



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2023-0769]

RIN 1625-AA87

### Security Zone; Watson Bayou, Panama City, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a temporary security zone for navigable waters of Watson Bayou, Panama City FL, within an area bound by the following points: 30° 08' 17.8" N, 85° 38' 6.6" W (Diamond Point), thence northeast toward 30° 08' 34.6 N, 85° 37' 55.7" W (Eastern Shipbuilding), thence east to the South East Avenue Bridge. The security zone is needed 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. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Sector Mobile Captain of the Port (COTP).

**DATES:** This rule is effective from 1:30 p.m. on October 27, 2023, through 5 p.m. on November 27, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0769 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rule, call or email MSTC Stacy Stevenson, Waterways Management Division, U.S. Coast Guard; telephone 251-382-8653, email [Sectormobilewaterways@uscg.mil](mailto:Sectormobilewaterways@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 it is impracticable and contrary to public interest to delay the effective date of this rule. The security zone must be established by October 27, 2023, to mitigate potential terrorist acts, and enhance public and maritime safety and security. The Coast Guard was unable to publish an NPRM due to the short period between the time of the request for Coast Guard enforcement and the actual event. The request for enforcement was received on September 11, 2023. Furthermore, delaying the effective date would be contrary to the security zone’s intended objectives of protecting government officials and dignitaries, mitigating potential terrorists acts, and enhancing maritime safety and security.

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 because immediate action to restrict vessel traffic is needed to protect life and property and mitigate potential maritime threats.

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

The Coast Guard may issue security zone regulations under authority in 46 U.S.C.70051 and 70124. The COTP has determined that a security zone is necessary for the protection of government officials and dignitaries during an official visit to Watson Bayou, Panama City, FL, in the vicinity of Eastern Shipbuilding. This rule is needed to protect personnel and vessels in the navigable waters within the security zone.

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

This rule establishes a security zone on certain navigable waters of Watson Bayou, Panama City FL from 1:30 p.m. October 27, 2023, through 5 p.m. November 27, 2023. The security zone will be enforced from 1:30 p.m. through 5 p.m. on October 27, 2023. If the event is delayed, the security zone will be enforcement on a subsequent date before November 27, 2023, for approximately 3.5 hours. The duration of the zone is intended to protect personnel, vessels, and ensure maritime security in these navigable waters during a visit of government personnel and dignitaries. No vessel or person will be permitted to enter the security 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. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB). This regulatory action determination is based on the size, location, duration, and time-of-day of the security zone. This security zone would impact a small, designated area of Watson Bayou, in the vicinity of Eastern Shipbuilding, for approximately 3.5 hours or less during a period when vessel traffic is typically relatively slow. In addition, vessel traffic will be able to transit Watson Bayou Channel to the west of the security zone. Moreover, the Coast Guard would 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 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 (Pub. L. 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.

*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 security zone lasting only 3.5 hours that will prohibit entry on a portion of Watson Bayou, in the vicinity of Eastern Shipbuilding. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. 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, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 165.T08-0769 to read as follows:

**§ 165.T08-0769 Security Zone; Watson Bayou, Panama City, FL.**

(a) *Location.* The following area is a security zone: All navigable waters of Watson Bayou, Panama City FL, within an area bound by the following points: 30° 08' 17.8" N, 85° 38' 6.6" W (Diamond Point), thence northeast toward 30° 08' 34.6 N, 85° 37' 55.7" W (Eastern Shipbuilding), then east to the South East Avenue Bridge, and back to the point of origin.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Sector Mobile Captain of the Port (COTP) in the enforcement of the security zone.

(c) *Regulations.* (1) Under the general security zone regulations in subpart D of this part, you may not enter the security zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF-CH 16. Those in the security zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section is effective from 1:30 p.m. on October 27,

2023, through 5 p.m. on November 27, 2023. The security zone will be enforced from 1:30 p.m. through 5 p.m. on October 27, 2023. If the event is delayed, the security zone will be enforcement on a subsequent date before November 27, 2023, for approximately 3.5 hours. If the COTP determines no further need to enforce the security zone, the COTP will issue a general permission to enter via a Broadcast Notice to Mariners to indicate that the zone will no longer be subject to enforcement. If the COTP determines the need to enforce the section at a subsequent time, the COTP will provide the public with notice of enforcement of the security zone by marine broadcast, local notice to mariners, on-scene notice by a designated representative, or other appropriate means in accordance with 33 CFR 165.7.

Dated: October 16, 2023.

U. S. MULLINS,

Captain, U.S. Coast Guard,  
Captain of the Port Sector Mobile.

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