

Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(c) *Definition.* As used in this section: cruise ship means a passenger vessel, except for a ferry, greater than 100 feet in length that is authorized to carry more than 12 passengers for hire.

(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.

Dated: January 3, 2003.

M.M. Rosecrans,

Captain, Coast Guard, Captain of the Port Jacksonville.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Miami 02-115]

RIN 2115-AA97

Security Zones; Port of Palm Beach, Palm Beach, FL; Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL; and Port of Key West, Key West, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing permanent security zones throughout the Captain of the Port of Miami's area of responsibility. The security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, Miami, Florida, or his designated representative.

DATES: This rule is effective February 16, 2003.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP Miami 02-115] and are available for inspection or copying at Marine Safety Office Miami, 100 MacArthur Causeway, Miami Beach, FL 33139 between 7:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

LTJG Jennifer Sadowski, Waterways Management Division Officer, Coast Guard Marine Safety Office Miami, at (305) 535-8750.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On November 5, 2002, we published a notice of proposed rule making (NPRM) entitled "Security Zones; Port of Palm Beach, Palm Beach FL; Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL; and Port of Key West, Key West, FL" in the **Federal Register** (67 FR 67342). We received one letter commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The terrorist attacks of September 2001 killed thousands of people and heightened the need for development of various security measures throughout the seaports of the United States, particularly around those vessels and facilities which are frequented by foreign nationals and maintain an interest to national security. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks (67 FR 58317 (Sep. 13, 2002) (continuing national emergency with respect to terrorist attacks), 67 FR 59447 (Sep. 20, 2002) (continuing national emergency with respect to persons who commit, threaten to commit or support terrorism)). The President also has found pursuant to law, including the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*), that the security of the United States is and continues to be endangered following the attacks (E.O. 13,273, 67 FR 56215 (Sep. 3, 2002) (security endangered by disturbances in international relations of U.S and such disturbances continue to endanger such relations)). Following these attacks by well-trained and clandestine terrorists, national security and intelligence officials have warned that future terrorist attacks are likely. The Captain of the Port (COTP) of Miami has determined that there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Ports of Palm Beach, Miami, Port Everglades, and Key West, Florida. These security zones are necessary to protect the public, ports, and waterways of the United States from potential subversive acts.

The Coast Guard Captain of the Port of Miami established temporary security zones in these areas following the September 11, 2001 attacks. Those temporary rules are as follows:

On September 11, 2001, the COTP issued a temporary final rule (TFR) (67 FR 9194, 9195, February 28, 2002, Docket # COTP Miami 01-093) establishing 100-yard security zones

around certain vessels in the Port of Palm Beach, Miami, Port Everglades, and Key West, FL, that expired September 25, 2001. On September 25, 2001, the COTP issued another TFR (67 FR 1101, January 9, 2002, COTP Miami 01-115) that maintained these 100-yard security zones around certain vessels in the Ports of Palm Beach, Miami, Port Everglades, and Key West, FL, and added a reference to specific points (buoys) where moving zones were activated and deactivated. This second TFR expired on June 15, 2002.

On October 7, 2001, the COTP issued a TFR (67 FR 6652, February 13, 2002, COTP Miami 01-116) establishing fixed security zones in Port Everglades and Miami, FL, that expired June 15, 2002.

On October 11, 2001, the COTP issued a TFR (67 FR 4177, January 29, 2002, COTP Miami 01-122) establishing a fixed-security zone for Port Everglades, FL, that expired June 15, 2002.

All of the above security zones were extended by a TFR issued on June 13, 2002 (67 FR 46389, COTP Miami-02-054) until December 15, 2002. That temporary final rule requested comments. As of December 12, 2002, the Coast Guard has not received any comments on that TFR.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after **Federal Register** publication. Delay in the effective date of this regulation would be contrary to public interest. The assets protected by these security zones present possible targets of terrorist attack due to their potential for large personnel casualties if struck by a terrorist attack. Making this rule effective less than 30 days after **Federal Register** publication is necessary to prevent a lapse between this rule and the temporary regulations currently in place, which would leave persons at these assets, and the public and surrounding communities, vulnerable to sabotage or other subversive acts, accidents, or other events of a similar nature.

Discussion of Comments and Changes

The Coast Guard received one comment on the proposed rule consisting of two points. The comment stated that the security zone will bankrupt his business as a mobile vendor on the Mallory Docks in Key West and the security zone interferes with his ability to recreationally dive in the harbor. Landside restricted areas are established by local police as opposed to the United States Coast Guard and therefore, this security zone does not affect any land based mobile vendor businesses. The security zones around