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*Acting Manager, Rules and Regulations Group.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2023–0803]

RIN 1625–AA11

#### Security Zone; Coast Guard Sector Key West, Trumbo Point Annex, Key West Harbor, Key West, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a security zone for certain waters of the Key West Harbor surrounding the Coast Guard Sector Key West on Trumbo Point Annex. This action is necessary to safeguard Coast Guard assets in the interest of national security. This proposed rulemaking would prohibit persons and vessels from being in the security zone unless authorized by the Captain of the Port Key West or a designated representative. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before December 11, 2023.

**ADDRESSES:** You may submit comments identified by docket number USCG–2023–0803 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Lieutenant Hailye Wilson, Waterways Management Division, U.S. Coast Guard; telephone 305–292–8768, email [Hailye.M.Wilson@uscg.mil](mailto:Hailye.M.Wilson@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations

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

##### II. Background, Purpose, and Legal Basis

The Coast Guard Sector Key West, FL and its assets are on property previously under the control of the Naval Air Station (NAS) Key West, FL. The current regulations restricting vessel traffic in and around NAS Key West are found in 33 CFR 334.610 and are only enforceable by the Commanding Officer of NAS Key West, and certain designated agencies. Currently, the Coast Guard requires the authority from the Commanding Officer, NAS Key West, before they can enforce a security zone in and around Coast Guard property and assets. This additional step can generate unnecessary delays, which creates security concerns for the Coast Guard and potential hazards to the public. The Captain of the Port Key West (COTP) has determined that permanent security zone is in the interest of national security, the safety of life, and the prevention of damage to property.

The purpose of this rulemaking is to ensure the security of vessels, waterfront facilities, and personnel located at the Coast Guard, Sector Key West. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70051 and 70124.

##### III. Discussion of Proposed Rule

The COTP is proposing to establish a permanent security zone surrounding the Coast Guard Sector Key West, located adjacent to Trumbo Point Annex, Naval Air Station Key West. The security zone would cover all navigable waters within 100 yards of the Coast Guard Sector Key West. No vessel, other than Government-owned vessels and specifically authorized private craft, or persons would be permitted to stop or land in the security zone. The regulatory text we are proposing appears at the end of this document.

##### IV. Regulatory Analyses

We developed this proposed 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 NPRM 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, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the fact that the area covered by the permanent security zone created by this rulemaking is already a regulated restricted area as contained in 33 CFR 334.610. Unauthorized vessels and persons have not been allowed to stop and land within 100 yards of the Coast Guard base on Trumbo Point Annex through the regulation in § 334.610. This rulemaking allows the Coast Guard to enforce the restricted area through a security zone. Additionally, the security zone only extends 100 yards from the Coast Guard Sector Key West, located adjacent to Trumbo Point Annex, Naval Air Station Key West and does not impede any regular vessel traffic (*i.e.*, cruise ships, ferries, small passenger vessels, etc.). Vessels will be able to transit safely around 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

For the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rulemaking would economically affect it.

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

#### C. Collection of Information

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

#### F. Environment

We have analyzed this proposed 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 proposed rule involves a security zone that would prohibit vessels and persons from stopping or landing within 100 yards of the United States Coast Guard base on Trumbo Point Annex. Normally 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 preliminary 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. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### 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.

#### V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

**Submitting comments.** We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2023–0803 in the search box and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION**

**CONTACT** section of this proposed rule for alternate instructions.

**Viewing material in docket.** To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions web page. Also, if you click on the Dockets tab and then the proposed rule, you should see a “Subscribe” option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

**Personal information.** We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

#### 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 is proposing to amend 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 § 165.764 to read as follows:

##### § 165.764 Security Zone; Coast Guard Sector Key West, Trumbo Point Annex, Key West Harbor, Key West, FL.

(a) **Location.** The following area is a security zone: All waters within 100 yards of the Coast Guard Sector Key West, from surface to bottom, encompassed by a line that extends north 100 yards into the Fleming Key Channel from point 24°34′02″ N, 81°47′52.7″ W; thence westerly, maintaining 100 yards from the Coast Guard property; thence southerly, 100 yards from the end of the piers; thence

easterly to 24°33'48.8" N, 081°47'54.8" W, and along the shore line back to the beginning point. These coordinates are based on North American Datum 1983.

(b) *Definitions.* As used in this section, *vessel* means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, except U.S. Coast Guard or U.S. naval vessels.

(c) *Regulations.* (1) Under the general security zone regulations in subpart D of this part, no person or vessel may enter or remain in the security zone described in paragraph (a) of this section without the permission of the Captain of the Port, other than Government-owned vessels.

(2) While anchoring, loitering, or fishing activities are prohibited, vessels may transit the following portions of the security zone at safe speed:

(i) Fleming Key Cut, extending from the northwest corner of Pier D-3 of U.S. Coast Guard Key West, eastward beneath the Fleming Key bridge.

(ii) Key West Bight Channel, which extends easterly from the Main Ship Channel into Key West Bight, the northerly edge of which channel passes 25 feet south of the U.S. Coast Guard Sector Key West piers on the north side of the Bight.

**Jason D. Ingram,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Key West.*

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## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR Part 192

[Docket No. PHMSA-2023-0080]

#### Pipeline Safety: Mifflin Energy Corporation's Petition for Declaratory Order Concerning Part 192 Jurisdiction and Operator Responsibility Over Customer-Owned Piping

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

**ACTION:** Petition for a Declaratory Order.

**SUMMARY:** The Pipeline and Hazardous Materials Safety Administration is seeking comment on a Petition for a Declaratory Order (Petition).

**DATES:** Comments are due on or before December 11, 2023. Reply comments to

comments received are due on or before December 26, 2023.

**ADDRESSES:** Comments should reference the docket number for the petition request and may be submitted by any of the following methods:

- *Web:* <https://www.regulations.gov>.

This site allows the public to enter comments on any **Federal Register** document issued by any agency. Follow the online instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building: Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building: Room W12-140, Washington, DC 20590-0001, between 9 a.m. and 5 p.m. EST, Monday through Friday, except Federal holidays.

- *Instructions:* Identify [Docket No. PHMSA-2023-0080] at the beginning of your comments. If you submit your comments by mail, submit two copies. Internet users may submit comments at <https://www.regulations.gov>. If you would like confirmation that PHMSA received your comments, please include a self-addressed stamped postcard labeled "Comments on PHMSA-2023-0080." The docket clerk will date stamp the postcard prior to returning it to you via U.S. mail.

- *Note:* All comments received will be posted without edits to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading for more information. Anyone can use the site to search all comments by the name of the submitting individual or, if the comment was submitted on behalf of an association, business, labor union, etc., the name of the signing individual. Therefore, please review the complete DOT Privacy Act Statement in the **Federal Register** at 65 FR 19477 or the Privacy Notice at <https://www.regulations.gov> before submitting comments.

- *Privacy Act Statement:* DOT may solicit comments from the public regarding certain general notices. DOT posts these comments without edit, including any personal information the commenter provides, to [www.regulations.gov](https://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](https://www.dot.gov/privacy).

- *Confidential Business Information:* Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually

treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments in response to this document contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this document it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343, you may ask PHMSA to provide confidential treatment to information you give to the Agency by taking the following steps: (1) mark each page of the original document submission containing CBI as "Confidential;" (2) send PHMSA a copy of the original document with the CBI deleted along with the original, unaltered document; and (3) explain why the information you are submitting is CBI. Submissions containing CBI should be sent to Tewabe Asebe, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Submission containing CBI can also be emailed to Tewabe Asebe by encrypted email at [tewabe.asebe@dot.gov](mailto:tewabe.asebe@dot.gov). Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket.

- *Docket:* For access to the docket or to read background documents or comments, go to <https://www.regulations.gov>. Follow the online instructions for accessing the dockets. Alternatively, this information is available by visiting DOT at 1200 New Jersey Avenue SE, West Building: Room W12-140, Washington, DC 20590-0001, between 9:00 a.m. and 5:00 p.m. EST, Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Tewabe Asebe, Office of Pipeline Safety, by phone at 202-366-5523 or by email at [tewabe.asebe@dot.gov](mailto:tewabe.asebe@dot.gov).

**SUPPLEMENTARY INFORMATION:** PHMSA is evaluating a Petition for a Declaratory Order (Petition) from Mifflin Energy Corporation (Mifflin), pursuant to 49 U.S.C. 60117(b)(1)(J).

Mifflin operated a production line in Greene County, Pennsylvania, which was subject to a free gas arrangement. Under the arrangement, gas flowed from Mifflin's production line through a pipeline owned by the landowner, with the regulator and meter placed at the juncture of the production line and the customer-owned pipeline. In March 2020, with Mifflin's consent, the landowner moved the regulator and the meter downstream of the juncture, further down the landowner's pipeline.