

Federal Aviation Regulations (14 CFR part 71) by establishing Class D airspace at Greenville Donaldson Center, SC, amending Class E2 airspace at Greer, Greenville-Spartanburg Airport, SC, and amending the Class E5 airspace at Greenville, SC (67 FR 11068). Class D airspace designations for airspace areas extending upward from the surface of the earth and Class E airspace designations for airspace areas designated as surface areas and airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraphs 5000, 6002, and 6005 respectively, of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class D airspace at Greenville Donaldson Center, SC, amends Class E2 Airspace at Greer, Greenville-Spartanburg, SC, and amends Class E5 airspace at Greenville, SC.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 5000 Class D Airspace.

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ASO SC D Greenville Donaldson Center Airport, SC [NEW]

Greenville, Donaldson Center Airport, SC (Lat. 34°45'30, long. 82°22'35"W) Greenville Downtown Airport (Lat. 34°50'52, long. 82°21'00"W) Greenville-Spartanburg International Airport (Lat. 34°53'44, long. 82°13'08"W)

That airspace extending upward from the surface to and including 3,500 feet MSL within a 4.2-mile radius of Donaldson Center Airport, excluding that airspace within the Greenville Downtown Airport Class D airspace area, and excluding that airspace within the Greenville-Spartanburg International Airport Class C airspace area. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

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Paragraph 6002 Class E Airspace Designated as Surface Areas

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ASO SC E2 Greer, Greenville-Spartanburg International Airport, SC [REVISED]

Greenville-Spartanburg International Airport, SC (Lat. 34°53'44, long. 82°13'08"W)

Within a 5-mile radius of the Greenville-Spartanburg International Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Director.

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Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth

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ASO SC E5 Greenville, SC [REVISED]

Greenville Downtown Airport, SC (Lat. 34°50'52, long. 82°21'00"W) Greenville-Spartanburg International Airport

(Lat. 34°53'44, long. 82°13'08"W) Donaldson Center Airport (Lat. 34°45'30, long. 82°22'35"W) DYANA NDB (Lat. 34°41'28, long. 82°26'37"W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Greenville Downtown Airport and within a 10-mile radius of Greenville-Spartanburg International Airport and within a 6.7-mile radius of Donaldson Center Airport and within 4 miles northwest and 8 miles southeast of the 224° bearing from the DYANA NDB extending from the 6.7-mile radius to 16 miles southwest of the Donaldson Center Airport.

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Dated: Issued in College Park, Georgia, on April 19, 2002.

Wade T. Carpenter,
Acting Manager, Air Traffic Division, Southern Region.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Houston–Galveston–02–006]

RIN 2115–AA97

Security Zones; Ports of Houston and Galveston, TX

AGENCY: Coast Guard, DOT.
ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary moving security zones around cruise ships entering and departing the ports of Houston and Galveston, Texas. These security zones are needed for the safety and security of these vessels. Entry into these zones is prohibited, unless authorized by the Captain of the Port, Houston—Galveston or his designated representative.

DATES: This rule is effective from 12 a.m. (noon) on April 8, 2002 through 6 a.m. on June 15, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP Houston—Galveston–02–006] and are available for inspection or copying at Marine Safety Office Houston—Galveston, 9640 Clinton Drive, Galena Park, TX, 77547 between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade (LTJG) George Tobey, Marine Safety Office Houston—Galveston, Texas, Port Waterways Management, at (713) 671–5100.

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 and under 5 U.S.C. 553 (d) (3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to the security concerns which are associated with the transit of cruise ships.

Background and Purpose

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. National security and intelligence officials have warned that future terrorist attacks against civilian targets may be anticipated.

In response to these terrorist acts and warnings, heightened awareness for the security and safety of all vessels, ports, and harbors is necessary. Due to the increased safety and security concerns surrounding the transit of cruise ships, the Captain of the Port, Houston—Galveston is establishing temporary security zones around these vessels.

For the purpose of this rule the term “cruise ship” is defined as a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories. This definition covers passenger vessels that must comply with 33 CFR parts 120 and 128.

The moving security zones will commence when a cruise ship passes the Galveston Bay Approach Lighted Buoy “GB” inbound and continues through its transit, mooring, and return transit until it passes the sea buoy outbound. The establishment of moving security zones described in this rule will be announced to mariners via Marine Safety Information Broadcast. In the Ports of Houston or Galveston, all vessels within 500 yards of a cruise ship must operate at the minimum safe speed required to maintain a safe course. Except as described in this rule, no vessel is permitted to enter within 100 yards of a cruise ship unless expressly authorized by the Captain of the Port Houston—Galveston.

The Houston Ship Channel narrows to 400 feet or less near Houston Ship Channel Entrance Lighted Bell Buoy

“18” and continues at this width through Barbours Cut. Between these points vessels that must transit the navigable channel may seek to gain permission to pass within 100 yards of cruise ships from the Captain of the Port Houston—Galveston or his designated representative. Mariners that anticipate encountering a cruise ship in this section of the channel are encouraged to contact “Houston Traffic” prior to getting underway.

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3 (f) of Executive Order 12866 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).

The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The impacts on routine navigation are expected to be minimal as the zones will only impact navigation for a short period of time and the size of the zones allows for the transit of most vessels with minimal delay.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises 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.

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. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit a narrow portion of the Houston-Galveston Ship Channel during a transit of a cruise ship in the same narrow location. These security zones will not have a significant economic impact on a substantial number of small entities for the following reasons:

1. Between the Houston-Galveston Sea buoy and Houston Ship Channel Entrance Lighted Bell Buoy “18” the

size of the security zones allow for vessels to safely transit around or through the zones with minimal interference.

2. Between Houston Ship Channel Entrance Lighted Bell Bouy “18” and Barbours Cut the channel narrows to 400 feet. In this section the Captain of the Port Houston-Galveston through Vessel Traffic Service (VTS) Houston-Galveston, “Houston Traffic,” and designated on scene personnel, may grant permission to pass within 100 yards of a vessel described by this rule to vessels which must transit the navigable channel.

If you are a small business entity and are significantly affected by this regulation please contact, LTJG George Tobey, Marine Safety Office Houston-Galveston, Texas, Port Waterways Management, at (713) 671-5100.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so they could better evaluate its effects on them and participate in the rulemaking process. 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 Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates 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 under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications 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 affect the 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.

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 create 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 relationship 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 that order because it is not a "significant regulatory 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.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

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.T08-035 is added to read as follows:

§ 165.T08-035 Security zones; Ports of Houston and Galveston, Texas.

(a) *Location.* Within the Ports of Houston and Galveston, Texas, temporary moving security zones are established encompassing all waters within 500 yards of a cruise ship between Galveston Bay Approach Lighted Buoy "GB", at approximate position 29°21'18" N, 94°37'36" W [NAD 83] and up to, and including, Barbours Cut. These zones remain in effect during the entire transit of the vessel and continues while the cruise ship is moored or anchored.

(b) *Effective period.* This section is effective from 12 a.m. (noon) on April 8, 2002 through 6 a.m. on June 15, 2002.

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

(d) *Regulations.* (1) Entry of vessels into these zones is prohibited unless authorized as follows.

(i) Vessels may enter within 500 yards but not closer than 100 yards of a cruise ship provided they operate at the minimum speed necessary to maintain a safe course.

(ii) No vessel may enter within 100 yards of a cruise ship unless expressly authorized by the Coast Guard Captain of the Port Houston-Galveston. This includes the waters between Houston Ship Channel Entrance Lighted Bell Buoy "18", light list no. 34385 at

approximately 29°21'06" N, 94°47'00" W [NAD 83] and Barbours Cut where the Houston Ship Channel narrows to 400 feet or less. When conditions permit, the Captain of the Port Houston-Galveston may permit vessels that must transit the navigable channel between these points to enter within 100 yards of a cruise ship.

(iii) Moored vessels or vessels anchored in a designated anchorage area are permitted to remain within 100 yards of a cruise ship while it is in transit.

(2) Persons or vessels requiring entry within 500 yards of a cruise ship who cannot slow to the minimum speed necessary to maintain a safe course must request express permission to proceed from the Captain of the Port Houston-Galveston, or his designated representative.

(3) For the purpose of this section the term "cruise ship" is defined as a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours, any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories.

(4) The Captain of the Port Houston-Galveston will inform the public of the moving security zones around cruise ships via Marine Safety Information Broadcasts.

(5) To request permission as required by these regulations contact "Houston Traffic" via VHF Channels 11/12 or via phone at (713) 671-5103.

(6) All persons and vessels within the moving security zones shall comply with the instructions of the Captain of the Port Houston-Galveston and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: April 8, 2002.

K.S. Cook,

Captain, U.S. Coast Guard,

Captain of the Port Houston-Galveston.

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