



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0220]

RIN 1625-AA87

Security Zone; VIP Visits, Palm Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

---

**SUMMARY:** The Coast Guard is establishing a temporary security zone in the vicinity of the Mar-a-Lago in Palm Beach, Florida during the visit of a high-level government official. 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. Entering, transiting through, anchoring in, or remaining within this security zone is prohibited unless authorized by the Captain of the Port Miami or a designated representative.

**DATES:** This rule is effective without actual notice from [INSERT DATE PUBLISHED IN THE FEDERAL REGISTER] through May 29, 2017. For purposes of enforcement, actual notice will be used from March 17, 2017 through [INSERT DATE PUBLISHED IN THE FEDERAL REGISTER].

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0220 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 on this rule, call or email Petty Officer Mara Brown, Sector Miami 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
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**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because specific information regarding the need for the regulation was not received in time to publish a NPRM before the regulation’s effective date. Delay in promulgating this rule would be impracticable and contrary to public interest because a security zone is required with short notice to protect the elected government official and the official’s party in the vicinity of this waterway. The official’s presence creates unique safety and security concerns.

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** for the same reasons

discussed above.

We note that the Coast Guard is in the process of publishing an NPRM proposing to establish a permanent security zone for these events. While that rulemaking action will not affect the events occurring through May 29, 2017, it would establish a security zone for future similar events.

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

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Miami (COTP) has determined that the official's visit presents a potential target for terrorist acts, sabotage, or other subversive acts, accidents, or other causes of a similar nature. Given the close proximity of the waterways to the official's visit site, this security zone is necessary to protect the official party, the public, and the surrounding waterways adjacent to the Mar-a-Lago Resort in Palm Beach, Florida.

### **IV. Discussion of the Rule**

This rule establishes a security zone from March 17, 2017 through May 29, 2017. The rule will be enforced every Friday through Monday on a recurring weekly basis from March 17, 2017 through May 29, 2017 during the visit of a high-level government official. This rule will be enforced with actual notice while the high-level government official is visiting. This rule establishes a temporary security zone, which encompasses certain waters of the Intracoastal Waterway and the Atlantic Ocean in the vicinity of the Southern Boulevard Bridge in Palm Beach, Florida. The security zone will be broken into three zones. The first zone will consist of waters of the Lake Worth Lagoon from the southern tip of the Everglades Island to approximately 1000 yards south of the Southern Boulevard Bridge, and the eastern shore line out to Fisherman

Island. No vessel or person will be permitted to enter, transit through, anchor in, or remain in the first zone without obtaining permission from the COTP or a designated representative.

The second zone will consist of waters of the Lake Worth Lagoon including the Intracoastal Waterway from the southern tip of the Everglades Island to approximately 1000 yards south of the Southern Boulevard Bridge, and from the western shore line to the western edge of the Fisherman Island. All vessels transiting the second zone shall maintain a steady speed and shall not slow or stop in the zone.

The third zone will consist of waters of the Atlantic Ocean from the Banyan Road south to Ocean View Road, and from shore to approximately 1000 yards east of the shoreline. All vessels transiting the third zone shall maintain a steady speed and shall not slow or stop in the zone.

## **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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-year of the security zone. Vessel traffic will be able to safely transit around this security zone,

which will impact a small designated area of the Intracoastal Waterway and the Atlantic Ocean in Palm Beach, FL for no more than five days at a time from March 17, 2017 to May 29, 2017 and in an area where traffic is low. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about 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 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 above.

#### 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 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 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 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, Florida. It is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this 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.

#### **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. 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 a temporary § 165.T07-0220 to read as follows:

#### § 165.T07-0220 Security Zone; VIP Visits, Palm Beach, Florida.

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

(1) Zone 1. The navigable waters within the following points are a regulated area:

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) Zone 2. The navigable waters within the following points are a regulated area:

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) Zone 3. The navigable waters within the following points are a regulated area:

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) Regulations.

(1) Requirements for Zone 1. 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) Requirements for Zone 2. 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 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.

(3) Requirements for Zone 3. 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 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) Persons and vessels desiring to enter, transit through, anchor in, or remain within the security zones described in paragraph (a) of this section may contact the Captain of the Port Miami by telephone at 305-535-4472, or a designated representative via VHF radio on channel 16 to request authorization. If authorization to enter, transit through, anchor in, or remain within the security zones 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.

(5) The Coast Guard will provide notice of the security zones by Broadcast Notice to Mariners and on-scene designated representatives.

(c) 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 regulated area.

(d) Effective and enforcement dates. This rule is effective from March 17, 2017 through May 29, 2017. This rule will be enforced with actual notice on a recurring weekly basis from March 17, 2017 through May 29, 2017, while the high-level government official is visiting.

Dated: March 17, 2017

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

[FR Doc. 2017-06111 Filed: 3/27/2017 8:45 am; Publication Date: 3/28/2017]