



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2022-0058]

RIN 1625-AA87

Security Zone, Port of Miami, Florida

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the existing Port of Miami fixed security zone regulation that encompasses certain navigable waters of the Miami Main Channel in Miami, FL. The change is designed to extend the existing fixed security zone eastward along the Miami Main Channel. The extension was established to include the new cruise ship terminal at the Port of Miami added in December 2024. This action extends existing fixed security zone approximately 840 yards eastward along the Miami Main Channel.

DATES: This rule is effective [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-2022-0058 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 on this rule, call or email Lieutenant Guerschom Etienne, Waterways Management Division Chief, U.S. Coast Guard; telephone (305) 535-4307, email Guerschom.Etienne@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
ICW	Intercoastal Waterway
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Port of Miami is undergoing an expansion project that will create new cruise ship terminals at the eastern end of the Port and outside the existing security zone. The Captain of the Port (COTP) Miami identified a need to amend the existing security zone to address the Port of Miami's cruise ship terminal expansion. In response, on August 16, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) titled "Security Zone; Port of Miami" (87 FR 50278). 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 September 15, 2022, we received no 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. This rule must be immediately effective to guard against potential security concerns associated with the new cruise ship terminal at the Port of Miami which was added in December 2024.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority in 46 U.S.C. 70051 and 70124. The Captain of the Port Miami (COTP) has determined it is necessary to extend the existing Port of Miami fixed security zone eastward approximately 840 yards to cover all navigable waters in the Main Ship Channel from approximately Watson Island to just

west of the Biscayne Bay Pilots Station.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published August 16, 2022. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule amends an established fixed security zone that encompasses all waters in the Main Ship Channel from approximately Star Island to just west of the Biscayne Bay Pilots Station. The fixed security zone is in effect when two or more passenger vessels, vessels carrying cargoes of particular hazard, or vessels carrying LHG, enter or moor within this zone.

When the security zone is in effect, persons and vessels shall not enter or transit the security zone along the Miami Main Channel unless authorized by Captain of the Port of Miami or a designated representative. Persons and vessels may transit the Miami Main Channel when only one passenger vessel, one vessel carrying cargoes of particular hazard or one vessel carrying LHG is berthed. The public will be able to reach law enforcement vessels via VHF-FM marine channel 16.

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 Executive Order 12866. Accordingly, this rule has not been

reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the limited nature of the security zone, specifically: persons and vessels may transit the Miami Main Channel when less than two passenger vessel is berthed, less than two vessel carrying cargoes of hazard, or vessel carrying LHG is berthed in the channel. Additionally, persons and vessels may operate within the security zone when authorized by Captain of the Port of Miami or a 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 rule will not have a significant economic impact on a substantial number of small entities.

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 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 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 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.

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 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 rule involves increasing the size of an existing security zone along the Miami Main Channel. Such actions are 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 Record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amending 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. 00170.1, Revision No. 01.3.

2. In § 165.760, revise paragraph (b)(2) to read as follows:

§ 165.760 Security Zones; Port of Palm Beach, Port Everglades, and Port of Miami, Florida.

* * * * *

(b) * * *

(2) *Fixed security zone in Port of Miami, Florida.* A fixed security zone encompassing all navigable waters within the Miami Main Channel between Star Island to just west of the Biscayne Bay Pilots Station. The security zone is formed by an imaginary line starting at the northwest corner in position 25°46.33'N, 080°09.16'W; thence in an easterly direction to the northeast corner in position 25°46.17'N, 080°08.77'W; thence in a southerly direction to the southeast corner in position 25°46.04'N, 080°08.75'W; thence in a northwesterly direction to the southwest corner in position 25°46.23'N, 080°09.16'W, thence in a northerly direction back to the northwest corner.

(i) When the security zone is in effect, persons and vessels shall not enter or transit the security zone along the Miami Main Channel unless authorized by Captain of the Port of Miami or a designated representative.

(ii) Persons and vessels may transit the Miami Main Channel when only one passenger vessel is berthed in the channel, one vessel carrying cargoes of hazard is berthed in the channel, or one vessel carrying LHG is berthed in the channel.

(iii) Law enforcement vessels can be contacted on VHF Marine Band Radio, Channel 16 (156.8 MHz).

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C. R. Cederholm
Captain, U.S. Coast Guard,
Captain of the Port Miami

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