to install only certified navigation lights on all newly manufactured uninspected commercial vessels and recreational vessels. This rule aligns the requirements for these lights with those for inspected commercial vessels and with requirements for all other mandatory safety equipment carried on board all vessels. The Coast Guard expects the resulting reduction in the use of noncompliant lights to improve safety on the water.

**EFFECTIVE DATE:** The final rule is effective on November 1, 2003.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-1999-6580 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this

docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, contact Randolph J. Doubt, Project Manager, Office of Boating Safety, Coast Guard, by telephone at 202-267-6810 or by e-mail at [rdoubt@comdt.uscg.mil](mailto:rdoubt@comdt.uscg.mil). If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, by telephone at 202-366-5149.

**SUPPLEMENTARY INFORMATION:** On November 1, 2001, the Coast Guard published a final rule entitled "Certification of Navigation Lights for Uninspected Commercial Vessels and Recreational Vessels" in the **Federal Register** (66 FR 55086). The final rule, which was to become effective on November 1, 2002, directs manufacturers of uninspected commercial vessels and recreational vessels to install only navigation lights certified and labeled by a laboratory listed by the Coast Guard as meeting the technical requirements of the Navigation Rules.

Upon publication of the final rule, the Coast Guard noted that the implementation date may not provide enough time to complete the testing of navigation lights by laboratories listed by the Coast Guard to allow the recreational boat manufacturers to comply with the regulation. July 2002 is the date most of next year boat models will appear on show room floors. Photo boats for sales brochures will be built in March and April 2002 so that these brochures can be printed in time for the introductions. Actual new model year production will start in April and May 2002. Thus, boat builders must make their navigation light selections for the upcoming model year as early as February 2002. Each navigation light manufacturer will have to make tooling changes to meet the new marking requirements, and many will have to retest their applicable product line. Sufficient time is not available to do this by February 2002. The alternative would be to pull all unsold boats off the market on November 1, 2002, replacing them either with new boat models equipped with compliant navigation lights or modifying their navigation lights to meet the new marking and certification requirements. Most, if not all, agree that this latter alternative is not a reasonable course to take.

Based upon this concern, the Coast Guard is delaying the effective date of the final rule to November 1, 2003.

Accordingly, in FR Doc. 01-27320 published in the **Federal Register** on November 1, 2001, at 66 FR 55086, the

effective date for the referenced final rule is changed from November 1, 2002, to November 1, 2003.

Dated: January 9, 2002.

**Terry M. Cross,**

*Rear Admiral, U. S. Coast Guard, Assistant Commandant for Operations.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD07-01-112]

RIN 2115-AA97

#### Security Zone; San Juan, PR

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary moving security zone 50 yards around all cruise ships while entering or departing the Port of San Juan. Temporary fixed security zones are also established 50 yards around all cruise ships when these vessels are moored in the Port of San Juan. These security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, San Juan, Puerto Rico or his designated representative.

**DATES:** This regulation is effective from 12:01 a.m. on November 30, 2001 until 11:59 p.m. on February 28, 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 San Juan CGD 07-01-112] and are available for inspection or copying at Marine Safety Office San Juan, RODVAL Bldg, San Martin St. #90 Ste 400, Guaynabo, PR 00969 between 7 a.m. and 3:30 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Robert Lefevers, Marine Safety Office San Juan, Puerto Rico at (787) 706-2440.

#### 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 and delaying the rule's

effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners and written information via facsimile and electronic mail to inform mariners of this regulation.

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**.

#### 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 the Port of San Juan, Puerto Rico, against cruise ships entering, departing and moored within this port. There may be Coast Guard, local police department or other patrol vessels on scene to monitor traffic through these areas. Entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port, San Juan, Puerto Rico.

The security zone for a vessel entering the Port of San Juan is activated when the vessel is one mile north of the #1 buoy, at approximate position 18°28.3' N, 66°07.6' W, when entering the Port of San Juan. The zone for a vessel is deactivated when the vessel passes this buoy on its departure from the port. The Captain of the Port will also notify the public of these security zones via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz) and Marine Safety Information Bulletins via facsimile and the Marine Safety Office San Juan website at <http://www.msocaribbean.com>.

#### 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 vessels should be able to safely transit around the zone and may be allowed to enter the zone with the authorization of the Captain of the Port of San Juan.