

section on the containers used for the packaging of blasting caps.

(2) *Alternate means of identification.* The Director may authorize other means of identifying explosive materials, including fireworks, upon receipt of a letter application from the licensed manufacturer or licensed importer showing that such other identification is reasonable and will not hinder the effective administration of this part.

(Paragraph (b)(2) approved by the Office of Management and Budget under control number 1140-0055)

Dated: May 19, 2005.

**Alberto R. Gonzales,**  
*Attorney General.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP TAMPA 05-062]

RIN 1625-AA00

#### Safety Zone; Tampa Bay, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters within Tampa Bay, Florida, including Sparkman Channel, Garrison Channel (east of the Beneficial Bridge), Ybor Turning Basin, and Ybor Channel. The safety zone is needed to ensure the safety of all mariners from hazards associated with a fireworks display. Entry into this zone is prohibited to all vessels and persons without the prior permission of the Coast Guard Captain of the Port Tampa or designated representative.

**DATES:** This rule is effective from 8:30 p.m. until 9:20 p.m. on May 29, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [COTP TAMPA 05-062] and are available for inspection or copying at Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida 33606-3598 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Jennifer Andrew at Marine Safety Office Tampa (813) 228-2191 Ext. 8203.

**SUPPLEMENTARY INFORMATION:**

### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The necessary details for the final date of the fireworks demonstration and the location of the safety zone surrounding it were not provided with sufficient time remaining to publish an NPRM. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to minimize potential danger to the public during the fireworks demonstration. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restriction.

For the same reasons, 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**.

### Background and Purpose

Downtown Tampa Attractions Association is scheduled to conduct a fireworks display on May 29, 2005, in Tampa Bay, Florida. This safety zone is being established to ensure the safety of life during the event, as the public is invited to attend the fireworks display, and falling debris may present a danger to life and property.

### Discussion of Rule

The safety zone encompasses the following waters within Tampa Bay: Sparkman Channel, Garrison Channel (east of the Beneficial Bridge), Ybor Turning Basin, and Ybor Channel. Vessels are prohibited from anchoring, mooring, or transiting within this zone, unless authorized by the Captain of the Port Tampa or designated representative. The zone is effective from 8:30 p.m. until 9:20 p.m. on May 29, 2005.

### 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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). The Coast Guard expects the impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary, because the safety zone will be in effect for only 50 minutes during a time when vessel

traffic is limited. Moreover, vessels may enter the zone with the express permission of the Captain of the Port Tampa or designated representative.

### 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. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit Sparkman Channel, Garrison Channel (east of the Beneficial Bridge), Ybor Turning Basin, and Ybor Channel from 8:30 p.m. until 9:20 p.m. on May 29, 2005. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only 50 minutes late in the evening when vessel traffic is extremely low. Additionally, traffic will be allowed to enter the zone with the permission of the Coast Guard Captain of the Port Tampa or designated representative.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking.

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).

## 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.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded 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, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule is a safety zone and therefore fits the category described in paragraph (34)(g). Under figure 2–1, paragraph (34)(g), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this 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:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 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. Add § 165.T07–147 to read as follows:

### § 165.T07–147 Safety Zone; Tampa Bay, Florida.

(a) *Regulated area.* The following area is a safety zone: The waters of Garrison Channel east of an imaginary line connecting point 1: 27°56′32″ N, 082°27′58″ W; south to point 2: 27°56′27″ N, 082°27′58″ W; and including Ybor Turning Basin, Ybor Channel, and all waters in Sparkman Channel north of an imaginary line connecting point 3: 27°55′32″ N, 082°26′55″ W, east to point 4: 27°55′32″ N, 082°26′47″ W.

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited to all vessels and persons without the prior permission of the Coast Guard Captain of the Port Tampa or designated representative.

(c) *Date.* This rule is effective from 8:30 p.m. until 9:20 p.m. on May 29, 2005.

Dated: May 11, 2005.

**J.M. Farley,**

*Captain, U.S. Coast Guard, Captain of the Port, Tampa, Florida.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[CGD01–05–050]

RIN 1625–AA00

**Safety Zone; Wantagh Parkway 3 Bridge Over the Sloop Channel, Town of Hempstead, NY**

**AGENCY:** Coast Guard, DHS.