

transactions occurring after the date of publication in the **Federal Register** of a Treasury Decision adopting these rules as final regulations.

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Par. 3. The authority citation for part 53 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805.

Par. 4. In § 53.4958–2, paragraph (a)(6) is added to read as follows:

§ 53.4958–2 Definition of applicable tax-exempt organization.

(a) * * *

(6) *Examples.* The following examples illustrate the principles of this section, which defines an applicable tax-exempt organization for purposes of section 4958:

Example 1. O is a nonprofit corporation formed under state law. O filed its application for recognition of exemption under section 501(c)(3) within the time prescribed under section 508(a). In its application, O described its plans for purchasing property from some of its directors at prices that would exceed fair market value. After reviewing the application, the IRS determined that because of the proposed property purchase transactions, O failed to establish that it met the requirements for an organization described in section 501(c)(3). Accordingly, the IRS denied O's application. While O's application was pending, O engaged in the purchase transactions described in its application at prices that exceeded the fair market value of the property. Although these transactions would constitute excess benefit transactions under section 4958, because the IRS never recognized O as an organization described in section 501(c)(3), O was never an applicable tax-exempt organization under section 4958. Therefore, these transactions are not subject to the excise taxes provided in section 4958.

Example 2. O is a nonprofit corporation formed under state law. O files its application for recognition of exemption under section 501(c)(3) within the time prescribed under section 508(a). The IRS issues a favorable determination letter in Year 1 that recognizes O as an organization described in section 501(c)(3). Subsequently, in Year 5 of O's operations, O engages in certain transactions that constitute excess benefit transactions under section 4958 and violate the proscription against inurement under section 501(c)(3) and § 1.501(c)(3)–1(c)(2). The IRS examines the Form 990, "Return of Organization Exempt From Income Tax", that O filed for Year 5. After considering all the relevant facts and circumstances in accordance with § 1.501(c)(3)–1(g), the IRS concludes that O is no longer described in section 501(c)(3) effective in Year 5. The IRS does not examine the Forms 990 that O filed for its first four years of operations and, accordingly, does not revoke O's exempt status for those years. Although O's tax-exempt status is revoked

effective in Year 5, under the *lookback* rules in § 53.4958–2(a)(1) and § 53.4958–3(a)(1) of this chapter, for a period of five years prior to the excess benefit transactions that occurred in Year 5, O was an applicable tax-exempt organization and O's directors were disqualified persons as to O. Therefore, the transactions between O and its directors during Year 5 are subject to the appropriate excise taxes provided in section 4958.

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Mark E. Matthews,
Deputy Commissioner for Services and Enforcement.

[FR Doc. 05–17858 Filed 9–8–05; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2005–22362; Formerly CGD08–05–046]

RIN 1625–AA09

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, West Larose, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; change of address and docket number for comments.

SUMMARY: On September 2, 2005, the Coast Guard published a notice and requested comments on a proposed change to regulations governing the operation of the SR 1 (West Larose) vertical lift bridge across the Gulf Intracoastal Waterway, mile 35.6 west of Harvey Lock, at Larose, Louisiana. The proposed rule would change the bridge's schedule so that it would remain closed to navigation at various times on weekdays during the school year to facilitate the safe, efficient movement of staff, students and other residents within the parish. That notice was issued August 26, 2005, before Hurricane Katrina struck New Orleans and caused that city to be flooded. We have changed the address and docket number where comments on the proposed rule should be sent because of flood conditions in New Orleans.

DATES: Comments and related material must reach the Coast Guard on or before November 1, 2005.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2005–22362 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Web Site: <http://dms.dot.gov>.

(2) Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.

(3) Fax: 202–493–2251.

(4) Delivery: Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(5) Federal eRulemaking Portal: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Roger Wiebusch, Bridge Administration Branch, telephone 314 539–3900, ext. 2378.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–2005–22362), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Change of Address and Docket

The notice of proposed rulemaking published September 2, 2005 (70 FR 52343) entitled, "Drawbridge Operation Regulation; Gulf Intracoastal Waterway, West Larose, LA", listed an address in New Orleans, LA, as the place to send your comments on the proposed rule. That rulemaking notice was issued August 26, 2005, before Hurricane Katrina struck New Orleans and flooded that city. We have changed the location for receiving comments because of flood conditions in New Orleans. If you wish to comment on the proposed rule, send your comment to the Docket Management Facility in Washington, DC, by one of the means indicated in the **ADDRESSES** section above in this notice.

With this change of address, we have also changed the docket number to USCG–2005–22362. Please use this new docket number.

Dated: September 2, 2005.

Stefan G. Vencus,

Chief, Office of Regulations and
Administrative Law, U.S. Coast Guard.

[FR Doc. 05-17831 Filed 9-8-05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[R05-OAR-2005-IN-0006; FRL-7965-7]

Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of the Evansville Area to Attainment of the 8-Hour Ozone Standard

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On June 2, 2005, the State of Indiana, through the Indiana Department of Environmental Management (IDEM), submitted: A request for the EPA to redesignate the area of Evansville (Vanderburgh and Warrick Counties) from nonattainment to attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS); and a request for EPA approval of an Indiana State Implementation Plan (SIP) revision containing a 10-year maintenance plan for the Evansville area. EPA is proposing to approve the State's request to redesignate the Evansville area to attainment of the 8-hour ozone NAAQS. EPA's proposed approval of the redesignation request is based on the determination that the Evansville area and the State of Indiana have met the criteria for redesignation to attainment specified in the Clean Air Act (CAA), including the determination that the Evansville area has attained the 8-hour ozone standard. In conjunction with the proposed approval of the redesignation request for the Evansville area, EPA is proposing to approve the State's plan to maintain the attainment of the 8-hour ozone NAAQS through 2015 in this area as a revision to the Indiana SIP. EPA is also proposing to approve 2015 Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_x) Motor Vehicle Emissions Budgets (MVEBs), which are supported by and consistent with the 10-year maintenance plan for this area, for purposes of transportation conformity.

DATES: Comments must be received on or before October 11, 2005.

ADDRESSES: Submit comments, identified by Regional Material in EDocket (RME) ID No. R05-OAR-2005-IN-0006, by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

Agency Web site: <http://docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comments system, is EPA's preferred method for receiving comments. Once in the system, select quick search, then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

E-mail: mooney.john@epa.gov.

Fax: (312) 886-5824.

Mail: You may send written comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to RME ID No. R05-OAR-2005-IN-0006. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, and may be made available online at <http://docket.epa.gov/rmepub/>, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://www.regulations.gov) Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in

the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. We recommend that you telephone Edward Doty, Environmental Scientist, at (312) 886-6057, before visiting the Region 5 office. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

Edward Doty, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6057, doty.edward@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. EPA's Proposed Actions
 - A. What Actions Is EPA Proposing to Take?
 - B. Do These Actions Apply to Me?
 - C. What Is the Background for These Proposed Actions?
- II. What Are the Criteria for Redesignation to Attainment?
- III. What Is the Effect of EPA's Actions?
- IV. What Is EPA's Analysis of the State's Request?
- V. Has Indiana Adopted Acceptable Motor Vehicle Emissions Budgets for the End of the 10-Year Maintenance Plan (for 2015) Which Can Be Used to Support Conformity Determinations?
 - A. How Are the MVEBs Developed and What Are the MVEBs for the Evansville Area?
 - B. What Is a Safety Margin?
 - C. Are the MVEBs Approvable?
- VI. Statutory and Executive Order Reviews