



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2024-0195]

RIN 1625-AA00

Safety Zone; Narragansett Bay, Newport, RI

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain waters of the East Passage, Narragansett Bay, RI. This action is necessary to provide for the safety of life on these navigable waters near East Passage, Narragansett Bay, RI, during a sailboat race. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Southeastern New England or a 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-2024-0195 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email MST2 Christopher Matthews, Waterways Management Division, Sector Southeastern New England, U.S. Coast Guard; telephone 571-610-4969, email SENEWWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Sector Southeastern New England
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On January 31, 2024, an organization notified the Coast Guard that it will be conducting a sailboat race from 10:30 a.m. through 6:30 p.m. on June 21, 2024, with a rain date of June 22, 2024. The sailboat race will launch from the East Passage in Narragansett Bay south of Rose Island. The Captain of the Port Sector Southeastern New England (COTP) has determined that potential hazards associated with the sailboat race would be a safety concern for anyone attempting to transit within East Passage.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within the East Passage of the Narragansett Bay before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 10:30 a.m. to 6:30 p.m. on June 21, 2024, with a rain date of June 22, 2024. The safety zone would cover one of three possible locations depending on the weather. Safety Zone “A” will cover all navigable waters from an area just south of Rose Island near Fort Adams. Safety Zone

“B” for inclement weather will cover all navigable waters near Brenton Point. Safety Zone “C” will cover all navigable waters from an area south of Rose Island near Castle Hill, RI.

The proposed location of the Safety Zone “A” is as follows:

Latitude	Longitude
41°29'08" N	071°20'04" W: thence to
41°28'27" N	071°20'40" W: thence to
41°28'38" N	071°21'14" W: thence to
41°29'25" N	071°20'52" W: and thence to the point of beginning

If weather conditions prohibit a safe race start within the approach to Newport Harbor using Safety Zone “A” the race will begin offshore using Safety Zone “B” or Safety Zone “C”:

The proposed location of the Safety Zone “B” is as follows:

Latitude	Longitude
41°26'04" N	071°22'16" W: thence to
41°25'36" N	071°21'58" W: thence to
41°25'21" N	071°22'38" W: thence to
41°25'49" N	071°22'56" W: and thence to the point of beginning

The proposed location of the Safety Zone “C” is as follows:

Latitude	Longitude
41°27'57" N	071°21'44" W: thence to
41°27'16" N	071°22'00" W: thence to
41°27'27" N	071°22'50" W: thence to
41°28'08" N	071°22'34" W: and thence to the point of beginning

The starting line will take place within one of the proposed regulated areas and will be decided prior to the race pending current weather conditions. The starting line box will be the restricted part of the waterway within the regulated area and that exact location will be broadcasted prior to the race start. The duration of the safety zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled sailboat race. No vessel or person is permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. They may be contacted on VHF-FM Channel 16 or by phone at 866-819-9128. Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative. The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule. The regulatory text we are proposing appears at the end of this document.

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

This regulatory action determination is based on the size location, duration, and time-of-day of the safety zone. We expect the adverse economic impact to this area to be minimal. Although this regulation may have adverse impact on the impact, the potential impact will be minimized for the following reasons: the safety zone will be in effect for a maximum of 8 hours during the day of the event; vessels will only be restricted from the area in the East Passage of the Narragansett Bay during those limited periods when the races are actually on going; there is an alternate route, the West Passage of Narragansett Bay, that does not add substantial transit time, is already routinely used by mariners, and will not be affected by this safety zone. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners (BNMs) via VHF-FM marine channel 16 about the area, and the proposed rule would allow vessels to seek permission to enter the area.

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 proposed 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 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule. If the proposed 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. 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 call or email 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 potential effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed 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 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 safety zone lasting 8 hours that would prohibit entry within the regulated area. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. 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 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.

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.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG- 2024-0195 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you click on the Dockets tab and then the proposed rule, you should see a "Subscribe" option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided.

For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

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 is proposing to amend 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. Add § 165.T01-0195 to read as follows:

§ 165.T01-0195 Safety Zone; Narragansett Bay, Newport, RI.

(a) *Location.* Only one safety zone will be enforced based on the local weather conditions the day of the race. We will make notice of exactly what safety zone will be enforced via Broadcast Notice to Mariners via marine channel 16 (VHF-FM). The following areas are safety zones.

(1) Safety Zone “A” encompasses all navigable waters located within the following latitude and longitude points:

Latitude	Longitude
41°29'08" N	071°20'04" W: thence to
41°28'27" N	071°20'40" W: thence to
41°28'38" N	071°21'14" W: thence to
41°29'25" N	071°20'52" W: and thence to the point of beginning

(2) Safety Zone “B” encompasses all navigable waters located within the following latitude and longitude points:

Latitude	Longitude
41°26'04" N	071°22'16" W: thence to
41°25'36" N	071°21'58" W: thence to
41°25'21" N	071°22'38" W: thence to
41°25'49" N	071°22'56" W: and thence to the point of beginning

(3) Safety Zone “C” encompasses all navigable waters located within the following latitude and longitude points:

Latitude	Longitude
41°27'57" N	071°21'44" W: thence to
41°27'16" N	071°22'00" W: thence to
41°27'27" N	071°22'50" W: thence to
41°28'08" N	071°22'34" W: and thence to the point of beginning the point of beginning

(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 and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Southeastern New England (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zones described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF-FM channel 16 or by telephone at 508-457-3211. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's

designated representative.

(d) *Enforcement period.* This section will be enforced from 10:30 a.m. to 6:30 p.m. on June 21, 2024, or June 22, 2024. To alleviate the effects of this proposed rule on the public, the COTP may elect to temporarily suspend enforcement of these security zones.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public through local notice to mariners and Broadcast Notices to Mariners of the enforcement period for the regulated area as well as any changes in the planned schedule.

Clinton J. Prindle,
Captain, U.S. Coast Guard,
Captain of the Port Sector Southeastern New England.

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