

§ 73.23 [Amended]

■ 2. § 73.23 is amended as follows:

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R-2303A, AZ [Amended]

By removing "Time of designation. Monday–Friday, 0700–1600 local time; other times by NOTAM at least 24 hours in advance," and substituting "Time of designation. Monday–Friday, 0700–1700 local time; other times by NOTAM at least 24 hours in advance."

R-2303B, AZ [Amended]

By removing "Time of designation. Monday–Friday, 0700–1600 local time; other times by NOTAM at least 24 hours in advance," and substituting "Time of designation. Monday–Friday, 0700–1700 local time; other times by NOTAM at least 24 hours in advance."

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Issued in Washington, DC, May 6, 2003.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[CGD08–02–018]

RIN 1625–AA01 [Formerly RIN 2115–AA98]

Anchorage Regulation; Bolivar Roads, Galveston, TX

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is creating a new anchorage area in Bolivar Roads near Galveston, Texas. The establishment of this new anchorage area will enhance navigational safety, support regional maritime security needs, and contribute to the free flow of commerce in the Houston/Galveston area.

DATES: This rule is effective June 12, 2003.

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 [CGD08–02–018] and are available for inspection or copying at Commander, Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans, LA 70130, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant (LT) Karrie Trebbe, Project Manager for Eighth Coast Guard District Commander, telephone (504) 589–6271.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On January 28, 2003, the Coast Guard published a notice of proposed rule making (NPRM) entitled "Anchorage Regulation; Bolivar Roads, Galveston, TX", in the **Federal Register** (68 FR 4130). We received no comments on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

At its February 2002 meeting, the Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC) recommended establishment of a third anchorage area in the Galveston Bay area. HOGANSAC, a Congressionally-chartered Federal advisory committee, is responsible for advising, consulting with, and making recommendations to the Secretary of Transportation on matters relating to the transit of vessels to and from the ports of Galveston, Houston and Texas City and the safety of maritime navigation in the Galveston Bay area. Participants at the February 2002 HOGANSAC meeting noted that a third anchorage in the Bolivar Roads area was necessary to address port security and navigation safety concerns. After extensive discussion, including the observations of and comments from members of the public in attendance, HOGANSAC recommended that the Coast Guard establish a third anchorage area in Bolivar Roads.

Based on the recommendation of HOGANSAC the Coast Guard proposed a third anchorage area, anchorage area (C), in Bolivar Roads. This new anchorage area, located inside the Galveston Bay Entrance Jetties, will provide a sheltered location for vessels to anchor during heavy weather or reduced visibility conditions. The existing anchorages, anchorage area (A) and anchorage area (B), are generally full during these same periods and there is no alternative sheltered anchorage in Bolivar Roads. The location of anchorage area (C), abuts the western edge of anchorage area (B), is in a naturally deep portion of Bolivar Roads, and is outside any heavily traveled section of the waterway.

This third anchorage area is also necessary because port security-related initiatives adopted by various terminals and facilities in the Galveston Bay area have restricted pier side operations critical to the efficient flow of maritime commerce. For example, bunkering, provisions deliveries, and personnel

transfer operations are restricted or prohibited by numerous facilities in the ports of Galveston, Houston and Texas City. The nature of those activities requires that they be accomplished in calm water conditions and relatively close to shore. As a result, vessel operators and ship owners rely upon the existing anchorage areas (anchorage areas (A) and (B)) in Galveston Bay to conduct these operations. Increasingly, anchorage space in those areas is in high demand. A third designated anchorage area would relieve congestion and provide anchorage space to accommodate the ever-increasing volumes of traffic in the Galveston Bay area.

Discussion of Comments and Changes

We received no comments on the proposed rule. Therefore, we have made no substantial changes to the provisions of the proposed rule.

Minor changes were made to the Regulatory Evaluation and authority sections due to the Coast Guard's transfer from the Department of Transportation to the Department of Homeland Security on March 1, 2003.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory and 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 Homeland Security.

The anchorage area will not unnecessarily restrict traffic as it is located outside the established navigable channel. Vessels will be able to maneuver in, around and through the anchorage. Operators who choose to maneuver their vessels around the limits of the anchorage area will not be significantly impacted because the total route deviation to cross from one side of the anchorage to the other following the perimeter of the anchorage is only 1.4 nautical miles.

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. The rule may potentially affect the following entities, some of which may be small entities: the owners or operators of vessels intending to fish or anchor in, or transit through the anchorage area (C) in Bolivar Roads.

The number of small entities impacted and the extent of the impact, if any, is expected to be minimal. The anchorage is located in an area of Bolivar Roads that is not a popular or productive fishing location. Further, the location is in an area not routinely transited by vessels heading to, or returning from, known fishing grounds. Finally, the anchorage is located in an area that is not currently used by small entities, including small vessels, for anchoring due to the depth of water naturally present in the area.

If you are a small business entity and are significantly affected by this regulation please contact Lieutenant (LT) Karrie Trebbe, Project Manager for Eighth Coast Guard District Commander, telephone (504) 589-6271.

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 processes.

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 would not create an environmental risk to health or risk to safety that might 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1 paragraph (34)(f), of the instruction, from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in NEPA. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, and 2071; Department of Homeland Security Delegation No. 0170 and 33 CFR 1.05-1(g).

■ 2. Amend § 110.197 to add paragraph (a)(3) and revise paragraph (b) to read as follows:

§ 110.197 Galveston Harbor, Bolivar Roads Channel, Texas.

(a) * * *

(3) Anchorage area (C). The water bounded by a line connecting the following points:

Latitude	Longitude
29°20'39.0" N	94°46'07.5" W.
29°21'06.1" N	94°47'00.2" W.
29°21'24.0" N	94°46'34.0" W.
29°21'14.5" N	94°45'49.0" W.

and thence to the point of beginning.

(b) *The regulations.* (1) The anchorage area is for the temporary use of vessels of all types, but especially for vessels awaiting weather and other conditions favorable to the resumption of their voyages.

(2) Except when stress of weather makes sailing impractical or hazardous, vessels shall not anchor in anchorage areas (A) or (C) for more than 48 hours unless expressly authorized by the Captain of the Port Houston-Galveston. Permission to anchor for longer periods may be obtained through Coast Guard Vessel Traffic Service Houston/Galveston on VHF-FM channels 12 (156.60 MHz) or 13 (156.65 MHz).

(3) No vessel with a draft of less than 22 feet may occupy anchorage (A) without prior approval of the Captain of the Port.

(4) No vessel with a draft of less than 16 feet may anchor in anchorage (C) without prior approval of the Captain of the Port Houston-Galveston.

(5) Vessels shall not anchor so as to obstruct the passage of other vessels proceeding to or from other anchorage spaces.

(6) Anchors shall not be placed in the channel and no portion of the hull or rigging of any anchored vessel shall extend outside the limits of the anchorage area.

(7) Vessels using spuds for anchors shall anchor as close to shore as practicable, having due regard for the provisions in paragraph (b)(5) of this section.

(8) Fixed moorings, piles or stakes, and floats or buoys for marking anchorages or moorings in place, are prohibited.

(9) Whenever the maritime or commercial interests of the United States so require, the Captain of the Port, or his authorized representative, may direct the movement of any vessel anchored or moored within the anchorage areas.

Dated: April 21, 2003.

Roy J. Casto,
Rear Admiral, U.S. Coast Guard, Commander,
Eighth Coast Guard District.

[FR Doc. 03-11810 Filed 5-12-03; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD07-03-069]

RIN 1625-AA11

Regulated Navigation Area; Port Everglades Harbor, Fort Lauderdale, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area in Port Everglades Harbor, Fort Lauderdale, Florida to improve national security and safety of the harbor and increase the safety of law enforcement officers and high-risk vessels in the vicinity of Port Everglades Harbor. This temporary final rule establishes a slow speed zone in the harbor to control vessel speed and allow law enforcement vessels to control vessel movement in this waterway.

DATES: This rule is effective from 12:01 a.m. on Monday, April 28, 2003, until 12:01 a.m. on Monday, September 1, 2003. Comments and related material must be received on or before June 12, 2003.

ADDRESSES: You may mail comments and related material to Commanding Officer, U.S. Coast Guard, Marine Safety Office, 100 MacArthur Causeway, Miami, FL 33139. The Captain of the Port Miami 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 the above address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Jennifer Sadowski, Coast Guard Marine Safety Office Miami, Waterways Management at (305) 535-8701.

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 [CGD07-03-069], 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 they reached us, please enclose a self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this temporary rule in view of them.

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. Publishing a NPRM and delaying the rule's

effective date is contrary to national security and public safety, because immediate action is necessary to protect the public, ports, and waters of the United States.

For the same reasons, 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**.

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 continuing national emergency with respect to terrorist attacks, at 67 FR 58317 (Sep. 13, 2002); and continuing national emergency with respect to persons who commit, threaten to commit, or support terrorism, at 67 FR 59447 (Sep. 20, 2002). The President found pursuant to law, including the Magnuson Act (50 U.S.C. 191 *et seq.*), that the security of the United States is and continues to be endangered since the terrorist attacks on the United States of September 11, 2001, and that such disturbances continue to endanger the Security of the United States, at Executive Order 13,273, 67 FR 56215 (Aug. 21, 2002). Following the attacks of well-trained and clandestine terrorists, national security and intelligence officials 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 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 utilize the port. Implementation of a port-wide slow speed regulated navigation area will greatly aid law enforcement officers in managing vessel traffic as any vessels not complying with the slow speed zone will quickly draw attention giving law enforcement more time to assess the situation and take appropriate action in protecting vessels within the port and port facilities. Prior to the creation of this temporary final rule, vessels were able to enter the harbor from sea at a high rate of speed and maintain a high rate of speed into the harbor until coming within close proximity of high capacity passenger vessels, vessels carrying hazardous cargo, critical