



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2022-0962]

RIN 1625-AA11

Regulated Navigation Area; Tampa Bay, Tampa, FL

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

ACTION: Final rule.

SUMMARY: The Coast Guard is revising existing regulations for a Regulated Navigation Area in Tampa Bay, Florida by updating the geographic boundaries of Egmont Channel in the Gulf of Mexico. The change is designed to align the coordinates in the regulation with the coordinates needed to properly control traffic in the Captain of the Port St. Petersburg Zone. The current coordinates do not reflect the Regulated Navigation Area that the Coast Guard intended to put in place.

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-2022-0962 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Marine Science Technician First Class Mara J. Brown, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228-2191, e-mail Mara.J.Brown@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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|--------|---------------------------------|
| CFR | Code of Federal Regulations |
| COTP | Captain of the Port |
| DHS | Department of Homeland Security |
| FR | Federal Register |
| NPRM | Notice of proposed rulemaking |
| RNA | Regulated Navigation Area |
| § | Section |
| U.S.C. | United States Code |

II. Background Information and Regulatory History

On July 27, 2015, the Coast Guard published a final rule entitled, “Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments.”¹ This action was taken to make non-substantive technical, organizational, and conforming amendments to existing regulations throughout Title 33 of the Code of Federal Regulations.

In 2022, it was brought to the attention of Coast Guard that there was an error in the coordinates listed in that Final Rule and that the second coordinate was off by approximately four degrees of longitude, which equates to approximately 200 nautical miles. After reviewing the coordinates and past Federal Registers, the approximate position of the Tampa Bay Entrance should be 27°35.2' N., 083°00.4' W.

On March 20, 2023, a Notice of Proposed Rulemaking was published in the Federal Register that proposed modifying the coordinates to align with the actual coordinates that are needed to indicate the entrance to Tampa Bay.² The proposed rule did not receive any comments. With this rule, the Coast Guard is correcting the coordinates needed by the COTP to ensure safety amongst port users and those navigating to and from Tampa Bay.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The

¹ 80 FR 44274.

² 88 FR 16576.

purpose of this rule is to correct the coordinates needed by the COTP to ensure safety amongst port users and those navigating to and from Tampa Bay.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published March 20, 2023. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule is modifying 33 CFR 165.753(a) to reflect the actual geographic position of the port entrance. The rule is moving the current plotted position for the regulated navigation area (RNA) to the actual plotted position of 27°35.2' N, 083°00.4' W.

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.

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 rule 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, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on two specific factors: (1) persons and vessels may operate within the RNA when authorized by Captain of the Port of St. Petersburg or a designated representative; and (2) the RNA is already in place, this regulatory action only represents a correction of an error in the boundaries.

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 the Regulated Navigation Area 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 (Pub. L. 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 proposed rule involves a correction of a geographic coordinate identifying the entrance Bouy for Tampa Bay. Normally such actions are categorically excluded from further review under paragraph L60a 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. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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, 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. In § 165.753, revise paragraph (a) to read as follows:

§ 165.753 Regulated navigation area; Tampa Bay, Florida.

(a) The following is a regulated navigation area (RNA): All the navigable waters of Tampa Bay, Hillsborough Bay and Old Tampa Bay, including all navigable waterways tributary thereto. Also included are the waters of Egmont Channel, Gulf of Mexico from Tampa Bay, Tampa Bay Entrance, approximate position (27°35.2' N., 083°00.4' W.).

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Dated: March 1, 2024.

Michael P. Kahle,
Captain, U.S. Coast Guard,
Captain of the Port Sector St. Petersburg.

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