

(LITC), as defined by section 7526, subject to the requirements of paragraphs (a)(8)(i) and (ii) of this section. (8)(i) Paragraphs (a)(7)(v) and (a)(7)(vi) of this section apply only if any assistance with a return of tax or claim for refund under subtitle A of the Internal Revenue Code is directly related to a controversy with the Internal Revenue Service for which the qualified LITC is providing assistance, or is an ancillary part of an LITC program to inform individuals for whom English is a second language about their rights and responsibilities under the Internal Revenue Code.

(ii) Notwithstanding paragraph (a)(8)(i) of this section, paragraphs (a)(7)(v) and (a)(7)(vi) of this section do not apply if an LITC charges a separate fee or varies a fee based on whether the LITC provides assistance with a return of tax or claim for refund under subtitle A of the Internal Revenue Code, or if the LITC charges more than a nominal fee for its services.

\* \* \* \* \*

**Par. 3. Effective date.** This amendment is applicable on the date the final regulations are published in the **Federal Register**.

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*  
[FR Doc. 02-14670 Filed 6-10-02; 8:45 am]  
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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP Houston-Galveston-02-010]

RIN 2115-AA97

#### Security Zones; Ports of Houston and Galveston, TX

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish moving and fixed security zones around cruise ships that are transiting, anchored or moored in the Ports of Houston and Galveston, Texas. These security zones are needed for the safety and security of these vessels. Entry into these zones would be prohibited, unless authorized by the Captain of the Port, Houston-Galveston or his designated representative.

**DATES:** Comments and related material must reach the Coast Guard on or before August 12, 2002.

**ADDRESSES:** You may mail comments and related material to Marine Safety

Office Houston-Galveston, 9640 Clinton Drive, Galena Park, TX, 77547. Marine Safety Office Houston-Galveston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Houston-Galveston 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:

##### 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 [COTP Houston-Galveston-02-010], 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 that your submission 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.

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Houston-Galveston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

##### 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 established

temporary security zones around these vessels. The temporary final rule was published May 1, 2002 in the **Federal Register** (67 FR 21576).

Because the generalized high-level threat environment continues, the Captain of the Port Houston-Galveston has determined that there is a need for these security zones to remain in effect indefinitely. The Captain of the Port Houston-Galveston proposes to establish permanent security zones around these vessels as they transit within the Ports of Houston and Galveston. These security zones will reduce the potential of a waterborne attack on cruise ships and enhance public health, safety, defense, and security.

##### Discussion of Proposed Rule

The Coast Guard is proposing a permanent rule to create moving security zones around cruise ships when they pass the Galveston Bay Approach Lighted Buoy "GB" inbound and to continue the zone through the cruise ship's transit, mooring, and return transit until the cruise ship passes the sea buoy outbound. The establishment of moving security zones described in this proposed rule will be announced to mariners via Marine Safety Information Broadcast.

In the Ports of Houston and Galveston, no vessel would be permitted to operate within 500 yards of a cruise ship unless operating at the minimum safe speed required to maintain a safe course. Except as described in this proposed rule, no person or vessel would be permitted to enter within 100 yards of a cruise ship unless expressly authorized by the Captain of the Port Houston-Galveston. Moored vessels or vessels anchored in a designated anchorage area would be permitted to remain within 100 yards of a cruise ship while it is in transit.

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 will have to gain permission from the Captain of the Port Houston-Galveston or his designated representative, to pass within 100 yards of a cruise ship. Mariners that anticipate encountering a cruise ship in this section of the channel are encouraged to contact "Houston Traffic" prior to getting underway.

For the purpose of this proposed 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.

### Regulatory Evaluation

This proposed 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).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation 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 proposed zones will only impact navigation for a short period of time and the size of the zones allow 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 proposed 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 the narrow portion of the Houston-Galveston Ship Channel during a transit of a cruise ship in the same location. This proposed security zone 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 zone allows for vessels to safely transit around or through the zone with minimal interference.
2. Between Houston Ship Channel Entrance Lighted Bell Bouy "18" and

Barbour's 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 vessels permission to pass within 100 yards of a cruise ship.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LTJG George Tobey, Marine Safety Office Houston-Galveston, Texas, Port Waterways Management, at (713) 671–5100.

### Collection of Information

This proposed rule would call 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This proposed rule would not effect a 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

### Energy Effects

We have analyzed this proposed 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 proposed rule and concluded that, under figure 2–

1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A "Categorical Exclusion Determination" is available in the docket 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 proposes to amend 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. Add § 165.813 to read as follows:

#### § 165.813 Security Zones; Ports of Houston and Galveston, Texas.

(a) *Location.* Within the Ports of Houston and Galveston, Texas, 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 inbound and outbound transit of the cruise ship and continues while the cruise ship is moored or anchored.

(b) *Regulations.* (1) Entry of persons or vessels into this zone 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 person or vessel may enter within 100 yards of a cruise ship unless expressly authorized by the Coast Guard Captain of the Port Houston-Galveston. Where the Houston Ship Channel narrows to 400 feet or less 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, 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) Vessels requiring entry within 500 yards of a cruise ship that 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 zone 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.

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

Dated: May 29, 2002.

**K.S. Cook,**

*Captain, U.S. Coast Guard, Captain of the Port Houston-Galveston.*

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### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 165

[COTP Houston-Galveston–02–009]

RIN 2115-AA97

#### Security Zones; Captain of the Port Houston-Galveston Zone

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish security zones within the Ports

of Houston, Morgan's Point, Bayport, Texas City, and Freeport, Texas. These zones are needed to protect waterfront facilities, persons, and vessels from subversive or terrorist acts. Entry into these zones would be prohibited except for vessels described in our proposed rule or vessels that have obtained the express permission of the Captain of the Port Houston-Galveston or his designated representative.

**DATES:** Comments and related material must reach the Coast Guard on or before August 12, 2002.

**ADDRESSES:** You may mail comments and related material to Marine Safety Office Houston-Galveston, 9640 Clinton Drive, Galena Park, TX, 77547. Marine Safety Office Houston-Galveston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Houston-Galveston between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

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##### Public Meeting

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