

the refund to Customs within one year of its receipt of the refund. Upon receipt of the signed Report/Certification or Revised Report/Certification, Customs releases, waives, and abandons all claims other than fraud against the exporter, its officers, agents, or employees arising out of all payments approved for refund in the report.

(C) *Documentation.* For payments made prior to July 1, 1990, supporting documentation is required to obtain a refund and must be submitted in accordance with paragraphs (e)(4)(iv)(A) and/or (B)(3) of this section. For payments made on and after July 1, 1990, supporting documentation is not required to obtain a refund, unless the exporter seeks to prove corrections of payments listed in the Report/Certification (if the exporter did not sign and return it to Customs) and/or additional payments not listed in a Report/Certification, in accordance with paragraph (e)(4)(iv)(B)(3) of this section. The supporting documentation that Customs will accept as establishing entitlement to a refund, whether submitted with a refund request or a request for a Revised Report/Certification, is whichever of the following documents Customs accepted with the payment at the time it was made: a copy of the Export Vessel Movement Summary Sheet; where an Automated Summary Monthly Shipper's Export Declaration was filed, a copy of a letter containing the exporter's identification, its employer identification number (EIN), the Census Bureau reporting symbol, and, the quarter for which the payment was made; or a copy of a Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, for the quarter covering the refund requested. Customs also will consider other documentation offered as proof of payment of the fee, such as cancelled checks and/or affidavits from exporters attesting to the fact that all quarterly harbor maintenance tax payments made by the exporter were made exclusively for exports, and will accept that other documentation as establishing entitlement for a refund only if it clearly proves the payments were made for export harbor maintenance fees in the amounts sought to be refunded and were made by the party requesting the

refund or the party on whose behalf the refund was requested.

\* \* \* \* \*

**Robert C. Bonner,**  
*Commissioner of Customs.*

Approved: May 8, 2002.

**Timothy E. Skud,**  
*Deputy Assistant Secretary of the Treasury.*  
[FR Doc. 02-11835 Filed 5-10-02; 8:45 am]  
**BILLING CODE 4820-02-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 8985]

RIN 1545-AY02

#### Hedging Transactions; Corrections

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains corrections to final regulations that were published in the **Federal Register** on Wednesday, March 20, 2002 (67 FR 12863) relating to the character of gain or loss from hedging transactions.

**DATES:** This correction is effective March 20, 2002.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Handler (202) 622-3930 or Viva Hammer (202) 622-0869 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulations that are the subject of these corrections are under section 1221 of the Internal Revenue Code.

##### Need for Correction

As published, the final regulations contain errors that may prove to be misleading and are in need of clarification.

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

Income taxes, Reporting and recordkeeping requirements.

##### Correction of Publication

Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendments:

### PART 1—INCOME TAXES

1. The authority citation for part 1 continues to read in part as follows:

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

#### § 1.446-4 [Corrected]

2. Section 1.446-4, paragraph (d)(3) is amended by removing the language “§ 1.1221-2(a)(4)(i)” from the last sentence and adding the language “§ 1.1221-2(a)(4)” in its place.

#### § 1.1256(e)-1 [Corrected]

3. Section 1.1256(e)-1, paragraph (c) is amended by removing the language “(f)(1)(ii)” from the second sentence and adding the language “(g)(1)(ii)” in its place.

**Cynthia E. Grigsby,**  
*Chief, Regulations Unit, Associate Chief Counsel (Income Tax and Accounting).*  
[FR Doc. 02-11793 Filed 5-10-02; 8:45 am]  
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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP Los Angeles-Long Beach 02-009]

RIN 2115-AA97

#### Security Zones; Cruise Ships, San Pedro Bay, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing moving and fixed security zones around cruise ships located on San Pedro Bay, California, near and in the ports of Los Angeles and Long Beach. These actions are necessary to ensure public safety and prevent sabotage or terrorist acts against these vessels. Persons and vessels are prohibited from entering these security zones without permission of the Captain of the Port.

**DATES:** This rule is effective from 11:59 p.m. PDT on May 1, 2002 to 11:59 p.m. PST on December 1, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket COTP Los Angeles-Long Beach 02-009 and are available for inspection or copying at Coast Guard Marine Safety Office Los Angeles-Long Beach, 1001 South Seaside Avenue, Building 20, San Pedro, California, 90731, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Rob Griffiths, Chief of Waterways Management Division, at (310) 732-2020.

#### 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 an NPRM. Due to the terrorist attacks on September 11, 2001 and the warnings given by national security and intelligence officials, there is an increased risk that further subversive or terrorist activity may be launched against the United States. A heightened level of security has been established around all cruise ships near the ports of Los Angeles and Long Beach. These security zones are needed to protect the United States and more specifically the people, waterways, and properties near San Pedro Bay.

In addition, the Coast Guard is currently working on an NPRM, for this temporary rule to become a final rule, which will soon be published. Therefore, the public will still have the opportunity to comment on this rule. This current temporary final rule's sole purpose is to continue a similar temporary final rule that began enforcement on November 1, 2001, recently following the attacks, and expires May 1, 2002. In this case, doing a NPRM will be repetitious in nature and since delay is inherent in the NPRM process, any delay in the effective date of this rule, is contrary to the public interest insofar as it may render individuals and facilities within and adjacent to cruise ships vulnerable to subversive activity, sabotage or terrorist attack. The measures contemplated by this rule are intended to prevent future terrorist attacks against individuals and facilities within or adjacent to cruise ships. Immediate action is required to accomplish these objectives and necessary to continue safeguarding these vessels and the surrounding area. Any delay in the effective date of this rule is impractical and contrary to the public interest.

For the reasons stated in the paragraphs above under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

## Background and Purpose

On September 11, 2001, terrorists launched attacks on commercial and public structures—the World Trade Center in New York and the Pentagon in Arlington, Virginia—killing large numbers of people and damaging properties of national significance. There is an increased risk that further subversive or terrorist activity may be launched against the United States

based on warnings given by national security and intelligence officials. The Federal Bureau of Investigation (FBI) issued warnings on October 11, 2001 and February 11, 2002 concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing hostilities in Afghanistan have made it prudent for important facilities and vessels to be on a higher state of alert because Osama Bin Ladin and his Al Qaeda organization, and other similar organizations, have publicly declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

These heightened security concerns, together with the catastrophic impact that a terrorist attack against a cruise ship would have to the public interest, makes these security zones prudent on the navigable waterways of the United States. To mitigate the risk of terrorist actions, the Coast Guard has increased safety and security measures on the navigable waterways of San Pedro Bay by establishing security zones around cruise ships. Vessels operating near cruise ships present possible platforms from which individuals may gain unauthorized access to these vessels or launch terrorist attacks upon these vessels or adjacent population centers. As a result, the Coast Guard is taking measures to prevent vessels or persons from accessing the navigable waters close to cruise ships on San Pedro Bay.

On January 18, 2002, we published a temporary final rule for cruise ships entitled "Security Zones; Port of Los Angeles and Catalina Island" in the **Federal Register** (67 FR 2571) under § 165.T11-058. It has been in effect since 11:59 PST on November 1, 2001 and is set to expire 11:59 p.m. PDT on May 1, 2002. As of today, the need for security zones around cruise ships still exist. This new temporary final rule will begin 11:59 p.m. PDT on May 1, 2002, the exact time the previous cruise ship security zone was in effect, and is set to expire 11:59 p.m. PST December 1, 2002. This will allow the Coast Guard time to publish a notice of proposed rulemaking (NPRM) in the **Federal Register**, which will include a public comment period, and for a final rule to be published and put into effect without there being an interruption in the protection provided by cruise ship security zones.

This new rule differs slightly from temporary section 165.T11-058 in a few ways. First, this temporary rule extends only the security zones in San Pedro Bay. Second, the security zones will be in effect around cruise ships in the Port of Long Beach as well as the Port of Los Angeles. Third, while underway in San

Pedro Bay, the security zone will be 200 yards ahead, and 100 yards on each side and astern of the cruise ship which is needed due to the cruise ship's speed of advance through the water. Fourth, while implicit in the prior temporary rule, the security zones here will be described as extending from the water's surface to the sea floor. This more specific description is intended to discourage unidentified scuba divers and swimmers from coming within close proximity of a cruise ship. Fifth, the security zone around cruise ships that are underway or anchored on San Pedro Bay was broadened from only the port of Los Angeles inside the Los Angeles "sea buoy" to include all waters on San Pedro Bay within three nautical miles of the Federal breakwaters. Lastly, to clarify to which types of passenger vessels the rule applies, we have defined "cruise ship" to coincide with the description in 33 CFR 120.100.

## Discussion of Rule

This regulation establishes a security zone in the waters of San Pedro Bay around all cruise ships that are anchored, moored, or underway within the Los Angeles or Long Beach port area. This security zone will take effect upon entry of any cruise ship into the waters from within three nautical miles outside the Federal breakwaters encompassing San Pedro Bay and will remain in effect until that vessel departs the three nautical mile limit. The following areas are security zones:

(1) All waters, extending from the surface to the sea floor, within a 100 yard radius around any cruise ship that is anchored at a designated anchorage either inside the Federal breakwaters bounding San Pedro Bay or outside at designated anchorages within three nautical miles of the Federal breakwaters;

(2) The shore area and all waters extending from the surface to the sea floor, within a 100 yard radius around any cruise ship that is moored, or in the process of mooring, at any berth within the Los Angeles or Long Beach port areas inside the Federal breakwaters bounding San Pedro Bay; and

(3) All waters, extending from the surface to the sea floor within 200 yards ahead, and 100 yards on each side and astern of a cruise ship that is underway on the waters inside the Federal breakwaters bounding San Pedro Bay or on the waters within three nautical miles seaward of the Federal breakwater.

These security zones are needed for national security reasons to protect cruise ships, the public, transiting

vessels, adjacent waterfront facilities, and the ports from potential subversive acts, accidents, or other events of a similar nature. Entry into these zones will be prohibited unless specifically authorized by the Captain of the Port or his designated representative. Vessels already moored or anchored when these security zones take effect are not required to get underway to avoid either the moving or fixed zones unless specifically ordered to do so by the Captain of the Port or his designated representative.

As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99-399), Congress amended the Ports and Waterways Safety Act (PWSA) 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. This authority, under section 7 of the PWSA (33 U.S.C. 1226), supplements the Coast Guard's authority to issue security zones under The Magnuson Act regulations promulgated by the President under 50 U.S.C. 191, including Subparts 6.01 and 6.04 of Part 6 of Title 33 of the Code of Federal Regulations.

Vessels or persons violating this section will be 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 \$27,500 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 these zones and may enlist the aid and cooperation of any Federal, State, county, municipal, and private agency to assist in the enforcement of the regulation. This regulation is proposed under the authority of 33 U.S.C. 1226 in addition to the authority contained in 50 U.S.C. 191 and 33 U.S.C. 1231.

### 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 these zones will encompass a small portion of the waterway for a limited period of time. Delays, if any, are expected to be less than 30 minutes in duration. Vessels and persons may be allowed to enter these zones on a case-by-case basis with permission of the Captain of the Port.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have 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.

For the same reasons stated in the Regulatory Evaluation section above, 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.

We expect this rule will affect the following entities, some of which may be small entities: The owners and operators of private and commercial vessels intending to transit or anchor in a small portion of the ports of Los Angeles or Long Beach near a cruise ship that are covered by these security zones. The impact to these entities would not, however, be significant since these security zones will encompass a small portion of the waterway for a limited period of time. Delays, if any, are expected to be less than thirty minutes in duration.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule will affect your small business, organization, or government jurisdiction and you have questions concerning its

provision or operations for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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 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 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.ID, this rule is categorically excluded from further environmental documentation because we are establishing security zones. 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. Add new temporary § 165.T11-065 to read as follows:

### § 165.T11-065 Security Zones; Cruise ships, San Pedro Bay, California.

(a) *Definition*. "Cruise ship" as used in this section means a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire; making voyages lasting more than 24 hours, any part of which is on the high seas; and for which passengers are embarked or disembarked in the Port of Los Angeles or Port of Long Beach. It does not apply to ferries that hold Coast Guard Certificates of Inspection endorsed for "Lakes, Bays, and Sounds", and that transit international waters for only short periods of time, on frequent schedules.

(b) *Location*. The following areas are security zones:

(1) All waters, extending from the surface to the sea floor, within a 100 yard radius around any cruise ship that is anchored at a designated anchorage either inside the Federal breakwaters bounding San Pedro Bay or outside at designated anchorages within three nautical miles of the Federal breakwaters;

(2) The shore area and all waters, extending from the surface to the sea floor, within a 100 yard radius around any cruise ship that is moored, or is in the process of mooring, at any berth within the Los Angeles or Long Beach port areas inside the Federal breakwaters bounding San Pedro Bay; and

(3) All waters, extending from the surface to the sea floor, within 200 yards ahead, and 100 yards on each side and astern of a cruise ship that is underway either on the waters inside the Federal breakwaters bounding San Pedro Bay or on the waters within three nautical miles seaward of the Federal breakwaters.

(c) *Regulations*. (1) In accordance with the general regulations in § 165.33 of this part, entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Los Angeles-Long Beach, or his designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number 1-800-221-8724 or on VHF-FM channel 16 (156.8 MHz) to seek permission to

transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(d) *Authority*. In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

(e) *Enforcement*. The U.S. Coast Guard may be assisted in the patrol and enforcement of the security zone by the Los Angeles Port Police and the Long Beach Police Department.

(f) *Effective period*. This section is effective from 11:59 p.m. PDT on May 1, 2002 through 11:59 p.m. PST on December 1, 2002.

Dated: May 1, 2002.

**J.M. Holmes,**

*Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach.*

[FR Doc. 02-11917 Filed 5-10-02; 8:45 am]

**BILLING CODE 4910-15-U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

[LANT AREA-02-001]

RIN 2115-AG33

### Protection of Naval Vessels

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing regulations for the safety and security of U.S. naval vessels in the navigable waters of the United States. Naval vessel protection zones will provide for the regulation of vessel traffic in the vicinity of many U.S. naval vessels in the navigable waters of the United States.

**DATES:** This rule is effective beginning June 15, 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 docket LANTAREA 02-001 and are available for inspection or copying at Commander (Amr), Coast Guard Atlantic Area, 431 Crawford Street, Portsmouth, VA 23704-5004 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Commander Chris Doane, Commander (Amr), Coast Guard Atlantic Area, 431 Crawford Street, Portsmouth, VA 23704-5004; telephone number (757) 398-6372.

**SUPPLEMENTARY INFORMATION:**