

this paragraph (c)(2)(iv), the expenses associated with the food and beverages are not subject to the deduction limitations in paragraph (a) of this section, because over 50 percent of the food and beverages are primarily consumed by camp attendees. Thus, R may deduct 100 percent of the food and beverage expenses.

(4) *Example 4.* Employer S provides food and beverages to its employees without charge at a company cafeteria on its premises. Occasionally, customers or other visitors also eat without charge in the cafeteria. The occasional consumption of food and beverages at the company cafeteria by customers and visitors is less than 50 percent of the total amount of food and beverages consumed at the cafeteria. Therefore, only the costs attributable to the food and beverages provided to the general public are excepted under section 274(e)(7) and this paragraph (c)(2)(iv).

(v) *Goods or services sold to customers—(A) In general.* An expense paid or incurred for food or beverages, to the extent the food or beverages are sold to customers in a bona fide transaction for an adequate and full consideration in money or money's worth, is not subject to the deduction limitations in paragraph (a) of this section. However, *money or money's worth* does not include payment through services provided. Under this paragraph (c)(2)(v), a restaurant or catering business may deduct 100 percent of its costs for food or beverage items, purchased in connection with preparing and providing meals to its paying customers, which are also consumed at the worksite by employees who work in the employer's restaurant or catering business. In addition, for purposes of this paragraph (c)(2)(v), the term *customer* includes anyone, including an employee of the taxpayer, who is sold food or beverages in a bona fide transaction for an adequate and full consideration in money or money's worth.

(B) *Example.* The following example illustrates the application of this paragraph (c)(2)(v). Employer T operates a restaurant. T provides food and beverages to its food service employees before, during, and after their shifts for no consideration. Under section 274(e)(8) and this paragraph (c)(2)(v), the expenses associated with the food and beverages provided to the employees are not subject to the 50 percent deduction limitation in paragraph (a) of this section because the restaurant sells food and beverages to customers in a bona fide transaction for an adequate and full consideration in money or money's worth. Thus, T may deduct 100 percent of the food and beverage expenses.

(d) *Applicability date.* This section applies for taxable years that begin on

or after [DATE OF PUBLICATION OF FINAL REGULATIONS IN THE FEDERAL REGISTER].

Sunita Lough,

Deputy Commissioner for Services and Enforcement.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket Number USCG-2019-0951]

RIN 1625-AA08; AA00

Special Local Regulations and Safety Zones; Recurring Marine Events and Fireworks Displays and Swim Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to add, delete, and modify the special local regulations for annual recurring marine events and safety zones regulation for firework displays and swim events in Coast Guard Sector Northern New England Captain of the Port Zone. When enforced, these special local regulations and safety zones will restrict vessels from transiting regulated areas during certain annually recurring events. The proposed special local regulations and safety zones are intended to expedite public notification and ensure the protection of the maritime public and event participants from the hazards associated with certain marine events. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before March 27, 2020.

ADDRESSES: You may submit comments identified by docket number USCG-2019-0951 using the Federal eRulemaking 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.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Chief Marine Science Technician Thomas Watts, Sector Northern New England Waterways Management Division, U.S.

Coast Guard; telephone 207-347-5003, email NNWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
LNTM Local Notice To Mariners
NOE Notice of Enforcement
NPRM Notice of proposed rulemaking
NAD 83 North American Datum of 1983
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

Swim events, fireworks displays, and marine events are held on an annual recurring basis on the navigable waters within the Coast Guard Sector Northern New England Captain of the Port (COTP) Zone. The Coast Guard has established special local regulations and safety zones for some of these annual recurring events on a case by case basis to ensure the protection of the maritime public and event participants from potential hazards. In the past, the Coast Guard has not received public comments or concerns regarding the impact to waterway traffic from regulations associated with these annually recurring events. Events were either added or deleted to the table of annual events based on their likelihood to recur in subsequent years. In addition, minor changes to existing events, such as position, date, or title, were made to ensure the accuracy of event details.

The purpose of this rulemaking is to ensure accurate notification of relevant events and protect the maritime public during marine events in the Sector Northern New England COTP Zone. The Coast Guard proposes this rulemaking under its authority in 46 U.S.C. 70034 and 46 U.S.C. 70041.

III. Discussion of Proposed Rule

The proposed rule would update the terminology and tables of annual recurring events in the existing regulations for the Coast Guard Sector Northern New England COTP Zone. The tables provide the event name, sponsor, and type, as well as approximate times, dates, and locations of the events.

The Coast Guard proposes to amend 33 CFR 100.120 "Special Local Regulations; Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone" by replacing language referencing "Patrol Commander" to "Designated Representative" and adding language clarifying only event sponsors, designated participants, and official

patrol vessels will be allowed to enter regulated areas. Spectators and other vessels not registered as event participants may not enter the safety zones without the permission of the COTP or the Designated Representative. Additionally, the Coast Guard proposes to amend 33 CFR 100.120 “Special Local Regulations; Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone” by updating the details of two events, deleting two events, and adding two events to the TABLE 1 to § 100.120. This rule proposes the following updates to the TABLE 1 to § 100.120: (1) 8.1 Eggmoggin Reach Regatta regulated area will be updated to reflect only the event start location; (2) 8.7 Multiple Sclerosis Harborfest Lobster Boat/Tugboat Races location will be corrected. The events deleted from the TABLE 1 to § 100.120 will be: (1) 8.2 Southport Rowgatta Rowing and Paddling Boat Race and (2) 7.5 Mayor’s Cup Regatta. The two events added to the table are the (1) 8.8 Eastport Pirates Festival Invasion of Lubec Lobster Boat Race and (2) 6.5 Portland’s Tallship Parade of Ships Event.

The Coast Guard proposes to amend 33 CFR 165.171 “Safety Zones for fireworks displays and swim events held in Coast Guard Sector Northern New England Captain of the Port Zone” by adding language clarifying only event sponsors, designated participants, and official patrol vessels will be allowed to enter regulated areas. Spectators and other vessels not registered as event participants may not enter the safety zones without the permission of the COTP or the Designated Representative. Additionally, the Coast Guard proposes to amend 33 CFR 165.171 “Safety Zones for fireworks displays and swim events held in Coast Guard Sector Northern New England Captain of the Port Zone” by updating the details of one event and deleting 20 events from the TABLE 1 to § 165.171. This rule proposes the following update to the TABLE 1 to § 165.171: Corrected location for 8.2 Islesboro Crossing Swim. Events proposed for removal are obsolete events which have not been held for the past three years or which the sponsor’s indicate they have no intention to continue, and events that have been determined to “not present an extra or unusual hazard on the waterway.” The events deleted from the TABLE 1 to § 165.171 will be: (1) 6.1 Waterfront Days Fireworks; (2) 6.2 LaKermesse Fireworks; (3) 7.1 Vinalhaven 4th of July Fireworks; (4) 7.3 The Great Race; (5) 7.4 Bangor 4th of July Fireworks; (6) Eastport 4th of July Fireworks; (7) 7.8

Ellis Short Sand Park Trustee Fireworks; (8) 7.9 Hampton Beach 4th of July Fireworks; (9) 7.12 Main Street Heritage Days 4th of July Fireworks; (10) 7.14 St. Albans Day Fireworks; (11) 7.17 Shelburne Triathlons; (12) 7.18 St. George Days Fireworks; (13) 7.20 Richmond Days Fireworks; (14) 7.24 Bucksport Festival and Fireworks; (15) 7.26 Paul Coulombe Anniversary Fireworks; (16) 8.1 Westerlund’s Landing Party Fireworks; (17) 8.2 York Beach Fire Department Fireworks; (18) 8.5 Paul Columbe Party Fireworks; (19) 9.2 Eastport Pirate Festival Fireworks; (20) 9.4 Eliot Festival Day Fireworks.

The regulatory text we are proposing appears at the end of this document. Advanced public notification of specific times, dates, regulated areas, and enforcement periods for each event will be provided through appropriate means, which may include, but are not limited to, the Local Notice to Mariners, Broadcast Notice to Mariners, or a Notice of Enforcement published in the **Federal Register**. If an event does not have a date and time listed in this regulation, then the precise dates and times of the enforcement period for that event will be announced through a Local Notice to Mariners and a Notice of Enforcement in the **Federal Register**.

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 13771 directs agencies to control regulatory costs through a budgeting process. 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 (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of each regulated area. We are adding two new special local regulation, updating existing regulations by removing obsolete events which have not been held for the past three years or which the sponsor’s indicate they have

no intention to continue, and removing events that have been determined to “not present an extra or unusual hazard on the waterway.” Dates and coordinates have been updated to more accurately reflect the event. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 for any Safety Zone or Special Local Regulation. Additionally, the rule would allow vessels to seek permission to enter the regulated areas.

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 (Pub. L. 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 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 special local regulations for various one day marine events and safety zones for fireworks displays and one day swimming events. Normally

such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination 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 <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's Correspondence System of Records notice (84 FR 48645, September 26, 2018).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <https://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

33 CFR Part 100

Marine safety, Navigation (water), Reporting and record-keeping requirements, Waterways.

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 parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for Part 100 continues to read as follows:

Authority: 46 U.S.C. 70041

■ 2. Revise § 100.120, to read as follows:

§ 100.120 Special Local Regulations; Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone.

The following regulations apply to the marine events listed in the TABLE 1 to § 100.120. These regulations will be enforced for the duration of each event, on or about the dates indicated. Actual notice of the exact dates and times of the effective period of the regulations with respect to each event, the geographical area, and details concerning the nature of the event and the number of participants and type(s) of vessels involved will be published in a Local Notices to Mariners and broadcast over VHF–FM radio. First Coast Guard District Local Notice to Mariners can be found at: <http://www.navcen.uscg.gov/>. Although listed in the Code of Federal Regulations, sponsors of events listed in the TABLE 1 to § 100.120 are still required to submit marine event applications in accordance with 33 CFR 100.15.

(a) The following definitions apply to this section:

(1) *Designated Representative.* A “Designated Representative” is any Coast Guard Commissioned, Warrant or Petty Officer who has been designated by the Captain of the Port, Sector Northern 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) *Spectators.* All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(b) Vessels may not transit the regulated areas without the COTP or Designated Representative 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.

(c) Vessel operators desiring to enter or operate within the regulated areas shall contact the COTP or the Designated Representative via VHF channel 16 or (207) 741-5465 (Coast Guard Sector Northern New England Command Center) to obtain permission to do so.

(d) Spectators or other vessels shall not anchor, block, loiter, or impede the transit of event participants or official

patrol vessels in the regulated areas during the effective dates and times, unless authorized by COTP or Designated Representative.

(e) The COTP or Designated Representative may control the movement of all vessels in the regulated area. 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.

(f) The COTP or Designated Representative may delay or terminate any marine event in this subpart at any time it is deemed necessary to ensure the safety of life or property.

(g) For all power boat races listed, vessels not participating in this event, swimmers, and personal watercraft of

any nature are prohibited from entering or moving within the regulated area unless authorized by the COTP or Designated Representative. Vessels within the regulated area must be at anchor within a designated spectator area or moored to a waterfront facility in a way that will not interfere with the progress of the event.

(h) For all regattas and boat parades listed, spectator vessels operating within the regulated area shall maintain a separation of at least 50 yards from the participants.

(i) For all rowing and paddling boat races listed, vessels not associated with the event shall maintain a separation of at least 50 yards from the participants.

(j) The specific calendar date upon which the listed event falls will be published through a Notice of Enforcement in the **Federal Register**.

TABLE 1 TO § 100.120

5.0	MAY
5.1 Tall Ships Visiting Portsmouth	<ul style="list-style-type: none"> • Event Type: Regatta and Boat Parade. • Date: A multiday event in May.* • Time (Approximate): 9:00 a.m. to 8:00 p.m. • Location: The regulated area includes all waters of Portsmouth Harbor, New Hampshire in the vicinity of Castle Island within the following points (NAD 83): <ul style="list-style-type: none"> 43° 03'11" N, 070° 42'26" W. 43° 03'18" N, 070° 41'51" W. 43° 04'42" N, 070° 42'11" W. 43° 04'28" N, 070° 44'12" W. 43° 05'36" N, 070° 45'56" W. 43° 05'29" N, 070° 46'09" W. 43° 04'19" N, 070° 44'16" W. 43° 04'22" N, 070° 42'33" W.
6.0	JUNE
6.1 Charlie Begin Memorial Lobster Boat Races	<ul style="list-style-type: none"> • Event Type: Power Boat Race. • Date: A one day event in June.* • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Boothbay Harbor, Maine in the vicinity of John's Island within the following points (NAD 83): <ul style="list-style-type: none"> 43° 50'04" N, 069° 38'37" W. 43° 50'54" N, 069° 38'06" W. 43° 50'49" N, 069° 37'50" W. 43° 50'00" N, 069° 38'20" W.
6.2 Rockland Harbor Lobster Boat Races	<ul style="list-style-type: none"> • Event Type: Power Boat Race. • Date: A one day event in June.* • Time (Approximate): 9:00 a.m. to 5:00 p.m. • Location: The regulated area includes all waters of Rockland Harbor, Maine in the vicinity of the Rockland Breakwater Light within the following points (NAD 83): <ul style="list-style-type: none"> 44° 05'59" N, 069° 04'53" W 44° 06'43" N, 069° 05'25" W. 44° 06'50" N, 069° 05'05" W. 44° 06'05" N, 069° 04'34" W.
6.3 Gathering of the Fleet	<ul style="list-style-type: none"> • Event Type: Tall Ship Parade. • Date: A one day event in June.* • Time (Approximate): 12:00 p.m. to 5:00 p.m. • Location: The regulated area includes all waters of Boothbay Harbor, Maine in the vicinity of Tumbler's Island within the following points (NAD 83): <ul style="list-style-type: none"> 43° 51'02" N, 069° 37'33" W.

TABLE 1 TO § 100.120—Continued

	<p>43° 50'47" N, 069° 37'31" W. 43° 50'23" N, 069° 37'57" W. 43° 50'01" N, 069° 37'45" W. 43° 50'01" N, 069° 38'31" W. 43° 50'25" N, 069° 38'25" W. 43° 50'49" N, 069° 37'45" W.</p>
6.4 Bass Harbor Blessing of the Fleet Lobster Boat Race	<ul style="list-style-type: none"> • Event Type: Power Boat Race. • Date: A one day event in June.* • Time (Approximate): 10:00 a.m. to 2:00 p.m. • Location: The regulated area includes all waters of Bass Harbor, Maine in the vicinity of Lopaus Point within the following points (NAD 83): <ul style="list-style-type: none"> 44° 13'28" N, 068° 21'59" W. 44° 13'20" N, 068° 21'40" W. 44° 14'05" N, 068° 20'55" W. 44° 14'12" N, 068° 21'14" W.
6.5 Portland's Tallship Parade of Ships Event	<ul style="list-style-type: none"> • Event Type: Regatta and Boat Parade. • Date: A multiday event in June/July.* • Time (Approximate): 8:00 a.m. to 8:00 p.m. • Location: The regulated area includes all waters of Casco Bay and the Fore River in the vicinity of Portland, Maine within the following points (NAD 83): <ul style="list-style-type: none"> 43° 37'44.25" N, 070°12'37.64" W. 43° 38'28.11" N, 070°12'37.64" W. 43° 39'08.52" N, 070°13'20.17" W. 43° 39'28.58" N, 070°13'25.24" W. 43° 39'07.70" N, 070°13'59.62" W. 43° 38'55.05" N, 070°14'41.91" W. 43° 39'00.94" N, 070°15'01.55" W. 43° 39'45.05" N, 070°15'09.11" W. 43° 39'38.10" N, 070°14'13.03" W. 43° 39'04.06" N, 070°13'29.75" W. 43° 37'57.21" N, 070°12'56.69" W.
7.0	JULY
7.1 Burlington 3rd of July Air Show	<ul style="list-style-type: none"> • Event Type: Air Show. • Date: A one day event held near July 4th.* • Time (Approximate): 8:30 p.m. to 9:00 p.m. • Location: The regulated area includes all waters of Lake Champlain, Burlington, VT within the following points (NAD 83): <ul style="list-style-type: none"> 44° 28'51" N, 073° 14'21" W. 44° 28'57" N, 073° 13'41" W. 44° 28'05" N, 073° 13'26" W. 44° 27'59" N, 073° 14'03" W.
7.2 Moosabec Lobster Boat Races	<ul style="list-style-type: none"> • Event Type: Power Boat Race. • Date: A one day event held near July 4th.* • Time (Approximate): 10:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters of Jonesport, Maine within the following points (NAD 83): <ul style="list-style-type: none"> 44° 31'21" N, 067° 36'44" W. 44° 31'36" N, 067° 36'47" W. 44° 31'44" N, 067° 35'36" W. 44° 31'29" N, 067° 35'33" W.
7.3 Stonington Lobster Boat Races	<ul style="list-style-type: none"> • Event Type: Power Boat Race. • Date: A one day event in July.* • Time (Approximate): 8:00 a.m. to 3:30 p.m. • Location: The regulated area includes all waters of Stonington, Maine within the following points (NAD 83): <ul style="list-style-type: none"> 44° 09'06" N, 068° 39'08" W. 44° 08'60" N, 068° 40'05" W. 44° 09'06" N, 068° 40'05" W. 44° 09'12" N, 068° 39'08" W.
7.4 The Challenge Race	<ul style="list-style-type: none"> • Event Type: Rowing and Paddling Boat Race. • Date: A one day event in July.* • Time (Approximate): 11:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Button Bay State Park within the following points (NAD 83): <ul style="list-style-type: none"> 44° 12'25" N, 073° 22'32" W.

TABLE 1 TO § 100.120—Continued

	<p>44° 12'00" N, 073° 21'42" W. 44° 12'19" N, 073° 21'25" W. 44° 13'16" N, 073° 21'36" W.</p>
7.5 Friendship Lobster Boat Races	<ul style="list-style-type: none"> • Event Type: Power Boat Race. • Date: A one day event in July.* • Time (Approximate): 9:30 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Friendship Harbor, Maine within the following points (NAD 83): 43° 57'51" N, 069° 20'46" W. 43° 58'14" N, 069° 19'53" W. 43° 58'19" N, 069° 20'01" W. 43° 58'00" N, 069° 20'46" W.
7.6 Harpswell Lobster Boat Races	<ul style="list-style-type: none"> • Event Type: Power Boat Race. • Date: A one day event during in July.* • Time (Approximate): 9:30 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Potts Harbor, Maine within the following points (NAD 83): 43° 44'14" N, 070° 02'14" W. 43° 44'31" N, 070° 01'47" W. 43° 44'27" N, 070° 01'40" W. 43° 44'10" N, 070° 02'08" W.
8.0	AUGUST
8.1 Eggmoggin Reach Regatta	<ul style="list-style-type: none"> • Event Type: Wooden Boat Parade. • Date: A one day event on a Saturday between the 15th of July and the 15th of August.* • Time (Approximate): 11:00 a.m. to 7:00 p.m. • Location: The regulated area includes all waters of Eggmoggin Reach, Maine within the following points (NAD 83): 44° 14'22" N, 068° 36'26" W. 44° 13'58" N, 068° 35'16" W. 44° 14'24" N, 068° 34'24" W. 44° 14'50" N, 068° 35'04" W. 44° 14'54" N, 068° 35'38" W. 44° 14'57" N, 068° 34'24" W.
8.2 Winter Harbor Lobster Boat Races	<ul style="list-style-type: none"> • Event Type: Power Boat Race. • Date: A one day event in August.* • Time (Approximate): 9:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Winter Harbor, Maine within the following points (NAD 83): 44° 22'06" N, 068° 05'13" W. 44° 23'06" N, 068° 05'08" W. 44° 23'04" N, 068° 04'37" W. 44° 22'05" N, 068° 04'44" W.
8.3 Lake Champlain Dragon Boat Festival	<ul style="list-style-type: none"> • Event Type: Rowing and Paddling Boat Race. • Date: A multiday day event in August.* • Time (Approximate): 7:00 a.m. to 5:00 p.m. • Location: The regulated area includes all waters of Burlington Bay within the following points (NAD 83): 44° 28'49" N, 073° 13'22" W. 44° 28'41" N, 073° 13'36" W. 44° 28'28" N, 073° 13'31" W. 44° 28'38" N, 073° 13'18" W.
8.4 Merritt Brackett Lobster Boat Races	<ul style="list-style-type: none"> • Event Type: Power Boat Race. • Date: A one day event in August.* • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Pemaquid Harbor, Maine within the following points (NAD 83): 43° 52'16" N, 069° 32'10" W. 43° 52'41" N, 069° 31'43" W. 43° 52'35" N, 069° 31'29" W. 43° 52'09" N, 069° 31'56" W.
8.5 Multiple Sclerosis Regatta	<ul style="list-style-type: none"> • Event Type: Regatta and Sailboat Race. • Date: A one day event in August.* • Time (Approximate): 10:00 a.m. to 4:00 p.m. • Location: The regulated area for the start of the race includes all waters of Casco Bay, Maine in the vicinity of Peaks Island within the following points (NAD 83):

TABLE 1 TO § 100.120—Continued

	<p>43° 40'25" N, 070° 14'21" W. 43° 40'36" N, 070° 13'56" W. 43° 39'58" N, 070° 13'21" W. 43° 39'46" N, 070° 13'51" W.</p>
8.6 Multiple Sclerosis Harborfest Lobster Boat/Tugboat Races	<ul style="list-style-type: none"> • Event Type: Power Boat Race. • Date: A one day event in August.* • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Portland Harbor, Maine in the vicinity of Maine State Pier within the following points (NAD 83): <ul style="list-style-type: none"> 43° 40'09" N, 070° 13'41" W. 43° 40'03" N, 070° 13'31" W. 43° 39'37" N, 070° 14'01" W. 43° 39'42" N, 070° 14'11" W.
8.7 Long Island Lobster Boat Race	<ul style="list-style-type: none"> • Event Type: Power Boat Race. • Date: A one day event in August.* • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Casco Bay, Maine in the vicinity of Great Ledge Cove and Dorseys Cove off the north west coast of Long Island, Maine within the following points (NAD 83): <ul style="list-style-type: none"> 43° 41'59" N, 070° 08'59" W. 43° 42'04" N, 070° 09'10" W. 43° 41'41" N, 070° 09'38" W. 43° 41'36" N, 070° 09'30" W.
8.8 Eastport Pirates Festival Invasion of Lubec Lobster Boat Race	<ul style="list-style-type: none"> • Event Type: Power Boat Race. • Date: A one day event in August.* • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Johnson Bay, Maine within the following points (NAD 83): <ul style="list-style-type: none"> 43° 41'59" N, 070° 08'59" W. 43° 42'04" N, 070° 09'10" W. 43° 41'41" N, 070° 09'38" W. 43° 41'36" N, 070° 09'30" W.

* Date subject to change. Exact date will be posted in Notice of Enforcement and Local Notice to Mariners.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 3. The authority citation for Part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 4. Revise § 165.171, to read as follows:

§ 165.171 Safety Zones for fireworks displays and swim events held in Coast Guard Sector Northern New England Captain of the Port Zone.

(a) *Regulations.* The general regulations contained in § 165.23 as well as the following regulations apply to the fireworks displays and swim events listed in Table 1 to § 165.171. These regulations will be enforced for the duration of each event. Notifications will be made to the local maritime community through the Local Notice to Mariners and Broadcast Notice to Mariners well in advance of the events. If the event does not have a date listed, then exact dates and times of the enforcement period will be announced through a Notice of Enforcement in the **Federal Register**. Mariners should

consult the **Federal Register** or their Local Notice to Mariners to remain apprised of schedule or event changes. First Coast Guard District Local Notice to Mariners can be found at <http://www.navcen.uscg.gov/>. Although listed in the Code of Federal Regulations, sponsors of events listed the Table 1 to § 165.171 are still required to submit marine event applications in accordance with 33 CFR 100.15.

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

(1) *Designated representative.* A “Designated Representative” is any Coast Guard Commissioned, Warrant or Petty Officer designated by the Captain of the Port, Sector Northern 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) *Spectators.* All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) Spectators or other vessels shall not anchor, block, loiter, or impede the transit of event participants or official patrol vessels in the regulated areas during the effective dates and times, or dates and times as modified through the Local Notice to Mariners, unless authorized by COTP or Designated Representative.

(d) Vessel operators desiring to enter or operate within the regulated areas shall contact the COTP or the Designated Representative via VHF channel 16 or (207) 741–5465 (Coast Guard Sector Northern New England Command Center) to obtain permission to do so.

(e) Upon being hailed by a U.S. Coast Guard vessel or the Designated Representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(f) The COTP or Designated Representative may delay or terminate any marine event in this subpart at any time it is deemed necessary to ensure the safety of life or property.

(g) The regulated area for all fireworks displays listed in the Table 1 to § 165.171 is that area of navigable waters within a 200 yard radius of the

launch platform or launch site for each fireworks display, unless otherwise noted in the Table 1 to § 165.171 or modified in USCG First District Local Notice to Mariners at: <http://www.navcen.uscg.gov/>.

(h) For all swim events listed in the Table 1 to § 165.171, vessels not associated with the event shall maintain

a separation of at least 200 feet from the participants.

(i) The specific calendar date upon which the listed event falls will be published Notice of Enforcement in the **Federal Register**.

TABLE 1 TO § 165.171

6.0	JUNE
6.1 Windjammer Days Fireworks	<ul style="list-style-type: none"> • Event Type: Fireworks Display. • Date: One night event in June.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine in approximate position: 43° 50'38" N, 069° 37'57" W (NAD 83).
7.0	JULY
7.1 Burlington Independence Day Fireworks	<ul style="list-style-type: none"> • Event Type: Firework Display. • Date: One night event in July.* • Time (Approximate): 9:00 p.m. to 11:00 p.m. • Location: From a barge in the vicinity of Burlington Harbor, Burlington, Vermont in approximate position: 44° 28'31" N, 073° 13'31" W (NAD 83).
7.2 Camden 4th of July Fireworks	<ul style="list-style-type: none"> • Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: In the vicinity of Camden Harbor, Maine in approximate position: 44° 12'32" N, 069° 02'58" W (NAD 83).
7.3 Bar Harbor 4th of July Fireworks	<ul style="list-style-type: none"> • Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Bar Harbor Town Pier, Bar Harbor, Maine in approximate position: 44° 23'31" N, 068° 12'15" W (NAD 83).
7.4 Boothbay Harbor 4th of July Fireworks	<ul style="list-style-type: none"> • Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine in approximate position: 43° 50'38" N, 069° 37'57" W (NAD 83).
7.5 Moosabec 4th of July Committee Fireworks	<ul style="list-style-type: none"> • Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Beals Island, Jonesport, Maine in approximate position: 44° 31'18" N, 067° 36'43" W (NAD 83).
7.6 Lubec 4th of July Fireworks	<ul style="list-style-type: none"> • Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Lubec Public Boat Launch in approximate position: 44° 51'52" N, 066° 59'06" W (NAD 83).
7.7 Portland Harbor 4th of July Fireworks	<ul style="list-style-type: none"> • Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:30 p.m. to 10:30 p.m. • Location: In the vicinity of East End Beach, Portland, Maine in approximate position: 43° 40'15" N, 070° 14'42" W (NAD 83).
7.8 Stonington 4th of July Fireworks	<ul style="list-style-type: none"> • Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m.

TABLE 1 TO § 165.171—Continued

	<ul style="list-style-type: none"> • Location: In the vicinity of Two Bush Island, Stonington, Maine in approximate position: 44° 08'57" N, 068° 39'54" W (NAD 83).
7.9 Southwest Harbor 4th of July Fireworks	<ul style="list-style-type: none"> • Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: Southwest Harbor, Maine in approximate position: 44° 16'25" N, 068° 19'21" W (NAD 83).
7.10 Tri for a Cure Swim Clinics and Triathlon	<ul style="list-style-type: none"> • Event Type: Swim Event. • Date: A multi-day event held throughout July.* • Time (Approximate): 8:30 a.m. to 11:30 a.m. • Location: The regulated area includes all waters of Portland Harbor, Maine in the vicinity of Spring Point Light within the following points (NAD 83): 43° 39'01" N, 070° 13'32" W. 43° 39'07" N, 070° 13'29" W. 43° 39'06" N, 070° 13'41" W. 43° 39'01" N, 070° 13'36" W.
7.11 Colchester Triathlon	<ul style="list-style-type: none"> • Event Type: Swim Event. • Date: A one day event in July.* • Time (Approximate): 7:00 a.m. to 11:00 a.m. • Location: The regulated area includes all waters of Malletts Bay on Lake Champlain, Vermont within the following points (NAD 83): 44° 32'57" N, 073° 12'38" W. 44° 32'46" N, 073° 13'00" W. 44° 33'24" N, 073° 11'43" W. 44° 33'14" N, 073° 11'35" W.
7.12 Peaks to Portland Swim	<ul style="list-style-type: none"> • Event Type: Swim Event. • Date: A one day event in July.* • Time (Approximate): 5:00 a.m. to 1:00 p.m. • Location: The regulated area includes all waters of Portland Harbor between Peaks Island and East End Beach in Portland, Maine within the following points (NAD 83): 43° 39'20" N, 070° 11'58" W. 43° 39'45" N, 070° 13'19" W. 43° 40'11" N, 070° 14'13" W. 43° 40'08" N, 070° 14'29" W. 43° 40'00" N, 070° 14'23" W. 43° 39'34" N, 070° 13'31" W. 43° 39'13" N, 070° 11'59" W.
7.13 Friendship Days Fireworks	<ul style="list-style-type: none"> • Event Type: Fireworks Display. • Date: A one day event in July.* • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Town Pier, Friendship Harbor, Maine at position: 43° 58'23" N, 069° 20'12" W (NAD83).
7.14 Nubble Light Swim Challenge	<ul style="list-style-type: none"> • Event Type: Swim Event. • Date: A one day event in July.* • Time (Approximate): 9:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters around Cape Neddick, Maine and within the following coordinates (NAD83): 43° 10'28" N, 070° 36'26" W. 43° 10'34" N, 070° 36'06" W. 43° 10'30" N, 070° 35'45" W. 43° 10'17" N, 070° 35'24" W. 43° 09'54" N, 070° 35'18" W. 43° 09'42" N, 070° 35'37" W. 43° 09'51" N, 070° 37'05" W.
7.15 Castine 4th of July Fireworks	<ul style="list-style-type: none"> • Event Type: Fireworks Display. • Date: One night event in July.* • Time (Approximate): 9:00 p.m. to 10:30 p.m. • Location: In the vicinity of the town dock in the Castine Harbor, Castine, Maine in approximate position: 44°23'10" N, 068°47'28" W (NAD 83).
8.0	AUGUST
8.1 North Hero Air Show	<ul style="list-style-type: none"> • Event Type: Air Show.

TABLE 1 TO § 165.171—Continued

	<ul style="list-style-type: none"> • Date: A one day event in August.* • Time (Approximate): 10:00 a.m. to 5:00 p.m. • Location: In the vicinity of Shore Acres Dock, North Hero, Vermont in approximate position (NAD83): 44° 48'24" N, 073° 17'02" W. 44° 48'22" N, 073° 16'46" W. 44° 47'53" N, 073° 16'54" W. 44° 47'54" N, 073° 17'09" W.
8.2 Islesboro Crossing Swim	<ul style="list-style-type: none"> • Event Type: Swim Event. • Date: A one day event in August.* • Time (Approximate): 6:00 a.m. to 11:00 a.m. • Location: The regulated area includes all waters of West Penobscot Bay from Ducktrap Beach, Lincolnville, ME to Grindel Point, Islesboro, ME, within the following points (NAD83): 44° 17'44" N, 069° 00'11" W. 44° 16'58" N, 068° 56'35" W. 44° 17'31" N, 068° 56'40" W.
8.3 Casco Bay Island Swim/Run	<ul style="list-style-type: none"> • Event Type: Swim/Run Event. • Date: A one day event in August.* • Time (Approximate): 7:30 a.m. to 1:00 p.m. • Location: All waters of Casco Bay, Maine in the vicinity of Casco Bay Island archipelago and within the following coordinates (NAD 83): 43° 42'47" N, 070° 07'07" W. 43° 38'09" N, 070° 11'57" W. 43° 34'57" N, 070° 12'55" W. 43° 41'31" N, 070° 11'37" W. 43° 43'25" N, 070° 08'25" W.
8.4 Port Mile Swim	<ul style="list-style-type: none"> • Event Type: Swim Event. • Date: A one day event August.* • Time (Approximate): 7:00 a.m. to 9:00 a.m. • Location: All waters of Casco Bay, Maine in the vicinity of East End Beach within the following points (NAD 83): 43° 40'09" N, 070° 14'27" W. 43° 40'05" N, 070° 14'01" W. 43° 40'21" N, 070° 14'09" W.
8.5 Ironman 70.3 Maine	<ul style="list-style-type: none"> • Event Type: Swim Event. • Date: A one day event August.* • Time (Approximate): 6:00 a.m. to 08:30 a.m. • Location: All waters of Saco Bay, Maine in the vicinity of Old Orchard Beach within the following points (NAD 83): 43° 30'54" N, 070° 22'24" W. 43° 31'14" N, 070° 22'08" W. 43° 30'39" N, 070° 21'46" W. 43° 31'00" N, 070° 21'30" W.
8.6 Lake Champlain Swimming Race	<ul style="list-style-type: none"> • Event Type: Swim Event. • Date: A one day event in August. • Time (Approximate): 9:00 a.m. to 3 p.m. • Location: Essex Beggs Point Park, Essex, NY, to Charlotte Beach, Charlotte, VT (NAD83). 44° 18'32" N, 073° 20'52" W. 44° 20'03" N, 073° 16'53" W.
9.0	SEPTEMBER
9.1 Camden Windjammer Festival Fireworks	<ul style="list-style-type: none"> • Event Type: Fireworks Display. • Date: A one night event in September.* • Time (Approximate): 8:00 p.m. to 9:30 p.m. • Location: From a barge in the vicinity of Northeast Point, Camden Harbor, Maine in approximate position: 44° 12'18" N, 069° 03'11" W (NAD 83).
9.2 The Lobsterman Triathlon	<ul style="list-style-type: none"> • Event Type: Swim Event. • Date: A one day event in September.* • Time (Approximate): 8:00 a.m. to 11:00 a.m. • Location: The regulated area includes all waters in the vicinity of Winslow Park in South Freeport, Maine within the following points (NAD 83): 43° 47'59" N, 070° 06'56" W. 43° 47'44" N, 070° 06'56" W. 43° 47'44" N, 070° 07'27" W.

TABLE 1 TO § 165.171—Continued

43° 47'57" N, 070° 07'27" W.

* Date subject to change. Exact date will be posted in Notice of Enforcement and Local Notice to Mariners.

Dated: 14 February 2020.

B.J. LeFebvre,*Captain, U.S. Coast Guard, Captain of the Port, Sector Northern New England.*

[FR Doc. 2020-03467 Filed 2-25-20; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF AGRICULTURE**Forest Service****36 CFR Part 254****RIN 0596-AD41****Conveyance of Small Tracts****AGENCY:** Forest Service, USDA.**ACTION:** Proposed rule; request for comment.

SUMMARY: The United States Department of Agriculture (USDA), Forest Service is revising regulations to implement certain changes to the Small Tracts Act, enacted in the Agriculture Improvement Act of 2018, also known as the 2018 Farm Bill. These statutory changes create a new category of lands eligible for conveyance outside of the National Forest System under the Small Tracts Act for parcels of 40 acres or less that are physically isolated, inaccessible, or have lost National Forest System character. The statutory changes also create a new category of lands eligible for conveyance involving parcels of ten acres or less that are not eligible for conveyance under previous eligibility conditions and are encroached on by a permanent habitable improvement for which there is no evidence that the encroachment was intentional or negligent. These amendments to the Small Tracts Act are expected to provide the Forest Service with more flexibility for resolving property conflicts with private landowners, reduce the time and expense arising from a protracted boundary dispute, and alleviate management burden and expense to the Forest Service.

DATES: Comments must be received in writing by April 27, 2020.**ADDRESSES:** Written comments concerning this notice should be addressed to Greg Smith, USDA, Forest Service, 201 14th Street SW, Washington, DC 20250. Comments also may be submitted by following the instructions at the Federal eRulemaking portal at <http://www.regulations.gov>. If

comments are sent by email, the public is requested not to send duplicate comments via regular mail. All comments, including names and addresses when provided, are placed in the record and made available for public inspection and copying. The public may inspect comments received at 201 14th Street SW, Washington, DC 20250. Visitors are encouraged to call ahead to 202-205-3563 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Brad Tait, by phone at 971-806-2199, or via email at bradley.tait@usda.gov. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:
Background

Public Law 97-465, commonly known as the Small Tracts Act (16 U.S.C. 521c-521i), was enacted in 1983 to help the Forest Service resolve land disputes and boundary management problems for parcels that generally were small in scale (less than ten acres) with land values that did not exceed \$150,000. Eligible lands for sale, exchange, or interchange included National Forest System lands encumbered by an encroachment like a shed, house, or fence; roads or road rights-of-way in excess of Forest Service transportation needs; and "mineral survey fractions," small parcels of National Forest System lands interspersed with or adjacent to lands transferred out of Federal ownership under the mining laws.

Discussion of Amendments to the Small Tracts Act

The Small Tracts Act was amended by Section 8621 of the Agriculture Improvement Act of 2018, also known as the 2018 Farm Bill (Pub. L. 115-334). The Agriculture Improvement Act of 2018 changes to the Small Tracts Act are being implemented in two phases. The first phase, implementing statutory revisions that are self-executing, was accomplished by revisions to 36 CFR part 254 by final rule without notice and comment on February 13, 2020 (85 FR 8180). The second phase, implementing changes that may entail agency discretion, would be accomplished by

this proposed rule, for which notice and comment are warranted.

The Agriculture Improvement Act of 2018 added two new paragraphs to the Small Tracts Act Section 3 (16 U.S.C. 521e) to resolve by conveyance certain encroachment, trespass, and boundary management problems: Paragraph (4) (16 U.S.C. 521e(4)), adding a limited conveyance authority for parcels of 40 acres or less that are determined by the Secretary to be physically isolated from other Federal lands, to be inaccessible, or to have lost National Forest character; and paragraph (5) (16 U.S.C. 521e(5)), addressing encroachments by permanent habitable improvements on parcels of 10 acres or less. This proposed rule would implement paragraph (4) by adding a new 36 CFR 254.37, and would implement paragraph (5) by adding a new paragraph (b) to 36 CFR 254.32.

Rulemaking is required for these specific amendments because Section 6 of the Small Tracts Act (codified at 16 U.S.C. 521(h)) provides that "[t]he Secretary shall issue regulations to carry out the provisions of this Act, including specification of . . . criteria which shall be used in making the determination as to what constitutes the public interest." The public interest determination in § 254.36 will apply to the new paragraph 254.32(b) and new § 254.37 created by this proposed rule. Rulemaking, and particularly the solicitation of public comments, is further warranted because both amendments introduce new options to the Forest Service that rely on agency discretion for resolving eligible encroachments.

The final rule published on February 13, 2020 (85 FR 8180), added a new paragraph (c) to 36 CFR 254.32. As noted above, this proposed rule would revise 36 CFR 254.32 to add a new paragraph (b); it would accordingly redesignate existing paragraph (b) as paragraph (c), which would in turn redesignate paragraph (c) added by the final rule as paragraph (d). The final rule also added 36 CFR 254.38. This proposed rule would revise the citations to other rule provisions in 36 CFR 254.38(a) from 36 CFR 254.32(c) to 36 CFR 254.32(d), consistent with the revisions to § 254.32 that would be made by this proposed rule, and would revise 36 CFR 254.38(b) to add a subparagraph (3).