

documents indicated in this preamble as being available in the docket, are part of docket [CGD07–03–069] and are available for inspection or copying at U.S. Coast Guard, Marine Safety Office, 100 MacArthur Causeway, Miami, Florida 33139 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

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SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 25, 2003, the Coast Guard issued a temporary final rule entitled “Regulated Navigation Area; Port Everglades Harbor, Fort Lauderdale, FL” (68 FR 25498, May 13, 2003) creating a temporary regulated navigation area within Port Everglades Harbor. On June 6, 2003, we published a notice of proposed rulemaking (NPRM) entitled “Regulated Navigation Area; Port Everglades Harbor, Fort Lauderdale, FL” in the **Federal Register** (68 FR 33896).

We received four letters commenting on the proposed rule. No public hearing was requested, and none was held. 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 publication in the **Federal Register**. This rule is an important enforcement tool that assists law enforcement officials in responding to port security threats, protecting public safety, and ensuring the security of the Port and waterways. Therefore, delay of the effective date of this rule is contrary to public interest.

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. The President declared national emergencies following the September 11, 2001 terrorist attacks and has continued them, specifically: The Continuation of the National Emergency with Respect to Certain Terrorist Attacks (67 FR 58317, Sep. 13, 2002); and the Continuation of the National Emergency with Respect to Persons Who Commit, Threaten to Commit, or Support Terrorism (67 FR 59447, Sep. 20, 2002). In Executive Order 13273, the President published a finding that, pursuant to law, including the Magnuson Act (50 U.S.C. 191 *et seq.*), the security of the United States is endangered because of the September 11, 2001 terrorist attacks on the United States (67 FR 56215, Aug. 21, 2002).

Following the September 2001 attacks, national security and intelligence officials warned that future terrorist attacks are likely.

The Captain of the Port (COTP) Miami has determined that there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to Port Everglades because of the numerous high-capacity passenger vessels, vessels carrying hazardous cargo, critical infrastructure facilities including propane and petroleum processing facilities, and U.S. military vessels that use the port. This regulated navigation area will aid law enforcement officials in monitoring vessel traffic, because vessels not complying with the slow speed zone will quickly draw attention, giving law enforcement officials more time to assess the situation and take appropriate action to protect vessels within the port and port facilities.

The temporary final rule the Coast Guard issued April 25, 2003, entitled “Regulated Navigation Area; Port Everglades Harbor, Fort Lauderdale, Florida” (68 FR 25498) created a temporary regulated navigation area that encompassed a larger area of the port than this final rule encompasses. That temporary final rule expired at 12:01 a.m. on September 1, 2003. Prior to the creation of that temporary final rule, vessels were able to enter the harbor from sea at a high rate of speed and maintain that high rate of speed in the harbor until coming in close proximity of high capacity passenger vessels, vessels carrying hazardous cargo, critical infrastructure facilities and U.S. military vessels that are often moored within an existing security zone or naval vessel protection zone. Law enforcement officials did not have sufficient time to react to vessels that failed to slow their speed prior to reaching the limits of the existing security zone or naval vessel protection zone. This regulated navigation area is necessary to protect the public, port, law enforcement officials, and waterways of the United States from potential subversive acts.

Nothing in this final rule relieves vessels or operators from complying with all state and local laws in the regulated area, including manatee slow speed zones.

Discussion of Comments and Changes

We received four letters offering comments on the proposed rule. Generally, the comments were in opposition to the proposed rule.

Comments addressed the following areas:

- Overall effectiveness of the speed restrictions;
- Smaller vessels impeding larger vessels within the channel;
- Economic effects; and
- Rules of the road conflicts.

As a result of these comments, we made the following changes: In paragraph (a) the original eastern RNA boundaries in Bar Cut were moved west approximately 1300 feet removing the narrowest portion of Bar Cut from the zone, and the RNA westerly boundaries were moved east to coincide with existing state and local slow speed zones; and in paragraph (b) a reference to construing this rule as consistent with the Inland Navigation Rules’ safe speed requirement was added. Each comment is discussed in more detail in the following four paragraphs.

Overall effectiveness. Two comments questioned the overall effectiveness of the speed restrictions. They opined that any terrorist focused on causing destruction to the port will maneuver his vessel at the posted speed so as not to call attention to himself, approach his target and complete his goal. While this rule is not a panacea for port security, we disagree that it is ineffective. This rule will assist law enforcement officials in protecting the Port by enabling law enforcement officials to discriminate suspect vessels from legitimate marine traffic and will provide law enforcement officials with more time to investigate suspect vessels. The slow speed restriction makes vessels traveling at high speeds, vessels that rapidly increase speed, and vessels that are on headings toward critical infrastructure, high capacity passenger vessels, vessels carrying hazardous cargo, etc. more easily identifiable to law enforcement officials.

Smaller vessels impeding larger vessels. Two comments expressed concern about recreational boaters impeding commercial vessels due to their inability to move swiftly in the channel. The comments stated that since the implementation of the temporary rule, there has been a dramatic increase in the number of close quarters situations. The comment suggested that if this rule is implemented, in the interest of safe navigation, the Inner Bar Cut should be closed to all recreational vessels when commercial traffic is transiting the channel. The Coast Guard agrees with the potential for smaller vessels to impede larger commercial vessels. However, the Coast Guard disagrees that closing the channel to recreational vessels when commercial traffic is transiting is an appropriate way to prevent close quarters situations. The