

of this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Drafting Information

The principal author of these temporary regulations is Cathy A. Vohs of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury Department participated in the development of these regulations.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for Part 1 continues to read, in part, as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*  
§ 1.408A-4T also issued under 26 U.S.C. 408A \* \* \*

■ **Par. 2.** Section 1.408A-4 is amended by adding, in numerical order, Q-14 and A-14, to read as follows:

#### § 1.408A-4 Converting amounts to Roth IRAs.

\* \* \* \* \*

Q-14. [Reserved]. For further guidance, see § 1.408A-4T, Q-14.

A-14. [Reserved]. For further guidance, see § 1.408A-4T, A-14.

■ **Par. 3.** Section 1.408A-4T is added to read as follows:

#### § 1.408A-4T Converting amounts to Roth IRAs.

\* \* \* \* \*

Q-14. What is the amount that is includable in income as a distribution when a conversion involves an annuity contract?

A-14. (a) *In general.* Notwithstanding § 1.408-4(e), when part or all of a traditional IRA that is an individual retirement annuity described in section 408(b) is converted to a Roth IRA, for purposes of determining the amount includable in gross income as a distribution under § 1.408A-4, A-7, the amount that is treated as distributed is the fair market value of the annuity contract on the date the annuity contract is converted. Similarly, when a traditional IRA that is an individual

retirement account described in section 408(a) holds an annuity contract as an account asset and the traditional IRA is converted to a Roth IRA, for purposes of determining the amount includable in gross income as a distribution under § 1.408A-4, A-7, the amount that is treated as distributed with respect to the annuity contract is the fair market value of the annuity contract on the date that the annuity contract is distributed or treated as distributed from the traditional IRA.

(b) *Determination of fair market value—(1) General rule.* For purposes of this A-14, the fair market value of an individual retirement annuity issued by a company regularly engaged in the selling of contracts of that character generally is established as follows—

(A) If the conversion occurs soon after the contract was sold and there have been no material changes in market conditions, the fair market value of the contract is established through the sale of the particular contract by the company (*i.e.*, the actual premiums paid for such contract);

(B) If the conversion occurs after the contract has been in force for some time and no further premium payments are to be made, the fair market value of the contract is established through the sale by the company of comparable contracts;

(C) If the conversion occurs after the contract has been in force for some time and future premium payments are to be made, the fair market value of the contract is established through an approximation that is based on the interpolated terminal reserve at the date of the conversion, plus the proportionate part of the gross premium last paid before the date of the conversion which covers the period extending beyond that date. However, if, because of the unusual nature of the contract, this approximation is not reasonably close to the full value, this method may not be used. Thus, this method may not be used to determine the fair market value of an annuity contract where the reserve does not reflect the value of all relevant features of the contract.

(2) *Additional guidance.* Additional guidance regarding the fair market value of an individual retirement annuity, including formulas to be used for determining fair market value, may be issued by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin (See § 601.601(d)(2)(ii)(b)).

(c) *Effective date.* The provisions of this A-14 are applicable to any conversion where an annuity contract is distributed or treated as distributed

from a traditional IRA on or after August 19, 2005.

(d) *Definitions.* The definitions set forth in § 1.408A-8 apply for purposes of this A-14.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

Approved: August 9, 2005.

**Eric Solomon,**

*Acting Deputy Assistant Secretary for Tax Policy.*

[FR Doc. 05-16403 Filed 8-19-05; 8:45 am]

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## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### 30 CFR Parts 5, 15, 18, 19, 20, 22, 23, 27, 28, 33, 35, and 36

RIN 1219-AB38

#### Fees for Testing, Evaluation, and Approval of Mining Products; Correction

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Direct final rule; correction.

**SUMMARY:** This document corrects a direct final rule published in the **Federal Register** of August 9, 2005, regarding fees for testing, evaluation, and approval of mining products.

**DATES:** Effective on August 22, 2005.

**FOR FURTHER INFORMATION CONTACT:** Rebecca J. Smith, Acting Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209-3939, [smith-rebecca@dol.gov](mailto:smith-rebecca@dol.gov), (202) 693-9440 (telephone), (202) 693-9441 (facsimile).

**SUPPLEMENTARY INFORMATION:** In rule FR Doc. 05-15495 published on August 9, 2005 (70 FR 46336), make the following corrections:

1. On page 46336, in the first column, under **ADDRESSES**, change the e-mail address from "[comments@msha.gov](mailto:comments@msha.gov)" to "[zzmsaha-comments@dol.gov](mailto:zzmsaha-comments@dol.gov)".

2. On page 46337, in the third column, in the second full paragraph, in the second sentence, change the word "revised" to "existing".

3. On page 46338, in the first column, in the first full paragraph, in the sixth sentence, change the term "part 5" to "part 15".

#### § 5.30 [Corrected]

■ 4. On page 46342, in the second column, after the rule text of paragraph (d), remove the five asterisks.

**§ 22.4 [Corrected]**

■ 5. On page 46343, in the first column, in the first sentence of the rule text for § 22.4(a), change the term “the active investigation of” to “an active investigation”.

**§ 23.3 [Corrected]**

■ 6. On page 46343, in the second column, in the first sentence of the rule text for § 23.3(a), change the term “the active investigation of” to “an active investigation”.

**§ 33.3 [Corrected]**

■ 7. On page 46343, in the third column, after the rule texts for § 33.3, remove the five asterisks.

Dated: August 16, 2005.

**Robert M. Friend,**

*Acting Deputy Assistant Secretary.*

[FR Doc. 05–16560 Filed 8–19–05; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 05–006]

RIN 1625–AA87

#### Security Zone; San Francisco Bay, Oakland Estuary, Alameda, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is revising the perimeter of the existing security zone that extends approximately 50 yards into the navigable waters of the Oakland Estuary, Alameda, California, around the United States Coast Guard Island Pier to coincide with the perimeter of a floating security barrier. This action is necessary to provide continued security for the military service members on board vessels moored at the pier and the government property associated with these valuable national assets. This security zone prohibits all persons and vessels from entering, transiting through, or anchoring within a portion of the Oakland Estuary surrounding the Coast Guard Island Pier unless authorized by the Captain of the Port (COTP) or his designated representative.

**DATES:** This rule is effective starting at 12:01 a.m. on September 21, 2005.

**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

docket COTP 05–006 and are available for inspection or copying at the Waterways Branch of the Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Lieutenant Ian Callander, U.S. Coast Guard Marine Safety Office San Francisco Bay, (510) 437–3401.

**SUPPLEMENTARY INFORMATION:**

#### Regulatory Information

On January 29, 2004, we published a notice of proposed rulemaking (NPRM) entitled “Security Zone; San Francisco Bay, Oakland Estuary, Alameda, CA” in the **Federal Register** (69 FR 4267) proposing to establish a security zone extending approximately 50 yards around the Coast Guard Island Pier in the navigable waters of the Oakland Estuary in Alameda, California. We received one letter commenting on the proposed rule. No public hearing was requested, and none was held. On June 7, 2004, we published a final rule (codified as 33 CFR 165.1190) entitled “Security Zone; San Francisco Bay, Oakland Estuary, Alameda, CA” in the **Federal Register** (69 FR 31737) that established a security zone extending approximately 50 yards around the Coast Guard Island Pier in the navigable waters of the Oakland Estuary in Alameda, California.

Since that time, the Coast Guard determined that a floating security barrier should also be installed to provide an added level of security for the Coast Guard Cutters that moor at the Coast Guard Island Pier. Because the navigational channel is less than 50 yards from the two ends of the Coast Guard Island Pier, and in order to provide approximately 50 yards of maneuvering space for the cutters along the entire length of the pier, the barrier needed to extend into the navigational channel approximately 10 to 20 yards at each end. Since the previously published security zone did not extend into the navigational channel, we published another NPRM entitled “Security Zone; San Francisco Bay, Oakland Estuary, Alameda, CA” in the **Federal Register** on May 9, 2005 (70 FR 24344) proposing to revise the perimeter of the existing security zone around the Coast Guard Island pier to mirror the perimeter of the floating security barrier. We received two comments on the proposed rule. No public hearing was requested, and none was held.

Vessels or persons violating this section are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C.

192. Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed \$32,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of \$250,000) and in rem liability against the offending vessel. Any person who violates this section using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation also faces imprisonment up to 12 years. Vessels or persons violating this section are also subject to the penalties set forth in 50 U.S.C. 192: seizure and forfeiture of the vessel to the United States, a maximum criminal fine of \$10,000, and imprisonment up to 10 years.

The Captain of the Port will enforce this security zone and may enlist the aid and cooperation of any Federal, State, county, municipal, or private agency to assist in the enforcement of the regulation.

#### Background and Purpose

In its effort to thwart potential terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Espionage Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

In this particular rulemaking, the Coast Guard is revising the perimeter of the existing security zone around the Coast Guard Island pier to mirror the perimeter of the floating security barrier. The need for the security zone still exists due to heightened security concerns and the catastrophic impact a terrorist attack on a Coast Guard Cutter would have on the crew on board and surrounding government property.

This security zone is needed for national security reasons to protect Coast Guard Cutters, their crews, the public, transiting vessels, and adjacent waterfront facilities from potential