



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2023-0055]

RIN 1625-AA00

Safety Zone; Atlantic Ocean, Cape Canaveral Offshore Launch Area, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for waters of the Atlantic Ocean, adjacent to Cape Canaveral, FL. This safety zone would implement a special activities provision of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021. The Coast Guard is establishing this safety zone for the launch of the Terran I rocket, which is being launched by Relativity Space. The temporary safety zone will be located within the Coast Guard District Seven area of responsibility offshore of Cape Canaveral, Florida. This rule prohibits U.S.-flagged vessels from entering the temporary safety zone unless authorized by the District Commander of the Seventh Coast Guard District or a designated representative. Foreign-flagged vessels are encouraged to remain outside the safety zone. This action is necessary to protect vessels and waterway users from the potential hazards created by launch of the Terran I rocket, flying over the U.S. Exclusive Economic Zone (EEZ).

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through 4 p.m., March 13, 2023. For the purposes of enforcement, actual notice will be used from 10 a.m., March 7, 2023 until [INSERT 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-2022-0860 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 on this rule, call or email LT Ryan Gilbert, District Seven, Waterways Management Branch, U.S. Coast Guard; telephone 305-415-6750, email Ryan.A.Gilbert@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BNM	Broadcast Notice to Mariners
CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
EEZ	Exclusive Economic Zone
FAA	Federal Aviation Administration
FL	Florida
FR	Federal Register
MSIB	Marine Safety Information Bulletin
NASA	National Aeronautics and Space Administration
NM	Nautical Mile
NPRM	Notice of Proposed Rulemaking
RNA	Regulated Navigation Area
§	Section
U.S.	United States
U.S.C.	United States Code

II. Background Information and Regulatory History

On January 1, 2021, the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116-283) (Authorization Act) was enacted. Section 8343 (134 Stat. 4710) calls for the Coast Guard to conduct a 2-year pilot program to establish and implement a process to establish safety zones to address special activities,¹ including space activities carried out by United States (U.S.) citizens

¹ *Special Activities* means space activities, including launch and reentry, as such terms are defined in section 50902 of Title 51, United States Code, carried out by United States citizens.

in the U.S. Exclusive Economic Zone (EEZ).² Terms used to describe space activities, including *launch*, are defined in 51 U.S.C. 50902.

The Coast Guard has long monitored space activities impacting the maritime domain and taken actions to ensure the safety of vessels and the public as needed during space launch operations. In conducting this activity, the Coast Guard engages with other government agencies, including the Federal Aviation Administration (FAA) and National Aeronautics and Space Administration (NASA). This engagement is necessary to ensure statutory and regulatory obligations are met to ensure the safety of launch operations and waterway users.

The Coast Guard has an existing permanent regulated navigation area (RNA) that prevents vessels from operating in the waters adjacent to the Cape Canaveral launch area; however, that area only extends to the limits of the territorial seas.³ With this temporary final rule, the Coast Guard is establishing a temporary safety zone in the Atlantic Ocean in the U.S. EEZ that will abut the existing RNA near Cape Canaveral, FL. The Coast Guard intends to activate the existing RNA in 33 CFR 165.775 concurrently with the temporary safety zone established by this rule for the launch of the Terran I rocket.

The Terran 1 will be the first launched rocket of the Terran Program. Rockets built by Reality Space for the Terran program are constructed using a novel 3D printing technology that has never been successfully employed in the United States. While the Terran rocket has conducted tests of its engines, it has not yet been launched into low earth orbit. Therefore, this launch presents a higher risk profile than with a typical launch. Based on these factors it has been determined that the best way to reduce risk is to establish this temporary safety zone abutting the established RNA in § 165.775.

² The Coast Guard defines the U.S. *exclusive economic zone* in 33 CFR 2.30(a). *Territorial sea* is defined in 33 CFR 2.22.

³ See 33 CFR 165.775.

Once the Terran I rocket has been launched, the Coast Guard will notify the public through a Broadcast Notice to Mariners (BNM) that any remaining safety zone enforcement times and dates are no longer needed.

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 not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. This safety zone must be established by March 7, 2023, in order to protect vessels and waterway users from the potential hazards associated with the launch of the Terran I rocket.

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 would be contrary to the rule’s objectives of ensuring the protection of vessels and waterway users in the U.S. EEZ from the potential hazards created by the launch operation.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under section 8343 of the Authorization Act. The Seventh District Commander has determined that there are potential hazards in the U.S. EEZ created by the launch of the Terran I rocket. The purpose of this rule is to ensure safety of vessels and waterway users before, during, and after the scheduled launch.

IV. Discussion of the Rule

This rule establishes a temporary safety zone that will be subject to enforcement

starting on March 7, 2023, through March 13, 2023, from 10 a.m. to 4 p.m. each day, until the Terran-1 rocket is launched. Once the Terran I rocket has been launched, the Coast Guard will notify the public that the temporary safety zone has been cancelled, through a Broadcast Notice to Mariners (BNM).

This temporary safety zone will cover certain navigable waters in the path of the rocket being launched from Cape Canaveral, FL. The safety zone will cover approximately 650 square miles, and is roughly shaped like an elongated trapezoid. It will directly abut the RNA established in § 165.775. U.S.-flagged vessels will be prohibited from entering the temporary safety zone unless authorized by the District Commander of the Seventh Coast Guard District or a designated representative. Foreign-flagged vessels are encouraged to remain outside the safety zone. The coordinates of the safety zone are provided in the regulatory text, and a map will be provided in the docket.

No U.S. flagged vessel or person will be permitted to enter the safety zone without obtaining permission from the District Commander or a designated representative.

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. 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).

This regulatory action determination is based on the size, location, duration, and

scope of the temporary safety zone. The temporary safety zone is limited in size and location to only to the areas where Terran I rocket launch may pose a danger to vessels outside the RNA. The temporary safety zone is limited in scope, as vessel traffic will be able to safely transit around the zone. The safety zone is expected to be enforced for approximately 8 hours. After the launch has been completed, and there is no longer any danger to vessels from the Terran I rocket, the Coast Guard will notify waterway users and vessels that the safety zone is no longer subject to enforcement. The safety zone will ensure the protection of vessels and waterway users from the potential hazards created by the launch of the Terran I rocket.

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 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 enforcement of a safety zone for approximately 5 or 6 hours during the duration of the rocket launch of the Terran I rocket. 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 is revised 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.

Add § 165.T07-0055 to read as follows:

§ 165.T07-0055 Safety Zone; Atlantic Ocean, Cape Canaveral Offshore Launch Area, Cape Canaveral, FL.

(a) *Location.* The following area is a safety zone: All waters of the Atlantic Ocean, from surface to bottom, encompassed by a line connecting the following points beginning at Point 1: 28° 38' 19.3" N 80° 21' 22.9" W, thence to Point 2: 28° 45' 14" N 79° 58' 51.2" W, thence to Point 3: 28° 15' 39.7" N 79° 58' 51.2" W, thence to Point 4: 28° 22' 27.7" N 80° 18' 59" W, thence following the 12NM line back to point 1. These coordinates are based on WGS 84.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel, U.S. Space Force range safety personnel, and Federal, State, and local officers designated by or assisting the District Commander in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, U.S.-flagged vessels may not enter the safety zone described in paragraph (a) of this section unless authorized by the District Commander or a designated representative. All foreign-flagged vessels are encouraged to remain outside the safety zone.

(2) To seek permission to enter, transit through, anchor in or remain within the safety zone contact Sector Jacksonville by telephone at (904) 714-7557 or the District Commander's representative via VHF-FM radio on channel 16. Those in the safety zone

must comply with all lawful orders or directions given to them by the District

Commander or a designated representative.

(d) *Notification of enforcement.* (1) The Coast Guard intends to enforce the temporary safety zone for the Terran I rocket launch with assets on scene to ensure the temporary safety zone is cleared of persons and vessels.

(2) Once the Terran I rocket has been launched, the safety zone will no longer be needed. At that time, the Coast Guard will notify the public of the cancellation of the safety zone through a Broadcast Notice to Mariners on VHF-FM channel 16, and through social media.

(e) *Effective and enforcement periods.* This section is effective from 10 a.m. on March 7, 2023 through 4 p.m. on March 23, 2023. This section is subject to enforcement from 10 a.m. to 4 p.m. each day.

Dated: March 2, 2023

Brendan C. McPherson,
Rear Admiral, U.S. Coast Guard,
Commander, Seventh Coast Guard District.

[FR Doc. 2023-04730 Filed: 3/7/2023 8:45 am; Publication Date: 3/8/2023]