



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2016-0448]

RIN 1625-AA00

Safety Zone, Fall River Grand Prix, Mt Hope Bay and Taunton River, Fall River, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone in the navigable waters of Mt Hope Bay and the Taunton River in the vicinity of Fall River, MA, during the Fall River Grand Prix marine event August 27-28, 2016. This safety zone is intended to safeguard mariners from the hazards associated with high-speed, high-performance motorboats competing in the event. Vessels would be prohibited from entering into, transiting through, mooring, or anchoring within this safety zone during periods of enforcement unless authorized by the Captain of the Port (COTP), Southeastern New England or the COTP's designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2016-0448 using the *Federal e-Rulemaking Portal* at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, contact Mr. Edward G. LeBlanc, Chief of the Waterways Management Division at Coast Guard Sector Southeastern New England, telephone 401-435-2351, e-mail Edward.G.LeBlanc@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Acronyms

CFR	Code of Federal Regulations
COTP	Captain of The Port
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

Borden Light Marina of Fall River, MA, notified the Coast guard that it intends to conduct the 2nd annual Fall River Grand Prix powerboat races in the vicinity of the Taunton River and Mt Hope Bay adjacent to the Fall River waterfront. Similar to the inaugural event in 2015, this is a two-day event where high-speed, high-performance motorboats participate in controlled races within a well-defined water area. The COTP Southeastern New England has determined that potential hazards associated with the Fall River Grand Prix require a safety zone in the vicinity of the Taunton River and Mt Hope Bay, in waters adjacent to Fall River, to provide for both participant and spectator safety.

The purpose of this rulemaking is to ensure the safety of vessels and spectators in the vicinity of the Fall River Grand Prix before, during, and after the scheduled event.

The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The 2nd Annual Fall River Grand Prix is a two-day event where high-speed, high-performance motorboats participate in controlled races within a well-defined water area. The safety zone proposed in this NPRM will encompass the racing area and will include a buffer between the racing motorboats and spectator craft to provide a margin of safety. As these races are part of a national series of events, governed by a national racing and safety organization (the U.S. Offshore Powerboat Association), and operated by experienced high-speed motorboat crews and support teams, they are expected to generate local and regional media coverage, and attract spectators on a number of recreational and excursion vessels.

The Coast Guard is establishing this safety zone, in conjunction with the Fall River Grand Prix, to ensure the protection of the maritime public and event participants from the hazards associated with high-speed, high-performance motorboat racing. The Coast Guard anticipates little concern with the proposed safety zone by mariners, as there is little major commercial vessel activity in Mt Hope Bay and the Taunton River in the vicinity of Fall River, MA, and most recreational vessels are not restricted to the deep draft channel and can easily transit via alternate routes. Also, the safety zone will be enforced only during periods of actual racing, which will be limited to only a few hours on each of the two days of the event.

Regardless, in the unlikely situation where a commercial or recreational vessel

may still need to transit Mt Hope Bay and the Taunton River in the vicinity of Fall River, MA, for any number of reasons including destination, familiarity with the waterway, tide restrictions, etc., these vessels may be able to continue transits through Mt Hope Bay and the Taunton River, even during enforcement of the safety zone, as there will be sufficient room for most recreational vessels and some commercial vessels to pass to the west of the safety zone. Also, the Coast Guard routinely works with the local marine pilot organization and shipping agents to coordinate vessel transits during marine events, and would continue to do so for the entire event to avoid major interruptions to shipping schedules.

The Coast Guard proposes to add a temporary safety zone that would encompass the navigation channel from approximately Mt Hope Bay buoy R10 southwest of Brayton Point channel, and would extend approximately two miles to the northeast up to and including Mt Hope Bay buoy C17 north of the I-195/Braga Bridge. The safety zone would be enforced only during times of actual vessel racing.

IV. Regulatory Analyses

We developed this proposed 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 13563 emphasizes the

importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

We expect the adverse economic impact of this proposed rule to be minimal. Although this regulation may have some adverse impact on the public, the potential impact would be minimized for the following reasons: The safety zone will be in effect for only a few hours each day for two consecutive days, and vessels will only be restricted from the zone in Mt Hope Bay and the Taunton River in the vicinity of Fall River, MA during those limited periods when the races are actually ongoing; during periods when there is no actual racing (e.g., racing vessels are transiting from the pier to the racing site; downtime between races, etc.) vessels may be allowed to transit through the safety zone; there is an alternate route available for recreational vessels to the west of the safety zone that does not add substantial transit time and is already routinely used by mariners; many vessels, especially recreational vessels, may transit in all portions of the affected waterway except for those areas covered by the proposed safety zone; and vessels may enter or pass through the affected waterway with the permission of the COTP or the COTP’s representative.

Notification of the Fall River Grand Prix and the associated safety zone would be made to mariners through the Rhode Island Port Safety Forum, local Notice to Mariners, event sponsors, and local media well in advance of the event.

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 proposed rule would 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 proposed rule would not have a significant economic impact on any vessel owner or operator.

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.

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 proposed 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination 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 the establishment of a temporary safety zone in conjunction with the Fall River Grand Prix event, a high-speed, high-performance motorboat racing event. Such actions are categorically excluded from further review under paragraph 34(g) of Figure 2-1 of Commandant Instruction M16475.ID. A preliminary environmental analysis checklist is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. 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.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to

which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

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 proposes to amend 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 reads as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5,
Department of Homeland Security Delegation No. 0170.1.

2. Add §165.T0448 to read as follows:

§165.T0448 Safety Zone for the Fall River Grand Prix, Mt Hope Bay and Taunton River,
Fall River, MA

(a) Location. The following area is a safety zone: Mt Hope Bay and the Taunton River navigation channel from approximately Mt Hope Bay buoy R10 southwest of Brayton Point channel, and extending approximately two miles to the northeast up to and including Mt Hope Bay buoy C17 north of the Braga Bridge. The safety zone is encompassed by the following coordinates:

<u>Corner</u>	<u>Latitude</u>	<u>Longitude</u>
SW	41° 41.40'N	71° 11.15'W
NW	41° 41.48'N	71° 11.15'W
SE	41° 42.33'N	71° 09.40'W
NE	41° 42.42'N	71° 09.47'W

(b) Enforcement Period. Vessels will be prohibited from entering this safety zone, when enforced, during the Fall River Grand Prix marine event between 9 a.m. and 5 p.m. from Saturday August 27, 2016 to Sunday, August 28, 2016.

(c) Definitions. The following definitions apply to this section:

(1) Designated Representative. A “designated representative” is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port, Sector Southeastern New England (COTP), to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. In addition,

members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) Official Patrol Vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(3) Patrol Commander. The Coast Guard may patrol each safety zone under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 VHF-FM (156.8 MHz) by the call sign "PATCOM." (4) Spectators. All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(d) Regulations. (1) The general regulations contained in 33 CFR 165.23 as well as the following regulations apply to the safety zone established in conjunction with the Fall River Grand Prix, Taunton River, vicinity of Fall River, MA. These regulations may be enforced for the duration of the event.

(2) No later than 8 a.m. each day of the event, the Coast Guard will announce via Safety Marine Information Broadcasts and local media the times and duration of each race scheduled for that day, and the precise area(s) of the safety zone that will be enforced.

(3) Vessels may not transit through or within the safety zone during periods of enforcement without Patrol Commander approval. Vessels permitted to transit must operate at a no-wake speed, in a manner which will not endanger participants or other crafts in the event.

(4) Spectators or other vessels shall not anchor, block, loiter, or impede the movement of event participants or official patrol vessels in the safety zone unless authorized by an official patrol vessel.

(5) The Patrol Commander may control the movement of all vessels in the safety zone.

When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the lawful directions issued. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(6) The Patrol Commander may delay or terminate the Fall River Grand Prix at any time to ensure safety. Such action may be justified as a result of weather, traffic density, spectator operation or participant behavior.

Dated: June 14, 2016.

RICHARD J. SHULTZ,

Captain, U.S. Coast Guard,

Captain of the Port Southeastern New England.

[FR Doc. 2016-15331 Filed: 6/27/2016 8:45 am; Publication Date: 6/28/2016]