

Drafting Information

The principal author of this document was Janet L. Johnson, Regulations Branch. However, personnel from other offices participated in its development.

Raymond W. Kelly,

Commissioner of Customs.

Approved: July 7, 1999.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

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DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Parts 100, 110 and 165**

[CGD-05-99-097]

RIN 2115-AA97, AA98, AE46

OPSAIL 2000, Port of Baltimore, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary regulations in the Port of Baltimore, Maryland for OPSAIL 2000 activities. This action is necessary to provide for the safety of life on navigable waters before, during, and after OPSAIL 2000 events. This action will restrict vessel traffic in portions of the Inner Harbor, the Northwest Harbor, the Patapsco River, and the Chesapeake Bay.

DATES: Comments and related material must reach the Coast Guard on or before May 12, 2000.

ADDRESSES: You may mail comments and related material to Commander, (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 or deliver them to Room 119 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Commander, (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 maintains the public docket for this rulemaking. Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S.L. Phillips, Project Manager, Operations Division, Auxiliary Section, at (757) 398-6204.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05-99-097), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. The comment period for this regulation is 45 days. This time period is adequate to allow local input because the event is highly publicized and the shortened comment period will allow the full 30-day publication requirement prior to the final rule becoming effective. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander, (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Sail Baltimore is sponsoring OPSAIL 2000 activities in the Port of Baltimore, Maryland. Planned events include the arrival of 27 Tall Ships and other vessels on June 23, 2000 and a Parade of Sail and scheduled departure of those vessels on June 29, 2000.

The Coast Guard anticipates a large spectator fleet for these events. Operators should expect significant vessel congestion along the arrival and parade routes.

The purpose of these regulations is to promote maritime safety and protect participants and the boating public in the Port of Baltimore and the waters of the Chesapeake Bay immediately prior to, during, and after the scheduled events. The regulations will provide for clear parade routes for the participating vessels, establish no wake zones along the parade routes, provide a safety buffer around the participating vessels while they are in transit, and in certain anchorage areas, modify existing anchorage regulations for the benefit of

participants and spectators. The regulations will impact the movement of all vessels operating in the specified areas of the Port of Baltimore and the Chesapeake Bay.

It may be necessary for the Coast Guard to establish additional safety or security zones in addition to these regulations to safeguard dignitaries and certain vessels participating in the event. If the Coast Guard deems it necessary to establish such zones at a later date, the details of those zones will be announced separately via the **Federal Register**, Local Notice to Mariners, Safety Voice Broadcasts, and any other means available.

All vessel operators and passengers are reminded that vessels carrying passengers for hire or that have been chartered and are carrying passengers may have to comply with certain additional rules and regulations beyond the safety equipment requirements for all pleasure craft. When a vessel is not being used exclusively for pleasure, but rather is engaged in carrying passengers for hire or has been chartered and is carrying the requisite number of passengers, the vessel operator must possess an appropriate license and the vessel may be subject to inspection. The definition of the term "passenger for hire" is found in 46 U.S.C. 2101(21a). In general, it means any passenger who has contributed any consideration (monetary or otherwise) either directly or indirectly for carriage onboard the vessel. The definition of the term "passenger" is found in 46 U.S.C. 2101(21). It varies depending on the type of vessel, but generally means individuals carried aboard vessels except for certain specified individuals engaged in the operation of the vessel or the business of the owner/charterer. The law provides for substantial penalties for any violation of applicable license and inspection requirements. If you have any questions concerning the application of the above law to your particular case, you should contact the Coast Guard at the address listed in **ADDRESSES** for additional information.

Vessel operators are reminded they must have sufficient facilities on board their vessels to retain all garbage and untreated sewage. Discharge of either into any waters of the United States is strictly forbidden. Violators may be assessed civil penalties up to \$25,000 or face criminal prosecution.

We recommend that vessel operators visiting the Port of Baltimore for this event obtain up to date editions of National Ocean Service Charts 12278 and 12281 to avoid anchoring within a charted cable or pipeline area.

With the arrival of OPSAIL 2000 and spectator vessels in the Port of Baltimore for this event, it will be necessary to curtail normal port operations to some extent. Interference will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled events.

Discussion of Proposed Rule

The OPSAIL 2000 vessels are scheduled to arrive on June 23, 2000 and will follow a parade route of approximately 3 nautical miles that includes specified waters of the Inner Harbor and Northwest Harbor. The OPSAIL 2000 vessels are scheduled to depart on June 29, 2000 and will follow a parade route of approximately 7 nautical miles that includes specified waters of the Inner Harbor, Northwest Harbor, and Patapsco River.

The safety of parade participants and spectators requires that spectator craft be kept at a safe distance from the parade routes during these vessel movements. The Coast Guard proposes establishing special local regulations for the areas through which the vessels will pass for the OPSAIL 2000 Tall Ships Arrival on June 23, 2000 and the OPSAIL 2000 Parade of Sail on June 29, 2000.

In addition to establishing special local regulations, we propose to establish temporary moving safety zones around OPSAIL 2000 vessels which are 175 feet or greater in length, to ensure the safety of participants and spectators immediately prior to, during, and following the parades.

The Coast Guard also intends to temporarily modify the existing anchorage regulations found at 33 CFR 110.158 to accommodate OPSAIL 2000 and spectator vessels. Anchorage No. 1, Anchorage No. 4, Anchorage No. 5, and Anchorage No. 6 will be designated exclusively for spectator vessels. Anchorage No. 3 will be designated exclusively for passenger vessels. Anchorage No. 2 will be closed to all vessels except OPSAIL 2000 vessels.

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The primary impact of these regulations will be on vessels wishing to transit the affected waterways during the Tall Ships Arrival on June 23, 2000 and the Parade of Sail on June 29, 2000. Although these regulations prevent traffic from transiting a portion of the Inner Harbor, Northwest Harbor, and Patapsco River during these events, that restriction is limited in duration, affects only a limited area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area. Moreover, the magnitude of the event itself will severely hamper or prevent transit of the waterway, even absent these regulations designed to ensure it is conducted in a safe and orderly fashion.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. 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.

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate or anchor in portions of the Inner Harbor, the Northwest Harbor, and the Patapsco River in the Port of Baltimore, Maryland. The regulations would not have a significant impact on a substantial number of small entities for the following reasons: the restrictions are limited in duration, affect only limited areas, and will be well publicized to allow mariners to make alternative plans for transiting the affected areas. Moreover, the magnitude of the event itself will severely hamper or prevent transit of the waterway, even absent these regulations designed to ensure it is conducted in a safe and orderly fashion.

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 proposed rule would economically affect it.

Assistance for Small Entities

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 so that they can better evaluate its effects on them and participate in the rulemaking. 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 Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

We have analyzed this proposed rule under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not

an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.1C; this proposed rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**. By controlling vessel traffic during these events, this proposed rule is intended to minimize environmental impacts of increased vessel traffic during the transits of event vessels.

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 110

Anchorage grounds.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Parts 100, 110, and 165 as follows:

PART 100—[AMENDED]

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

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Add temporary § 100.35T-05-097 to read as follows:

§ 100.35T-05-097 Special Local Regulations; OPSAIL 2000, Port of Baltimore, MD.

(a) *Definitions.* (1) *Captain of the Port* means the Commander, Coast Guard Activities Baltimore or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) *Official Patrol Vessel* includes all Coast Guard, public, state, county or local law enforcement vessels assigned and/or approved by Commander, Coast Guard Activities Baltimore.

(3) *OPSAIL 2000 Vessel* includes all vessels participating in Operation Sail 2000 under the auspices of the Marine

Event Permit submitted for the Port of Baltimore and approved by Commander, Fifth Coast Guard District.

(4) *Parade of Sail* is the outbound procession of OPSAIL 2000 vessels as they navigate designated routes in the Port of Baltimore on June 29, 2000.

(5) *Tall Ships Arrival* is the inbound procession of OPSAIL 2000 vessels as they navigate designated routes in the Port of Baltimore on June 23, 2000.

(b) *Regulated areas.* (1) *Tall ships arrival area* (all coordinates use datum: NAD 83): All waters of the Patapsco River, Baltimore, Maryland, between the Ferry Bar Channel-East Section and the Inner Harbor west bulkhead, bounded by a line drawn from the coordinates at position latitude 39°15'40" N, longitude 076°34'50" W, thence southeasterly to latitude 39°15'23.5" N, longitude 076°34'44" W, thence easterly to latitude 39°15'23.5" N, longitude 076°33'53" W.

(2) *Parade of Sail Area:* The waters of the Patapsco River, Northwest Harbor and Inner Harbor enclosed by:

| Latitude | Longitude |
|----------------|---------------------|
| 39°15'40.5" N | 076°34'47.5" W, to |
| 39°15'04.9" N | 076°34'43.7" W, and |
| 39°14'07.5" N | 076°33'37.7" W, to |
| 39°12'46.3" N | 076°32'02.6" W, to |
| 39°10' 24.8" N | 076°31'01" W, to |
| 39°12'06.3" N | 076°29'43.2" W, to |
| 39°13'22.3" N | 076°31'15.7" W, to |
| 39°15'40.2" N | 076°33'33.7" W. |

(c) *Special Local Regulations.* (1) Any person or vessel within the regulated area must operate in strict conformance with any directions given by the Captain of the Port and leave the regulated area immediately if the Captain of the Port so orders.

(2) Unless otherwise directed by the Captain of the Port, all vessels within the regulated area shall be operated at the minimum speed required to maintain steerage and shall avoid creating a wake.

(3) No vessel within the regulated area may anchor except in conformance with 33 CFR 110.158.

(4) The Coast Guard and Official Patrol vessels enforcing this section can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at telephone number (410) 576-2521 or 2693.

(5) The Captain of the Port will notify the public of any changes in the status of the regulated area by a Marine Safety Radio Broadcast on VHF-FM marine band radio, channel 22 (157.1 MHz).

(d) *Effective date:* (1) *Tall ships arrival area.* This section is effective from 9 a.m. until 6 p.m. on June 23, 2000.

(2) *Parade of Sail Area.* Paragraph (b)(2) of this section is applicable from 10:30 a.m. until 2:30 p.m. on June 29, 2000.

PART 110—[AMENDED]

3. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g).

4. From 10:30 a.m. until 2:30 p.m. on June 29, 2000, § 110.158 is amended by adding paragraph (c) to read as follows:

§ 110.158 Baltimore Harbor, MD

* * * * *

(c) Notwithstanding paragraphs (a) and (b) of this section, the following temporary regulations apply from 10:30 a.m. until 2:30 p.m. on June 29, 2000 for OPSAIL 2000.

(1) Anchorage No. 1, Anchorage No. 4, Anchorage No. 5, and Anchorage No. 6 are designated for the exclusive use of spectator vessels. "Spectator vessels" includes any vessel, commercial or recreational, being used for pleasure or carrying passengers, that is in the Port of Baltimore to observe part or all of the events attendant to OPSAIL 2000.

(2) Anchorage No. 2 is designated for the exclusive use of OPSAIL 2000 vessels. "OPSAIL 2000 Vessels" includes all vessels participating in Operation Sail 2000 under the auspices of the Marine Event Permit submitted for the Port of Baltimore and approved by the Commander, Fifth Coast Guard District.

(3) Anchorage No. 3 is designated for the exclusive use of passenger vessels. "Passenger vessel" has the meaning of that term in 46 U.S.C. 2101(22).

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

6. Add temporary § 165.T05-097 to read as follows:

§ 165.T05-097 Safety Zone; OPSAIL 2000, Port of Baltimore, MD.

(a) *Definitions.* (1) *Captain of the Port* means the Commander, Coast Guard Activities Baltimore or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) *OPSAIL 2000 Vessels* includes all vessels participating in Operation Sail 2000 under the auspices of the Marine Event Permit submitted for the Port of Baltimore and approved by Commander, Fifth Coast Guard District.

(b) *Location.* The following areas are moving safety zones: All waters within 150 yards ahead of or 50 yards outboard or aft of any OPSAIL 2000 vessel which is 175 feet or greater in length, while operating on the Chesapeake Bay or its tributaries, north of the Maryland-Virginia border and south of latitude 39°35'00".

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing safety zones in § 165.23 of this part.

(2) No person or vessel may enter or navigate within the regulated areas unless authorized to do so by the Captain of the Port. Any person or vessel authorized to enter the regulated areas must operate in strict conformance with any directions given by the Captain of the Port and leave the regulated area immediately if the Captain of the Port so orders.

(3) The Coast Guard vessels enforcing this section can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at telephone number (410) 576-2521 or 2693.

(4) The Captain of the Port will notify the public of any changes in the status of this zone by a Marine Safety Radio Broadcast on VHF-FM marine band radio, channel 22 (157.1 MHz).

(d) *Effective dates:* This section is effective from 6 a.m. on June 23, 2000 to 11:30 p.m. on June 29, 2000.

Dated: March 15, 2000.

Thomas E. Bernard,

*Captain, U.S. Coast Guard, Acting
Commander, Fifth Coast Guard District.*

[FR Doc. 00-7466 Filed 3-27-00; 8:45 am]

BILLING CODE 4910-15-U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100, 110 and 165

[CGD01-99-203]

RIN 2115-AA98, AE84, AE46

Temporary Regulations: OPSAIL 2000, Port of New London, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary regulations in Niantic Bay, Long Island Sound, the Thames River, and New London Harbor for OPSAIL 2000 Connecticut activities. This action is necessary to provide for the safety of life on navigable waters during OPSAIL 2000 Connecticut. This action is intended to restrict vessel

traffic in portions of Niantic Bay, Long Island Sound, the Thames River, and New London Harbor.

DATES: Comments and related materials must reach the Coast Guard on or before May 12, 2000.

ADDRESSES: You may mail comments and related material to Coast Guard Group/Marine Safety Office Long Island Sound, 120 Woodward Ave, New Haven, CT 06512-3698. The Readiness/Support Department maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Readiness/Support Department between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Master Chief Kenneth G. Dolan, Group/MSO Long Island Sound, New Haven, Connecticut, (203) 468-4429.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01-99-203), indicate the specific section of this document to which each comment applies, and give reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them. The comment period for this regulation is 45 days. This time period is adequate to allow local input because the event is highly publicized, and the shortened comment period will allow the full 30-day publication requirement prior to the final rule becoming effective. Copies of this proposal will also be placed in the local notice to mariners.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard Group/MSO Long Island Sound Readiness/Support Department at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time

and place announced by a later notice in the **Federal Register**.

Background and Purpose

The proposed temporary regulations are for OPSAIL 2000 Connecticut events in Niantic Bay, Long Island Sound and New London Harbor. These events will be held on July 11-12, 2000. The rule is proposed to provide for the safety of life and property on navigable waters.

Discussion of Proposed Rule

Operation Sail, Inc. is sponsoring a Parade of Tall Ships into New London Harbor. The Tall Ships and participating vessels will be at anchorage in Niantic Bay on July 11, 2000. On July 12, 2000, the Tall Ships and participating vessels will transit from Niantic Bay via Long Island Sound and the Thames River Federal Channel to the Port of New London. The Coast Guard expects a minimum of 5,000 spectator craft for this event. The proposed regulations create vessel movement controls, safety zones and temporary anchorage regulations. The regulations will be in effect at various times in Niantic Bay, Long Island Sound and New London Harbor during July 11 and 12, 2000. The vessel congestion due to the large number of participating and spectator vessels poses a significant threat to the safety of life and property. This proposed rulemaking is necessary to ensure the safety of life and property on the navigable waters of the United States.

Regulated Areas

The Coast Guard proposes to establish one regulated area in Niantic Bay during July 11-12, 2000. This proposed Regulated Area A is needed to protect the maritime public and participating vessels from possible hazards to navigation associated with the overnight anchoring of a large number of Tall Ships and their departure prior to the beginning of the Parade of Tall Ships into New London Harbor on July 12, 2000.

Regulated Area A includes all waters of Niantic Bay located on Long Island Sound within the following boundaries: beginning at a point 300 yards, bearing 203°T from Wigwam Rock 41°18'53" N, 072°11'48" W (NAD 1983), then to 41°18'53" N, 072°10'38" W (NAD 1983), then to 41°16'40" N, 072°10'38" W (NAD 1983), then to 41°16'40" N, 072°11'48" W (NAD 1983). This proposed area will be used as an anchorage area for vessels participating in the Parade of Tall Ships on July 12, 2000. This proposed regulated area is effective from 6 a.m., July 11, 2000 until 5 p.m., on July 12, 2000. Vessels transiting Regulated Area