



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

Docket Number USCG-2017-0016

RIN 1625-AA87

Security Zone; Presidential Security Zone, Palm Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a security zone that encompasses certain waters of the Lake Worth Lagoon, the Intracoastal Waterway, and the Atlantic Ocean in the vicinity of the Mar-a-Lago Club and the Southern Boulevard Bridge in Palm Beach, Florida (FL). This proposed rule would be enforced during visits by the President of the United States, members of the First Family, or other persons under the protection of the Secret Service. This action is necessary to protect the official party, the public, and the surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other causes of a similar nature. Entering, transiting through, anchoring in, or remaining within this security zone while it is being enforced would be prohibited unless authorized by the Captain of the Port (COTP) Miami or a designated representative. We invite your comments on this proposed rule.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL

REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2017-0016 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email, Petty Officer Mara Brown, Waterways Management Division, U.S. Coast Guard; telephone 305-535-4317, email Mara.J.Brown@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
FL	Florida
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

The United States Coast Guard is establishing a security zone in the vicinity of the Mar-a-Lago Club in Palm Beach, FL. This security zone would be enforced whenever the President of the United States, members of the First Family or other persons under the protection of the Secret Service are present or expected to be present. The security zone is necessary to protect the official party, the public, and the surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other causes of a similar nature.

The Coast Guard previously established a temporary security zone to cover separate visits by the President of the United States to Mar-a-Lago, Palm Beach, FL in February (under docket

numbers USCG-2017-0072, USCG-2017-0088, and USCG-2017-0107), and in March (under docket number USCG-2017-0145). In addition, the Coast Guard issued a temporary security zone (published in the Federal Register on March 28, 2017, see 82 FR 58) to cover the President's visits to the Mar-a-Lago Club starting March 17, 2017, through May 29, 2017. Due to the short notice given to the Coast Guard prior to these visits, the security zones were established without notice and without allowing for public comment, pursuant to 5 U.S.C. 553(b)(B).

The purpose of this NPRM is to allow the public an opportunity to comment, while ensuring the security of vessels and the navigable waters during visits by the President, the First Family, and other persons under the protection of the Secret Service to the Mar-a-Lago Club. We are seeking to establish this security zone before Fall 2017 when the President is expected to make visits to the Mar-a-Lago Club. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The Coast Guard proposes to establish a security zone that encompasses certain waters of the Lake Worth Lagoon, the Intracoastal Waterway, and the Atlantic Ocean in the vicinity of the Mar-a-Lago Club and the Southern Boulevard Bridge in Palm Beach, FL. The security zone established for the specific security event will consist of one or more of the zones categorized below.

(1) The center zone would consist of waters of Lake Worth Lagoon from the southern tip of Everglades Island to approximately 1000 yards south of the Southern Boulevard Bridge and the eastern shoreline out to Fisherman Island. No vessel or person would be permitted to enter

into, transit in, anchor within, or remain within the center zone without obtaining permission from the Coast Guard or a designated representative.

(2) The west zone would consist of waters of Lake Worth Lagoon including the Intracoastal Waterway from the southern tip of Everglades Island to approximately 1000 yards south of the Southern Boulevard Bridge and from the western shoreline to Fisherman Island. All vessels transiting the west zone would be required to await escort through the zone by on-scene designated representatives, maintain a steady speed, and would not be allowed to slow down or stop in the zone without obtaining permission from the COTP Miami or a designated representative.

(3) The east zone would consist of waters of the Atlantic Ocean from Banyan Road in the north to Ocean View Road in the south and from shore to approximately 1000 yards east. All vessels transiting the east zone would be required to maintain a steady speed and would not be allowed to slow down or stop in the zone without obtaining permission from the COTP Miami or a designated representative.

The security zone would not be in effect all the time. Instead, the COTP Miami will notify the maritime community that the security zone is in effect, and in which locations, using Broadcast Notice to Mariners (BNM) and on-scene designated representatives. Coast Guard patrol assets will also be on scene with flashing blue lights energized when the center, west, or east security zone is in effect.

The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these

statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See the OMB Memorandum titled “Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled ‘Reducing Regulation and Controlling Regulatory Costs’” (February 2, 2017).

The economic impact of this proposed rule is not significant for the following reasons: (1) the security zone is expected to be enforced only when the President of the United States, members of the First Family, or other persons under the protection of the Secret Service are present or expected to be present; (2) the center zone will impact only a small designated area of the Intracoastal Waterway in Palm Beach, FL, and vessels may be able to operate through the

zone if granted permission to do so by the COTP of Miami or a designated representative; (3) the west zone is located in an area of the Intracoastal Waterway where vessel traffic is low and where on average 152 vessels are expected to travel per day, and vessels will be allowed to operate through the zone with an escort from an on-scene designated representative; (4) vessels will still be able to transit the east zone at a steady speed as long as they do not slow down or stop except in the case of unforeseen mechanical or other emergency; and (5) notification of the security zone will be made to the local maritime community via Broadcast Notice to Mariners and by on-scene designated representatives, when applicable. Larger vessels may need to wait to pass under the Southern Blvd Bridge, which has set opening times pursuant to a separate existing regulation at 33 CFR 117.261(w). The bridge opens on the quarter-hour and three-quarter hour, or as directed by the on-scene designated representative.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the security zones may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a

small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. 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 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a security zone lasting only a few days at a time that will prohibit entry within certain waters of the Intracoastal Waterway and Atlantic Ocean in Palm Beach, FL. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2-1 of Commandant Instruction M16475.ID. A preliminary Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a

significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by

following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

Harbor, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.785 to read as follows:

§ 165.785 Security Zone; Presidential Security Zone, Palm Beach, FL.

(a) Regulated areas. The following areas are security zones:

(1) Center zone. All waters of Lake Worth Lagoon within the following points: Beginning at Point 1 in position 26°41'21"N, 80°2'39"W; thence east to Point 2 in position 26°41'21"N, 80°2'13"W; thence south following the shoreline to Point 3 in position 26°39'58"N, 80°2'20"W; thence west to Point 4 in position 26°39'58"N, 80°2'38"W, thence back to origin at Point 1.

(2) West zone. All waters of Lake Worth Lagoon within the following points: Beginning at Point 1 in position 26°41'21"N, 80°2'39"W; thence west to Point 2 in position 26°41'21"N,

80°3'00"W; thence south following the shoreline to Point 3 in position 26°39'58"N, 80°2'55"W; thence east to Point 4 in position 26°39'58"N, 80°2'38"W, thence back to origin at Point 1.

(3) East zone. All waters of the Atlantic Ocean within the following points: Beginning at Point 1 in position 26°41'21"N, 80°2'01"W; thence south following the shoreline to Point 2 in position 26°39'57"N, 80°2'01"W; thence east to Point 3 in position 26°39'58"N, 80°1'02"W; thence north to Point 4 in position 26°41'20"N, 80°1'02"W, thence back to origin at Point 1.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the security zone.

(c) Regulations—(1) Center zone. All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the security zone unless authorized by the Captain of the Port Miami or a designated representative.

(2) West zone. All persons and vessels are required to transit through the security zone escorted by on-scene designated representatives at a steady speed and may not slow down or stop except in the case of unforeseen mechanical or other emergency. Any persons or vessels forced to slow or stop in the zone shall immediately notify the Captain of the Port Miami via VHF channel 16.

(3) East zone. All persons and vessels are required to transit through the security zone at a steady speed and may not slow down or stop except in the case of unforeseen mechanical or other emergency. Any persons or vessels forced to slow or stop in the zone shall immediately notify the Captain of the Port via VHF channel 16.

(4) Contacting Captain of the Port. Persons who must notify, or request authorization

from, the Captain of the Port Miami may do so by telephone at (305)535-4472, or may contact a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the security zone is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or the designated representative.

(d) Enforcement period. This section will be enforced when the President of the United States, members of the First Family, or other persons under the protection of the Secret Service are present or expected to be present at the Mar-a-Lago Club. The Coast Guard will provide notice of the regulated area via Broadcast Notice to Mariners or by on-scene designated representatives. Coast Guard patrol assets will also be on-scene with flashing blue lights energized when the center, west, or east security zone is in effect.

Dated: June 6, 2017

M. M. Dean,
Captain, U.S. Coast Guard,
Captain of the Port Miami.
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