

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[USCG-2007-0062]

RIN 1625-AA87

#### Security Zone; Tampa Bay, Port of Tampa, Port of St. Petersburg, Rattlesnake, Old Port Tampa, Big Bend, Weedon Island, and Crystal River; FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing revisions to certain security zones within the Captain of the Port Sector St. Petersburg Zone (formerly the Captain of the Port Tampa Zone). The purpose of these revisions is to ensure the security of vessels, facilities, and the surrounding areas within these zones. Entry into the area encompassed by these revised security zones is prohibited without permission of the Captain of the Port or a designated representative.

**DATES:** This rule is effective February 7, 2008.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [USCG-2007-0062] and are available for inspection or copying at Coast Guard Sector St. Petersburg, Prevention Department, 155 Columbia Drive, Tampa, FL 33606-3598 between 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lt. Ronaydee Marquez, Waterways Management Division, Sector St. Petersburg, FL (813) 228-2191 Ext 8307.

### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On November 6, 2007, we published a notice of proposed rulemaking (NPRM) entitled “Security Zone; Tampa Bay, Port of Tampa, Port of St. Petersburg, Rattlesnake, Old Port Tampa, Big Bend, Weedon Island, and Crystal River, FL” in the **Federal Register** (72 FR 62609). We received no letters in the mail commenting on the proposed rule and no comments in the [www.regulations.gov](http://www.regulations.gov) electronic docket. No public meeting was requested, and none was held.

#### Background and Purpose

The Maritime Transportation Security Act authorized the establishment of

Area Maritime Security Committees (AMSC) that “advise, consult with, report to, and make recommendations” on matters relating to maritime security in an AMSC’s port area. See 46 U.S.C. 70112(a)(2) and 33 CFR 103.205. One topic the Tampa Bay AMSC discussed is the existing security zones established soon after the terrorist attacks of September 11, 2001. See 68 FR 47852, August 12, 2003, and 68 FR 52340, September 3, 2003.

These existing security zones were established in 2003 and codified in 33 CFR 165.760 and 165.764 by the Captain of the Port Tampa. As stated in the notice of proposed rulemaking published November 6, 2007, in this rulemaking, there were a number of temporary security zone rules issued before these two final rules. See 68 FR 7093, February 12, 2003, and 68 FR 19166, April 18, 2003.

Some of the security zones in §§ 165.760 and 165.764 were suspended from July 26, 2007, until January 1, 2008, and revised, and temporary security zones were made effective during this same period. See 72 FR 45162, August 13, 2007. These temporary changes were made based on the newly-developed Maritime Security Risk Analysis tool utilized by the AMSC. A temporary final rule [USCG-2007-0097] published elsewhere in today’s **Federal Register** extended these changes from January 2, 2008, until February 7, 2008, when this final rule becomes effective.

A Tampa Bay AMSC working group evaluated risk to the maritime transportation system (MTS) within Tampa Bay, and assessed various risk mitigation options. The results of the risk assessment indicated the need to revise the following established security zones for the purpose of enhancing port security for the region:

- § 165.760(a)(1), Rattlesnake, Tampa, FL;
- § 165.760(a)(3), Sunshine Skyway Bridge, Tampa, FL;
- § 165.760(a)(5), Piers, Seawalls, and Facilities, Port of Tampa, Port Sutton and East Bay;
- § 165.760(a)(7), Piers, Seawalls, and Facilities, Port of Tampa, on the western side of Hooker’s Point;
- § 165.764(a)(1), Big Bend, Tampa Bay, Florida zone.

The five revised zones temporarily replacing these five suspended zones appear in § 165.707-047(a)(1) through (5), but will expire by January 2, 2008, and also in temporary § 165.707-0097(a) (1) through (5), but will expire February 7, 2008. The risk assessment also indicated that two of the zones suspended—§ 165.760(a)(6) [Piers,

seawalls, and facilities, Port of Tampa, East Bay and the eastern side of Hooker’s Point], and (a)(8) [Piers, seawalls, and facilities, Port of Manatee]—were no longer needed.

The security zones in this final rule have been discussed, vetted and recommended by representatives of the Department of Homeland Security’s Office of Infrastructure Protection, the Western Florida Area Maritime Security Committee, the Florida Region IV and VI Regional Domestic Security Task Forces, and numerous local agencies who share in the maritime security mission in the Tampa Bay region. These revisions are needed to ensure the security of vessels, facilities, and the surrounding areas within the Captain of the Port Sector St. Petersburg Zone following the expiration of temporary § 165.T07-0097.

In 2005, Sector St. Petersburg was created, replacing the Captain of the Port Tampa Zone. Authority to create security zones in the Tampa Bay region now resides with the Sector St. Petersburg Captain of the Port. See 70 FR 41415, July 19, 2005, and 72 FR 36316, July 2, 2007.

#### Discussion of Comments and Changes

No comments were received. There are no changes to the regulatory text from the notice of proposed rulemaking that was published in the **Federal Register** November 6, 2007.

#### Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This rule may have some impact on the public, but these potential impacts will be minimized for the following reasons: There is ample room for vessels to navigate around security zones, and there are several locations for recreational and commercial fishing vessels to fish throughout the Tampa Bay Region. Also, the Captain of the Port may, on a case-by-case basis allow persons or vessels to enter a security zone.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a

substantial number of small entities. 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 because the majority of the zones are limited in size, leaving ample room for vessels to navigate around the zones. The zones will not significantly impact commuter and passenger vessel traffic patterns, and mariners will be notified of the zones via local notice to mariners and marine broadcasts. Also, the Captain of the Port may, on a case-by-case basis, allow persons or vessels to enter a security zone.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this 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 rule would economically affect it.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small business may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulator Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to the 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.

#### **Collection of Information**

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### **Federalism**

A rule has implications for federalism under Executive Order 13132,

Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### **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 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.

#### **Taking of Private Property**

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### **Civil Justice Reform**

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### **Protection of Children**

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### **Indian Tribal Governments**

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.

#### **Energy Effects**

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant

energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### **Technical Standards**

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### **Environment**

We have analyzed this rule under Commandant Instruction M16475.1D which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**. No comments were made regarding the environmental impact of revising the security zones in Tampa Bay, FL.

#### **List of Subjects in 33 CFR Part 165**

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

#### **Words of Issuance and Regulatory Text**

- For the reasons discussed in the preamble, the Coast Guard is 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:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

- 2. In § 165.760, revise paragraphs (a)(1), (a)(3), (a)(5), (a)(7), (b) and (c), and add paragraphs (a)(14) and (a)(15) to read as follows:

**§ 165.760 Security Zones; Tampa Bay, Port of Tampa, Port of Saint Petersburg, Rattlesnake, Old Port Tampa, Big Bend, Weedon Island, and Crystal River; Florida.**

(a) \* \* \*

(1) *Rattlesnake, Tampa, FL.* All water, from surface to bottom, in Old Tampa Bay east and south of a line commencing at position 27°53.32' N, 082°32.05' W; north to 27°53.36' N, 082°32.05' W, including on land portions of Chemical Formulators Chlorine Facility, where the fenced area is bounded by a line connecting the following points: 27°53.21' N, 082°32.11' W; west to 27°53.22' N, 082°32.23' W; then north to 27°53.25' N, 082°32.23' W; then west again to 27°53.25' N, 082°32.27' W; then north again to 27°53.29' N, 082°32.25' W; then east to 27°53.30' N, 082°32.16' W; then southeast terminating at 27°53.21' N, 082°32.11' W.

\* \* \* \* \*

(3) *Sunshine Skyway Bridge, FL.* All waters in Tampa Bay, from surface to bottom, in Cut "A" channel beneath the bridge's main span encompassed by a line connecting the following points: 27°37.30' N, 082°39.38' W to 27°37.13' N, 082°39.26' W; and the bridge structure columns, base and dolphins. This zone is specific to the bridge structure and dolphins and does not include waters adjacent to the bridge columns or dolphins outside of the bridge's main span.

\* \* \* \* \*

(5) *Piers, seawalls, and facilities, Port of Tampa and Port Sutton, Tampa, FL.* All waters, from surface to bottom, extending 50 yards from the shore, seawall, and piers around facilities in Port Sutton within the Port of Tampa encompassed by a line connecting the following points: 27°54.15' N, 082°26.11' W; east northeast to 27°54.19' N, 082°26.00' W; then northeast to 27°54.37' N, 082°25.72' W, closing off all Port Sutton channel; then northerly to 27°54.48' N, 082°25.70' W.

\* \* \* \* \*

(7) *Piers, seawalls, and facilities, Port of Tampa, on the western side of*

*Hooker's Point, Tampa, FL.* All waters, from surface to bottom, extending 50 yards from the shore, seawall, and piers around facilities on Hillsborough Bay northern portion of Cut "D" channel, Sparkman channel, Ybor Turning Basin, and Ybor channel within the Port of Tampa encompassed by a line connecting the following points: 27°54.74' N, 082°26.47' W; northwest to 27°55.25' N, 082°26.73' W; then north-northwest to 27°55.60' N, 082°26.80' W; then north-northeast to 27°56.00' N, 082°26.75' W; then northeast to 27°56.58' N, 082°26.53' W; and north to 27°57.29' N, 082°26.51' W; west to 27°57.29' N, 082°26.61' W; then southerly to 27°56.65' N, 082°26.63' W; southwesterly to 27°56.58' N, 082°26.69' W; then southwesterly and terminating at 27°56.53' N, 082°26.90' W.

\* \* \* \* \*

(14) *Big Bend Power Plant, FL.* All waters of Tampa Bay, from surface to bottom, adjacent to the Big Bend Power Facility, and within an area bounded by a line connecting the following points: 27°48.08' N, 082°24.88' W; then northwest to 27°48.15' N, 082°24.96' W; then southwest to 27°48.10' N, 082°25.00' W; then south-southwest to 27°47.85' N, 082°25.03' W; then southeast to 27°47.85' N, 082°24.79' W; then east to 27°47.55' N, 082°24.04' W; then north to 27°47.62' N, 082°84.04' W; then west to 27°47.60' N, 082°24.72' W; then north to 27°48.03' N, 082°24.70' W; then northwest to 27°48.08' N, 082°24.88' W, closing off entrance to Big Bend Power Facility and the attached cooling canal.

(15) *Weedon Island Power Plant, FL.* All waters of Tampa Bay, from surface to bottom, extending 50-yards from the shore, seawall and piers around the Power Facility at Weedon Island encompassed by a line connecting the following points: 27°51.52' N, 082°35.82' W; then north and east along the shore to 27°51.54' N, 082°35.78' W; then north to 27°51.68' N, 082°35.78' W; then north to 27°51.75' N, 082°35.78' W, closing off entrance to the canal; then north to 27°51.89' N, 082°35.82' W; then west along the shore to 27°51.89' N, 082°36.10' W; then west to 27°51.89' N, 082°36.14' W, closing off entrance to the canal.

(b) *Definitions.* As used in this section—

*Cruise ship* means a vessel required to comply with 33 CFR part 120.

*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 (COTP), in the enforcement of regulated navigation areas, safety zones, and security zones.

(c) *Regulation.* (1) Entry into or remaining on or within the zones described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port Sector St. Petersburg or a designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port Sector St. Petersburg or a designated representative on VHF channel 16 to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or designated representative. In the case of moving security zones, notification of activation of these zones will be given by Broadcast Notice to Mariners on VHF FM Marine Band Radio, Channel 22A. For vessels not equipped with a radio, there will also be on site notification via a designated representative of the Captain of the Port.

**Note to § 165.760 (c)(2):** A graphical representation of all fixed security zones will be made available via the Coast Pilot and nautical charts.

(3) *Enforcement.* Under § 165.33, no person may cause or authorize the operation of a vessel in the security zones contrary to the provisions of this section.

\* \* \* \* \*

**§ 165.764 [Removed and reserved]**

- 3. Remove and reserve § 165.764.

Dated: December 29, 2007.

**A.S. Young,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Sector St. Petersburg.*  
[FR Doc. 08-20 Filed 1-3-08; 3:48 pm]

**BILLING CODE 4910-15-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R03-OAR-2007-0215; FRL-8513-8]

**Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Section 110(a)(1) 8-Hour Ozone Maintenance Plan and Amendments to the 1-Hour Ozone Maintenance Plan**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions