



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2024-0530]

RIN 1625-AA00

Safety Zone; Provincetown Harbor, Provincetown, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a fireworks display on certain waters of the Provincetown Harbor near Provincetown, MA. The safety zone is needed to protect personnel, spectators, and vessels from potential hazards created by the fireworks display. This rulemaking will prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Sector Southeastern New England or a designated representative.

DATES: This rule is effective from 9 p.m. on July 4, 2024, through 10 p.m. on July 5, 2024. The rule will be enforced from 9 p.m. through 10 p.m. on July 4, 2024, unless the event time is changed because of weather conditions in which case it may be subject to enforcement those same hours on July 5, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2024-0530 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 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 Information and Regulatory History

On April 24, 2024, the City of Provincetown notified the Coast Guard that they will be conducting a firework show from 9 p.m. through 10 p.m. on July 4, 2024. The firework show will take place in the vicinity of the Provincetown Harbor near Provincetown, MA.

The Captain of the Port Sector Southeastern New England (COTP) has determined that potential hazards associated with the firework show will be a safety concern for anyone attempting to transit the Provincetown Harbor. The Coast Guard is issuing this temporary rule under the authority in 5 U.S.C. 553(b)(B). This statutory 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.” 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 and contrary to the public interest. We must establish the temporary safety zone by July 4, 2024, to ensure the safety of spectators and the general public from hazards associated with the fireworks display.

Also, 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 impracticable and contrary to the public interest because the temporary safety zone must be established by July 4, 2024, to ensure the safety of spectators and vessels during the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority in 46 U.S.C. 70034. The COTP has determined that potential hazards associated with the fireworks event occurring July 4, 2024, will be a safety concern for anyone within 500 yards of the pier where the fireworks will be launched. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks event occurs.

IV. Discussion of the Rule

This rule establishes a temporary safety zone on the navigable waters of the Provincetown Harbor during fireworks display from a pier. The event is scheduled to take place between 9 p.m. and 10 p.m. on July 4, 2024, unless the event is delayed because of weather conditions in which case it may take place between 9 p.m. and 10 p.m. on July 4, 2024. The safety zone will cover all navigable waters of the Provincetown Harbor within 500 yards of the pier positioned at approximately 42°02'58"N, 070°10'52"W. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP 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 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 size, location, duration, and time-of-day of the safety zone. This rule involves a safety zone that will be enforced for approximately 1 hour and impact a limited area of the Provincetown Harbor during a fireworks event. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the safety zone and the rule will 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 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 (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 rule involves a safety zone lasting only 1 hour that will prohibit entry within 500 yards of the pier in Provincetown Harbor, Provincetown, MA, positioned at 42°02'58"N, 070°10'52"W. 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 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.T01-0530 to read as follows:

§ 165.T01-0530 Safety Zone; Provincetown Harbor, Provincetown, MA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Provincetown Harbor within 500 yards of the pier located at approximately 42°02'58"N, 070°10'52"W. These coordinates are based on NAD 83.

(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 zone 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 866-819-9128. 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) *Effective and enforcement period.* This section is effective from 9 p.m. on July 4, 2024, through 10 p.m. on July 5, 2024. The section will only be subject to enforcement from 9 p.m. through 10 p.m. on July 4, 2024, unless the event time is changed because of weather conditions in which case it may be subject to enforcement those same hours on July 5, 2024.

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

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