



**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR 165**

**[Docket Number USCG-2019-0830]**

**RIN 1625-AA87**

**Security Zone; Super Bowl 2020, Bayfront Park, Miami, FL**

**AGENCY: Coast Guard, DHS**

**ACTION: Final rule**

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**SUMMARY:** The Coast Guard is establishing a temporary security zone over certain navigable waters of Biscayne Bay during Super Bowl 2020 events in Miami, Florida. The security zone is necessary to protect the official party, public, and surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other hazards of a similar nature. This regulation requires vessels transit through the security zone at a steady speed and not stop or anchor unless authorized by the Captain of the Port Miami (COTP) or a designated representative.

**DATES:** This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through February 3, 2020. For the purposes of enforcement, actual notice will be used from January 26, 2020, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0830 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, contact Omar Beceiro, Sector Miami Waterways Management Division, U.S. Coast Guard at 305-535-4317 or by email [Omar.Beceiro@uscg.mil](mailto: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**

The City of Miami will be hosting Super Bowl LIV (54) on February 2, 2020. In addition, several venues and hotels in the City of Miami downtown area will host Super Bowl-related events during the week preceding the Super Bowl. Major event venues include Bayfront Park, Adrienne Arsht Center for the Performing Arts, and JW Marriott Marquis Hotel. The Coast Guard anticipates these events will draw large crowds and present a security concern since the venues may be accessed from or are in close proximity to the Biscayne Bay waterfront. The COTP has determined the ease of waterfront access to the various venues hosting Super Bowl events present a security concern for attendees. In response, the Coast Guard published a notice of proposed rulemaking (NPRM) on November 5, 2019, titled “Security Zone; Super Bowl 2020, Bayfront Park, Miami, FL” (84 FR 59602). There we stated why we issued the NPRM

and invited comments on our proposed regulatory action related to this security zone. During the comment period that ended December 5, 2019, we received 13 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 respond to potential security concerns associated with the Super Bowl and related activities and events.

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

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP has determined the ease of waterfront access to various venues hosting Super Bowl events presents a security concern for attendees and surrounding waterways. The purpose of this rulemaking is to ensure security of the public, Very important persons, official party and surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other hazards of a similar nature.

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

As noted above, the Coast Guard received 13 comments on the NPRM during the comment period which closed on December 5, 2019. Twelve comments were in favor of the Coast Guard establishing the security zone during the week of Super Bowl activities. One comment sought to clarify whether private parties would be allowed to access the security zone before, during and after the Super Bowl. This regulation will permit private vessels to transit the security zone but not stop or anchor unless authorized by the COTP or a designated representative. One of the 12 supporting comments asked that affected businesses be given ample notification prior to the Coast Guard enforcing the security

zone. The NPRM which published on November 5, 2019, provided approximately 11 weeks notice of the security zone to potentially affected persons, vessels, and facilities. In addition, the Coast Guard will notify the local maritime community of the security zone through various means including, local notice mariners and broadcast notice to mariners issued on VHF-FM marine radio channel 16.

There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a temporary security zone that will be enforced 24 hours a day beginning at 8:00 a.m. on January 26, 2020 until 8:00 a.m. on February 3, 2020. The temporary security zone would cover all navigable waters of the Intracoastal Waterway in Biscayne Bay from approximately Venetian Causeway south to and including a portion of the Miami River. The duration of the temporary security zone is intended to ensure the security of the public, executives, official party and surrounding waterway before, during, and after the various Super Bowl-related events in the Downtown area of Miami, Florida. All persons and vessels will be required to transit the security zone at a steady speed and may not slow down, stop, or anchor 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, and duration of the security zone. The security zone will only affect a small area of Biscayne Bay near Bayfront Park in the Port of Miami for approximately eight days and thus is limited in time and scope. Vessels will be able to transit the security zone along the Intracoastal Waterway with the only restriction being the inability to stop or anchor within the zone. Moreover, upon activating the security zone, the Coast Guard will notify the local maritime community through various means including, Local Notice Mariners and Broadcast Notice to Mariners issued on VHF-FM marine radio channel 16.

#### *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 security 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 call or email 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 call or email 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, Rev. 1, associated implementing instructions, 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 temporary security zone lasting approximately eight days that would prohibit vessels from stopping or anchoring within the zone. Normally such actions are categorically excluded from further review under paragraph L60(a) in Table 3-1 of U.S. Coast Guard Environmental Planning Implementing Procedures. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

*G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T07-0830 to read as follows:

**§ 165.T07-0830 Security Zone; Super Bowl 2020, Bayfront Park, Miami, FL**

(a) *Regulated Areas.* The following is a temporary security zone:

(1) All waters of Biscayne Bay within the following points: beginning at Point 1 in position 25°47'13"N, 80°11'6"W; thence east to Point 2 in position 25°47'13"N, 80°10'48"W; thence south to Point 3 in position 25°46'11"N, 80°10'48"W; thence west to Point 4 in position 25°46'11"N, 80°11'27"W; thence north to Point 5 in position 25°46'15"N, 80°11'27"W; thence east to Point 6 in position 25°46'15"N, 80°11'6"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 COTP in the enforcement of the security zone.

(c) *Regulations.* (1) All persons and vessels are required to transit the security zone at a steady speed and may not slow down, stop, or anchor except in the case of unforeseen mechanical failure or other emergency. Any persons or vessels forced to slow or stop in the zone shall immediately notify the COTP via VHF channel 16.

(2) Persons who must notify or request authorization from the COTP may do so by telephone at (305) 535-4472, or may contact a designated representative via VHF radio on channel 16.

(3) If authorization to anchor, or remain within the security zone is granted by the COTP or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP or the designated representative.

(d) *Enforcement Period.* This rule will be enforced from 8 a.m. on January 26,

2020 through 8 a.m. on February 3, 2020.

Dated: January 10, 2020

J. F. Burdian

Captain, U.S. Coast Guard,

Captain of the Port Miami

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