



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2020-0556]

RIN 1625-AA11

### Regulated Navigation Area; Sparkman Channel, Tampa, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

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**SUMMARY:** The Coast Guard is removing an existing regulated navigation area in Sparkman Channel, located in Tampa, FL. The regulated navigation area is no longer needed to protect vessels navigating in the area. This action removes the existing regulations related to restricting vessel draft in the channel due to an underwater pipeline that is no longer a navigational concern.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER 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-2020-0556 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Clark Sanford, Sector St Petersburg, Coast Guard; telephone (813) 228-2191 x8105, e-mail [Clark.W.Sanford@uscg.mil](mailto:Clark.W.Sanford@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**

On January 25, 1991, the Coast Guard established a regulated navigation area in Sparkman Channel. The regulated navigation area is described in 33 CFR 165.752. The regulated navigation area was created to restrict navigation in the area to vessels with a draft of less than 34.5 feet. A recent survey places the sewer line at or below the permitted depth of 42 feet. The navigation hazard is properly marked on the water surface as well as on navigation charts. With the advancement in technologies and mechanical innovations coupled with the expertise of the pilots that guide vessels in and around Port Tampa Bay, the current restricted navigation area along Sparkman Channel has become outdated. In response, on November 27, 2020, the Coast Guard published a notice of proposed rulemaking (NPRM) titled, “Regulated Navigation Area; Sparkman Channel, Tampa, FL” (85 FR 75996). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended December 28, 2020, we received three comments.

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

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Commander, Seventh Coast Guard District has determined the current restricted navigation area along Sparkman Channel has become outdated and is no longer needed for Sparkman Channel. The purpose of this rule is to remove unnecessary restrictions to navigation in Sparkman Channel in Tampa, FL.

## **IV. Discussion of Comments, Changes, and the Rule**

The Coast Guard received three submissions from private citizens in response to the proposed rule. One commenter endorsed the Coast Guard’s proposal. The other two

comments were not relevant to the scope of this rulemaking. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule removes the existing regulated navigation area established in 33 CFR 165.752. This regulation placed restrictions on vessel navigation in Sparkman Channel in Tampa, Florida based on vessel drafts.

## **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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. 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), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the rule not adding any new navigational restrictions, rather the rule will remove existing navigational restrictions to Sparkman Channel.

### *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 received no comments from the Small Business Administration on this rulemaking. 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 Sparkman Channel 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 (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 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 removing existing regulations established in 33 CFR 165.752. It is categorically excluded from further review under paragraph L60(b) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for Record 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 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; 33 CFR 1.01-1, 6.04-1, and 160.5; Department of Homeland Security Delegation No. 01070.1

**§ 165.752 [Removed]**

2. Remove § 165.752

Dated: January 21, 2021.

Eric C. Jones  
Rear Admiral, U.S. Coast Guard  
Commander, Seventh Coast Guard District.

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