



**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

**[Docket Number USCG-2019-0208]**

**RIN 1625-AA00**

**Safety Zone; St Lucie River, Stuart, Florida**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a temporary safety zone for certain navigable waters of the St Lucie River in Stuart, Florida. This action is necessary to provide for the safety of life on these navigable waters east of the Roosevelt/U.S. Route 1 Bridge during the Stuart Air Show. This regulation prohibits vessels and persons from entering the safety zone unless authorized by the Captain of the Port (COTP) Miami or a designated representative.

**DATES:** This rule is effective from 6 p.m. until 7:30 p.m. on July 4, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0208 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Omar Beceiro, Sector Miami Waterways

Management Division, U.S. Coast Guard, telephone 305-535-4317, email  
omar.beceiro@uscg.mil.

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

### **II. Background Information and Regulatory History**

On March 27, 2019, Stuart Airshow Inc. notified the Coast Guard that it would be sponsoring the Stuart Airshow on July 4, 2019 from 6 p.m. through 7:30 p.m. The air show would take place east of the Roosevelt/U.S. Route 1 Bridge on the St Lucie River in Stuart, Florida. The COTP Miami determined the air show would present a safety concern for persons and/or vessels operating beneath aerial demonstrations. In response, the Coast Guard published a notice of proposed rulemaking (NPRM) on April 22, 2019, entitled “Safety Zone; St Lucie River, Stuart, Florida” (84 FR 16630). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this safety zone. During the comment period that ended May 22, 2019, we did not receive any comments.

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**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to protect the public, spectators, vessels, and marine environment during the air show.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP Miami has determined that potential hazards associated with the Stuart Air Show on July 4, 2019 will be a safety concern for persons or vessels operating underneath aerial demonstrations. The purpose of this rule is to ensure the safety of vessels and navigable waters in the safety zone before, during, and after the scheduled event.

### **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received no comments on our NPRM that published on April 22, 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone on July 4, 2019 from 6 p.m. through 7:30 p.m. The safety zone will cover certain navigable waters east of the Roosevelt/U.S. Route 1 Bridge on the St Lucie River in Stuart, Florida. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the air show. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

### **V. Regulatory Analyses**

We developed this 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 and 13563 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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around the safety zone, which would affect a small designated area of the St Lucie River for approximately 90 minutes during the evening. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

#### *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 did not receive any comments from the Small Business Administration on this rulemaking. 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.

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

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 rule. If the 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.

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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### *C. Collection of Information*

This rule will 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 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 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. If you believe this 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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined 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 rule involves a safety zone lasting approximately 90 minutes that will prohibit entry into a regulated area on the St Lucie River east of the Roosevelt/U.S. Route 1 Bridge in Stuart, Florida. It is categorically excluded from further review under

paragraph L60(a) in Table 3-1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

*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.

**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:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; and Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T07-0208 to read as follows:

**§ 165.T07-0208 Safety Zone; St Lucie River, Stuart, FL.**

(a) **Location.** The safety zone will encompass all waters of St Lucie River, Stuart FL contained within the following points: commencing at 27° 12' 24" N, 080° 15'

21" W; thence southeast to 27° 12' 21" N, 080° 14' 48" W; thence southwest to 27° 12' 06" N, 080° 14' 50" W; then northwest to 27° 12' 10" N, 080° 15' 23" W; thence northeast to origin. All coordinates are North American Datum 1983.

(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 COTP in the enforcement of the regulated area.

(c) Regulations. (1) No person or vessel will be permitted to enter, transit, anchor, or remain within the regulated area unless authorized by COTP or a designated representative.

(2) Persons and vessels desiring to enter, transit, anchor, or remain within the regulated area may contact the COTP by telephone at 305-535-4313, or a designated representative via VHF radio on channel 16 to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative.

(d) Enforcement period. This regulation will be enforced from 6 p.m. until 7:30 p.m. on July 4, 2019.

Dated: June 3, 2019.

J. F. BURDIAN,  
Captain, U.S. Coast Guard,  
Captain of the Port Miami  
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