



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2020-0691]

RIN 1625-AA00

### Safety Zone; Super Bowl LV; Hillsborough Bay and River, Tampa, FL

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a temporary safety zone on certain waters of Garrison Channel, Seddon Channel Turning Basin, and the Hillsborough River, in the vicinity of downtown Tampa, Florida during the Super Bowl LV celebrations. The safety zone is necessary to protect the public and Super Bowl LV event personnel from the hazards associated with potential vessel traffic within the area of the safety zone. All persons and vessels would be required to transit through the safety zone at a steady speed and may not slow down, stop or anchor except in the case of unforeseen mechanical failure or other emergency unless given prior authorization from the Captain of the Port. Any person or vessel forced to slow or stop in the established zone must immediately notify the Captain of the Port Tampa via VHF channel 16.

**DATES:** This rule is effective daily from 12:01 a.m. on January 29, 2021, through 11:59 p.m. on February 7, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2020-0691 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 Marine Science Technician First Class Michael D. Shackleford, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228-2191, e-mail Michael.D.Shackleford@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 Information and Regulatory History**

The Coast Guard is issuing this temporary 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 bypassing the full notice and comment process because it is impracticable and contrary to the public interest to do so in this situation. On September 22, 2020, the Maritime Subcommittee for Super Bowl LV notified the Coast Guard that during the Super Bowl LV event celebrations there will be several planned super bowl-related events throughout the waterfront areas of Tampa, FL. These events will occur at various times from January 29, 2021 through February 7, 2021. These events could lead to large gatherings of persons and vessels in waterways around the Tampa area. The Captain of the Port St. Petersburg (COTP) has determined that the potential hazards associated with persons and vessel congestion within the safety zone during these events is a safety concern. A notice of proposed rulemaking was published to the Federal Register on January 4, 2021,

however, there remains insufficient time to complete the full rulemaking process.<sup>1</sup> It is necessary for the Coast Guard to establish this safety zone by January 29, 2021, in order to ensure the appropriate level of protection exists in order to mitigate the potential safety hazards associated with the Super Bowl LV event celebrations. Therefore, this temporary final rule is being published before the comment period ends on the notice of proposed rulemaking.

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 for the same reasons stated in the preceding paragraph.

### **III. Discussion of the Rule**

This rule establishes a safety zone from January 29, 2021, through February 7, 2021. The safety zone would cover certain navigable waters of Garrison Channel, Seddon Channel Turning Basin, and the Hillsborough River, in the vicinity of downtown Tampa, Florida. The duration of the zone is intended to ensure the safety of persons, vessels, and navigable waters before, during, and after the scheduled events. All persons and vessels would be required to transit through the safety zone at a steady speed and may not slow down, stop or anchor except in the case of unforeseen mechanical failure or other emergency unless given prior authorization from the COTP. Any person or vessel forced to slow or stop in the established zone must immediately notify the Captain of the Port Tampa via VHF channel 16.

### **IV. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders

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<sup>1</sup>See Coast Guard notice of proposed rulemaking, “Safety Zone; Super Bowl LV; Hillsborough Bay and River, Tampa, FL” (86 FR 32) (this document is available at: <https://beta.regulations.gov/document/USCG-2020-0691-0001>).

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 size, location, scope and duration of the safety zone. The rule will impact only a small designated area of Garrison Channel, Seddon Channel Turning Basin, and the Hillsborough River in the vicinity of downtown Tampa, Florida, and vessel traffic will be able to safely operate in the area with minimal restrictions, hence the safety zone is limited in size and location. Vessels will be able to transit through the safety zone at a steady speed, making it limited in scope. The safety zone will be in effect for ten days, making it limited in duration. The Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM Channel 16 about the safety 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 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 the safety zone may be small entities, for the reasons stated in section IV.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 a safety zone lasting approximately 4 days that will prohibit entry to all navigable waters of Tampa Bay, Florida east of a line formed by connecting the points of 27°48'9" N, 082°24'56" W and 27°48'0" N, 082°24'56" W. It is 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 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:** 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. 0170.1.

2. Add § 165.T07-0691 to read as follows:

**§ 165.T07-0691 Safety Zone; Super Bowl LV, Hillsborough Bay and River, Tampa, FL.**

(a) Location. The following regulated area is a safety zone: All waters in the vicinity of downtown, Tampa, Florida, in the Hillsborough River downstream of the North Boulevard Bridge; the turning basin at the mouth of Hillsborough River north of Seddon Channel, west of the South Harbour Island Boulevard Bridge, and northeast of the northwest-bound span of the Davis Islands Bridge; and Garrison Channel west of the Beneficial Drive Bridge.

(b) Definition. The term “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 St. Petersburg in the enforcement of the regulated area.

(c) Regulations. (1) All persons and vessels are required to transit through the safety zone at a steady speed and may not slow down, stop, or anchor except in the case of unforeseen mechanical failure or other emergency, to avoid collision, or to otherwise comply with the Inland Navigation Rules (33 CFR part 83), unless given prior authorization from the Captain of the Port. Any person or vessel forced to slow or stop in the established zone must immediately notify the Captain of the Port Tampa via VHF channel 16.

(2) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) Enforcement period. This section will be enforced daily from January 29, 2021, through February 7, 2021.

Dated: January 15, 2021.

Matthew A. Thompson,  
Captain, U.S. Coast Guard,  
Captain of the Port St. Petersburg.

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