

Risks and Safety Risks. This rule is not an economically significant rule and does not concern 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 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.

### 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 (32)(e), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. Paragraph 32(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of the National Environmental Policy Act (NEPA). Since this regulation would alter the normal operating conditions of the drawbridge, it falls within this exclusion. A "Categorical Exclusion Determination" is in the docket for inspection or copying where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05-1(g); Department of Homeland Security Delegation No. 0170; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. From 7:30 a.m., December 15, 2003, through 7:30 a.m., March 15, 2004, § 117.T395 is added to read as follows:

### § 117.T395 Upper Mississippi River; Rock Island Railroad and Highway Drawbridge, Mile 482.9, Upper Mississippi River.

From 7:30 a.m., December 15, 2003 through 7:30 a.m., March 15, 2004, the drawspan need not open for river traffic and may be maintained in the closed-to-navigation position.

Dated: October 30, 2003.

J.W. Stark,

*Captain, U.S. Coast Guard, Acting Commander, Eighth Coast Guard District.*

[FR Doc. 03-28319 Filed 11-10-03; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[CGD08-03-029]

RIN 1625-AA11

### Regulated Navigation Area; Reporting Requirements for Barges Loaded With Certain Dangerous Cargoes, Inland Rivers, Eighth Coast Guard District; Correction

**AGENCY:** Coast Guard, DHS.

**ACTION:** Interim final rule; correction.

**SUMMARY:** On October 3, 2003, the Coast Guard published an interim final rule with a request for comments in the **Federal Register** that established a regulated navigation area (RNA) within all inland rivers of the Eighth Coast Guard District. This document contains corrections to that rule.

**DATES:** Effective November 1, 2003.

**FOR FURTHER INFORMATION CONTACT:** For information regarding this document, or if you have questions on viewing or submitting material to the docket, write or call Commander (CDR) Jerry Torok or Lieutenant (LT) Kevin Lynn, Project Managers for the Eighth Coast Guard District Commander, Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans, LA 70130, telephone (504) 589-6271.

**SUPPLEMENTARY INFORMATION:** On October 3, 2003, the Coast Guard published an interim final rule entitled "Regulated Navigation Area; Reporting Requirements for Barges Loaded With Certain Dangerous Cargoes, Inland Rivers, Eighth Coast Guard District" in the **Federal Register** (68 FR 57358). As originally drafted, the information in paragraph (e) of § 165.830 was set out as a table. On publication in the **Federal Register**, the table was converted to a textual format. References elsewhere in the published document to that table must now be corrected to reference paragraph (e), rather than the table.

In the temporary interim rule FR Doc. 03-25165 published on October 3, 2003 (68 FR 57358), make the following corrections:

■ On page 57361, in the second column, on line 4, correct "table" to read "§".

### § 165.830 [Corrected]

■ On page 57364, in the second column, in paragraph (d)(1)(v), remove "in table 165.830(e)".

Dated: October 31, 2003.

R.F. Duncan,

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 03-28328 Filed 11-10-03; 8:45 am]

**BILLING CODE 4910-15-P**

## 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:** Final rule.

**SUMMARY:** The Coast Guard has established a regulated navigation area in Port Everglades Harbor, Fort Lauderdale, Florida to promote national security and the safety and security of the harbor by enhancing law enforcement officer's opportunity to better protect high-risk vessels and facilities in Port Everglades Harbor. This rule establishes a slow speed zone in the harbor for vessels less than 150 meters in length.

**DATES:** This rule is effective November 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 [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.

**FOR FURTHER INFORMATION CONTACT:** LT Douglas Tindall, Coast Guard Marine Safety Office Miami, Waterways Management at (305) 535–8701.

**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

Coast Guard believes that by moving the boundaries of the RNA, which reduces the area within the channel covered by the RNA, the potential for smaller vessels to impede larger commercial vessels is minimized.

**Economic effects.** One comment expressed a fear that this rule would be overly burdensome or nonsensical and it will cause recreational boaters to seek other hobbies. The comment expressed a fear that with less boaters operating, service providers, restaurants, fuel docks, marinas, repair facilities and assistance companies who depend on boating traffic will suffer negative economic impacts. The Coast Guard disagrees. Local and federal law enforcement officials on scene observed no decrease in vessel traffic from the period prior to the temporary rule going into effect and during the time the temporary rule was in effect.

**Conflicts with the Rules of the Road.** One comment expressed a concern that the rule will directly conflict with the Inland Rules of the Road. Rule 6 of the Inland Navigation Rules contained in the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et. seq.) requires every vessel to proceed at a safe speed at all times so as to avoid collision and to stop within an appropriate distance given prevailing circumstances and conditions. (33 U.S.C. 2006, and *see* 33 CFR 89.23). The comment states that the area of the channel to which the proposed slow speed zone applies is the very area in which large commercial traffic is either accelerating to overcome the effects of cross wind and current or reducing speed prior to entering the confines of the port. The Coast Guard agrees that larger vessels may have to adjust their acceleration to overcome the effects of cross wind and current. As a result, the Coast Guard has moved the boundaries of the RNA, effectively reducing the area within the channel covered by the RNA, giving large vessels more area to slow down and speed up, to overcome the wind and current affects. Additionally, the Coast Guard is not subjecting vessels 150 meters or greater to the RNA's slow speed requirement. Finally, reducing the size of the RNA within the channel has removed the narrowest portion of the Inner Bar Cut from the RNA thus further minimizing the potential for smaller vessels to impede larger vessels operating within the channel.

#### **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 Homeland Security (DHS). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under the regulatory policies and procedures of DHS is unnecessary. The regulated navigation area is narrowly tailored to protect the public, ports and waterways of the United States. Vessels may transit through the regulated navigation area but must proceed at a slow speed.

#### **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" includes 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 regulated navigation area is narrowly tailored to protect the public, port and waterways of the United States in Port Everglades, Florida. Vessels may transit through the regulated navigation area but must proceed at a slow speed.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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.

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. Although this rule will not result in such 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. 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.ID, 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 a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are 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 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 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 106.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.765 to read as follows:

**§ 165.765 Regulated Navigation Area; Port Everglades Harbor, Fort Lauderdale, Florida.**

(a) *Location.* The following area in Port Everglades harbor is a regulated navigation area: all waters of Port Everglades harbor, from shore to shore, encompassed by a line commencing at the south mid-point tip of Harbor

Heights approximately 26°05.687' N, 080°06.684' W; thence south across Bar Cut to a point north of the Nova University Marina approximately 26°05.552' N, 080°06.682' W, thence southwesterly to a point near the center of Lake Mabel approximately 26°05.482' N, 080°06.793' W, thence northwesterly to a point near the Quick Flashing Red #12 approximately 26°05.666' N, 080°06.947' W, thence east to south mid-point tip of Harbor Heights (starting point) approximately 26°05.687' N, 080°06.684' W.

(b) *Regulations.* Vessels less than 150 meters entering and transiting through the regulated navigation area shall proceed at a slow speed. Nothing in this section alleviates vessels or operators from complying with all state and local laws in the area including manatee slow speed zones. Nor should anything in this section be construed as conflicting with the requirement to operate at safe speed under the Inland Navigation Rules, 33 U.S.C. 2001 *et seq.*

(c) *Definition.* As used in this section, *slow speed* means the speed at which a vessel proceeds when it is fully off plane, completely settled in the water and not creating excessive wake. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to slow speed. A vessel is not proceeding at slow speed if it is:

- (1) On a plane;
- (2) In the process of coming up on or coming off of plane; or
- (3) Creating an excessive wake.

Dated: October 31, 2003.

**H.E. Johnson, Jr.,**

*Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

[FR Doc. 03–28330 Filed 11–10–03; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[Region 2 Docket No. NJ56–250c, FRL–7582–8]**

### Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for Specific Sources in the State of New Jersey

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving revisions to the New Jersey State

Implementation Plan (SIP) for ozone. These revisions consist of source-specific reasonably available control technology (RACT) determinations for controlling oxides of nitrogen (NO<sub>x</sub>) emissions from seven facilities in New Jersey.

The EPA is also announcing that, for an eighth facility, New Jersey has revised a NO<sub>x</sub> RACT permit emission limit that EPA previously approved and EPA is incorporating the revised stricter limit into the State's SIP.

This final rule approves the source-specific RACT determinations that were made by New Jersey in accordance with provisions of its regulation. The intended effect of this rulemaking is to approve source-specific emission limitations required by the Clean Air Act.

**EFFECTIVE DATE:** This rule will be effective December 12, 2003.

**ADDRESSES:** A copy of the New Jersey submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102T), 1301 Constitution Avenue, NW., Washington, DC 20460.

### FOR FURTHER INFORMATION CONTACT:

Anthony (Ted) Gardella, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3892 or at [Gardella.Anthony@epa.gov](mailto:Gardella.Anthony@epa.gov).

**SUPPLEMENTARY INFORMATION:** The following table of contents describes the format for the Supplementary Information section:

- I. What Action Is EPA Taking Today?
- II. What Comments Did EPA Receive in Response to Its Proposal?
  - A. Background information
  - B. Comments received and EPA's response
- III. What Is EPA's Conclusion?
- IV. Statutory and Executive Order Reviews

### I. What Action Is EPA Taking Today?

EPA is approving revisions to New Jersey's ozone SIP submitted on January 21, 1998, June 12, 1998 and April 26, 1999. Seven specific sources are addressed in these SIP revisions. New Jersey revised and submitted these revisions in response to a Clean Air Act (CAA) requirement that states require