



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2014-1013]

RIN 1625-AA00

Safety Zone; Reduced Visibility, Sector St. Petersburg Captain of the Port Zone, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing temporary safety zones for all of Tampa Bay during periods of reduced visibility. The safety zones will be enforced when visibility falls below one nautical mile. Tampa Bay will be categorized into seven zones in order to close only the affected areas of Tampa Bay. Heavy fog affects Tampa Bay an average of 22 days annually, mainly between the months of November through March. These safety zones are necessary to protect commercial traffic from the hazards resulting from reduced visibility. Entering, transiting within, or transiting through this safety zone is prohibited unless authorized by the Captain of the Port St. Petersburg or a designated representative.

DATES: This rule is effective without actual notice from

[INSERT DATE OF PUBLICATION IN FEDERAL REGISTER] until March 31, 2015. For purposes of enforcement, actual notice will be used from the date the rule was signed, November 26, 2014, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The rule will be enforced when visibility is reduced below one nautical mile in affected zones.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2014-1013. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or e-mail Lieutenant Omar La Torre Reyes, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228-2191, e-mail Omar.LaTorreReyes@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

## Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

### A. Regulatory History and Information

The Coast Guard is issuing this temporary final 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 Tampa Bay has recently experienced periods of reduced visibility that present a hazard to vessels and people in the port. In 1980, during a period of reduced visibility, the MV Summit Venture allided with the Sunshine Skyway Bridge resulting in the death of 35 people. This rule seeks to avoid such incidents by prohibiting vessel movements when visibility is reduced to less than 1 nautical mile. Any delay in the effective date of this rule would be contrary to public interest as immediate action is needed to protect the public from hazards associated with

reduced visibility.

For the same reason discussed above, 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.

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas: 33 U.S.C. 1225, 1231; 33 CFR 1.05-1, 6.04-1; Department of Homeland Security Delegation No. 0170.1.

#### B. Discussion of the Temporary Final Rule

The Coast Guard is establishing a temporary safety zone for all of Tampa Bay for the purpose of closing Tampa Bay's navigable waterways or sections of Tampa Bay's waterways when visibility is reduced below one nautical mile due to fog and other inclement weather conditions.

Persons and vessels are prohibited from entering, transiting through, anchoring in, or getting underway within the safety zone unless authorized by the Captain of the Port St. Petersburg or a designated representative. Persons and vessels desiring to enter, transit within, transit through, or anchor in the safety zone may contact the Captain of the Port St. Petersburg by telephone at (727) 824-7506, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through,

anchor in, or remain within the safety zone is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative. The Coast Guard will provide notice of the safety zone by Broadcast Notice to Mariners and on-scene designated representatives.

### C. 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 or executive orders.

#### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

This rule does not have a significant economic impact due to the fact that the zones will only be in effect during the time period necessary for visibility to improve to greater than

one nautical mile.

## 2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this rule on small entities. 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.

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.

## 3. Assistance for 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 contact 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.

#### 4. 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).

#### 5. Federalism

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 determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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.

#### 7. 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

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

#### 9. 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.

#### 10. 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.

#### 11. 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.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

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

#### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded 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 is categorically excluded, under figure 2-1, paragraph (34)(g), of the Commandant Instruction. This rule involves establishing a temporary safety zone

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: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add a temporary § 165.T07-1013 to read as follows:

§ 165.T07-1013 Safety Zone; Reduced Visibility, Sector St.

Petersburg Captain of the Port Zone, FL

(a) Regulated Areas. When directed by the COTP, the following areas are established as safety zones:

(1) Zone 1 (Interbay) means all navigable waters within a box marked by the following coordinates: 27°52'56"N, 82°29'44"W; thence to 27°52'50"N, 82°23'41"W; thence to 27°57'27"N,

82°23'50"W thence to 27°57'19"N, 82°29'39"W. This encompasses all navigable waterways north of Hillsborough Cut "C" Channel LB "25" (LLNR 23445) & "26" (LLNR 23450).

(2) Zone 2 (East Tampa/ Big Bend) means all navigable waters within a box marked by the following coordinates: 27°52'50"N, 82°23'41"W; thence to 27°46'36"N; 82°24'04"W; thence to 27°46'29"N, 82°31'21"W; thence to 27°52'59"N, 82°31'24"W. This zone encompasses all navigable waterways between Hillsborough Cut "C" Channel LB "25" (LLNR 23445) & "26" (LLNR 23450) to Cut "6F" (LLNR 22830) Channel.

(3) Zone 3 (Old Tampa Bay) means all navigable waters within a box marked by the following coordinates: 27°46'29"N, 82°31'21"W; 28°01'58"N, 82°31'39"W; thence to 28°02'01"N, 82°43'20"W; thence to 27°46'15"N, 82°43'24"W. This zone encompasses all navigable waterways between all of Old Tampa Bay to Cut "6F" (LLNR 22830) Channel.

(4) Zone 4 (Middle Tampa Bay) means all navigable waters within a box marked by the following coordinates: 27°46'34"N, 82°34'04"W; thence to 27°38'40"N, 82°31'54"W; thence to 27°44'38"N, 82°40'44"W; thence to 27°46'15"N, 82°40'46"W. This zone encompasses all navigable waterways between Cut "6F" (LLNR 22830) Channel to Tampa Bay "1C" (LLNR 22590).

(5) Zone 5 (Lower Tampa Bay/ Manatee) means all navigable waters within a box marked by the following coordinates: 27°44'33"N, 82°40'37"W; thence to 27°58'59"N, 82°40'34"W; thence to 27°36'18"N, 82°38'57"W; thence to 27°34'10"N, 82°34'50"W; thence to 27°37'56"N, 82°31'15"W. This zone encompasses all navigable waterways between Tampa Bay "1C" (LLNR 22590) to Sunshine Skyway Bridge.

(6) Zone 6 (Mullet Key) means all navigable waters within a box marked by the following coordinates: 27°38'59"N, 82°40'35"W; thence to 27°36'44"N, 82°44'13"W; thence to 27°32'20"N, 82°44'37"W; thence to 27°31'18"N, 82°38'59"W; thence to 27°34'09"N, 82°34'53"W; thence to 27°36'15"N, 82°39'00"W. This zone encompasses all navigable waterways between the Sunshine Skyway Bridge to Mullet Key Channel LB "21" (LLNR 22365) & "22" (LLNR 22370).

(7) Zone 7 (Egmont Entrance) means all navigable waters within the area encompassed by the following coordinates: 27°36'27"N, 82°44'14"W; thence to 27°39'46"N, 82°44'45"W; thence to 27°39'36"N, 83°05'10"W; thence to 27°32'29"N, 83°04'50"W; thence to 27°32'21"N, 82°44'42"W. This zone includes the fairway anchorages.

(b) Definition. As used in this section:

Captain of the Port (COTP) for the purpose of this section means the Commanding Officer of Coast Guard Sector St. Petersburg.

Captain of the Port St. Petersburg Zone as defined in 33 CFR 3.35-35.

(c) Regulations. (1) Vessels shall not commence an inbound transit, shift, or outbound transit when the safety zones are in effect for visibility less than one nautical mile due to fog or inclement weather.

(2) The COTP may open or close Tampa Bay or specific zones described in the regulated areas section of this chapter.

(3) The Coast Guard will provide notice of the regulated area via Broadcast Notice to Mariners.

(d) Enforcement Date. This rule is effective from the date this temporary final rule is signed by the Captain of the Port until March 31, 2015 and will be enforced when visibility is reduced to less than one nautical mile.

Dated: November 26, 2014.

G. D. Case,  
Captain, U.S. Coast Guard,  
Captain of the Port, St. Petersburg.

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Date: 12/15/2014]