



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2012-0066]

RIN 1625-AA08

Special Local Regulations; OPSAIL 2012 Connecticut, Niantic Bay, Long Island Sound, Thames River and New London Harbor, New London, CT

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations on the navigable waters of Niantic Bay, Long Island Sound, the Thames River and New London Harbor, New London, Connecticut for OPSAIL 2012 Connecticut (CT) activities. This action is necessary to provide for the safety of life on navigable waters during OPSAIL 2012 CT. This action will restrict vessel traffic in portions of Niantic Bay, Long Island Sound, the Thames River, and New London Harbor unless authorized by the Captain of the Port (COTP) Sector Long Island Sound (SLIS).

DATES: This rule is effective from 6 a.m. on July 6, 2012 to 5 p.m. on July 7, 2012.

This rule will be enforced during the following dates and times:

- 1) Area 1, from 6 a.m. July 6, until 5 p.m. on July 7, 2012.
- 2) Areas 3 and 4, from 7:30 a.m. until 5 p.m. on July 7, 2012.
- 3) Areas 2 and 5, from 10 a.m. until 5 p.m. on July 7, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2012-0066]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Petty Officer Joseph Graun, Prevention Department, U. S. Coast Guard Sector Long Island Sound, (203) 468-4544, Joseph.L.Graun@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP	Captain of the Port
CT	Connecticut
DHS	Department of Homeland Security
FR	Federal Register

A. Regulatory History and Information

On March 19, 2012 the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Special Local Regulations; OPSAIL 2012 Connecticut, Niantic Bay, Long Island Sound, Thames River and New London Harbor, New London, CT" in the Federal Register (77 FR 15981). We received no comments on the proposed rule. No public meeting was requested and none was held.

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. The Coast Guard published and NPRM for this rule in March, but there was not sufficient time to publish this Final Rule more than thirty days prior to the effective date of the rule.

B. Basis and Purpose

The legal basis for this rule is [33 U.S.C. 1233](#), which authorizes the Coast Guard to define special local regulations.

This temporary special local regulation is necessary to ensure the safety of vessels and spectators from hazards associated with OPSAIL 2012 CT.

C. Discussion of Comments, Changes and the Final Rule

No comments were received and this final rule is unchanged from the rule published in the NPRM.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on several of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

Although this regulation prevents traffic from transiting a portion of Long Island Sound, the Thames River and New London Harbor during OPSAIL 2012 CT, the effect of this regulation will not be significant for the following reasons: During the limited time that the regulated areas will be in effect, mariners will be able to transit around some areas, and persons and vessels will still be able to enter, transit through, anchor in, or remain within the regulated areas if authorized by the COTP Sector Long Island Sound (SLIS) or designated representative. Mariners will also be able to adjust their plans based on extensive advance notifications that will be made to the maritime community through Local Notice to Mariners, marine information broadcasts and New

London area media. In addition, the sponsoring organization, Operation Sail, Inc., is planning to publish information on the event in local newspapers, internet sites pamphlets, and television and radio broadcasts.

These regulated areas have been narrowly tailored to impose the least impact on maritime interests yet provide the necessary level of safety.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments from the Small Business Administration on this rule. 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.

This temporary rule might affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit through Niantic Bay, portions of Long Island Sound, the Thames River and New London Harbor during various times from July 6-7, 2012. Although these regulations apply to a substantial portion of Niantic Bay and New London Harbor, designated areas for viewing the "Parade of Sail" have been established to allow for maximum use of the waterways by commercial tour boats that usually operate in the affected areas. Vessels, including commercial traffic, will be able to transit

around some designated areas, and persons and vessels would still be able to enter, transit through, anchor in, or remain within the regulated areas if authorized by the COTP SLIS or designated representative. Before the effective period, the Coast Guard will make notifications to the public through Local Notice to Mariners and Broadcast Notice to Mariners. In addition, the sponsoring organization, Operation Sail, Inc., is planning to publish information of the event in local newspapers, internet sites pamphlets, television and radio broadcasts.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

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.

4. 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).

5. Federalism

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 determined that this rule does not have implications for federalism.

6. 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.

7. 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.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

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

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

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.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (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 establishes temporary special local regulations. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are 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 rule.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100 -- SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

2. Add § 100.T01-0066 to read as follows:

§ 100.T01-0066 Special Local Regulations; OPSAIL 2012

Connecticut, Niantic Bay, Long Island Sound, Thames River and New London Harbor, New London, Connecticut.

(a) Regulated Areas.

(1) Area 1: All navigable waters of Niantic Bay and Long Island Sound within the following boundaries: Beginning at position 41°18'53"N, 072°11'48" W then to 41°18'53" N, 072°10'38" W then to 41°16'40" N, 072°10'38" W then to 41°16'40" N, 072°11'48" W then to point of origin 41°18'53"N, 072°11'48" W (NAD 83).

(2) Area 2: All navigable waters of the Thames River south of the railroad bridge and Long Island Sound within the following boundaries: Beginning on the east side of the Federal Channel at the Thames River Rail Road Bridge in the Port of New London

41°21'46" N, 072°05'14" W then southward along the east side of the Federal Channel to 41°17'38" N, 072°04'40" W (New London Harbor Channel Lighted Buoy ``2'' (LLNR 21790) then south west to 41°15'38" N, 072°08'22" W (Bartlett Reef Lighted Bell Buoy ``4'' (LLNR 21065)) then north to 41°16'28" N, 072°07'54" W (Bartlett Reef Lighted Buoy ``1'' (LLNR 21065)) then east to 41°17'07" N, 072°06'09" W then continuing east to 41°18'04" N, 072°04'50" W which meets the west side of the federal channel, then north along the west side of the federal channel to 41°21'46" N, 072°05'17" W (Thames River Railroad Bridge in the Port of New London), then east to the point of origin. (NAD 83).

(3) Area 3: All Navigable water of the Thames River within the following boundaries. Beginning at 41°18'21"N, 072°05'36" W then to 41°18'21" N, 072°05'1.5" W then to 41°18'57" N, 072°05'6" W then to point of origin. (NAD 83).

(4) Area 4: All waters of the Thames River within the following boundaries. Beginning at 41°19'03"N, 072°04'48" W then to 41°19'04" N, 072°04'33" W then to 41°18'42" N, 072°04'30" W then to 41°18'40" N, 072°04'45" W then to point of origin. (NAD 83).

(5) Area 5: All waters of the Thames River and New London Harbor within the following boundaries. Beginning at a point located on the west shore line of the Thames River 25 yards below the Thames River Railroad Bridge, 41°21'46" N, 072°05'23" W then east to 41°21'46" N, 072°05'17" W then south along the western

limit of the federal navigation channel to 41°20'37" N, 072°05'8.7" W then west to 41°20'37" N, 072°05'31" W then following the shoreline north to the point of origin.(NAD 83).

(b) Special local regulations.

(1) In accordance with the general regulations is § 100.35 of this part, entering into, transiting through, anchoring or remaining within the regulated areas is prohibited unless authorized by the Captain of the Port (COTP) Sector Long Island Sound (SLIS), or designated representative.

(2) All persons and vessels are authorized by the COTP SLIS or designated representative to enter areas of this special local regulation in accordance with the following restrictions:

(i) Area 1; all vessels may transit at a slow no wake speed or a speed not to exceed 6 knots, whichever is less to maintain steerage way. Vessels transiting must not maneuver within 100 yards of a tall ship or an OPSAIL 2012 CT participating vessel.

(ii) Area 3 & 4; access is limited to vessels greater than 50 feet in length.

(iii) Area 2 & 5; access is limited to vessels Participating in the "Parade of Sail".

(3) All persons and vessels shall comply with the instructions of the COTP SLIS or designated representative. These designated representatives are comprised of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights, or

other means the operator of a vessel shall proceed as directed.

(4) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas must contact the COTP SLIS by telephone at (203)-468-4401, or designated representative via VHF radio on channel 16, to request

authorization. If authorization to enter, transit through, anchor in, or remain within the regulated areas is granted by the COTP SLIS or designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP SLIS or designated representative.

(5) The Coast Guard will provide notice of the regulated areas, prior to the event through the Local Notice to Mariners and Broadcast Notice to Mariners. Notice will also be provided by on-scene designated representatives

(c) Enforcement Period. This section will be enforced during the following times.

(1) Area 1, from 6 a.m. July 6, until 5 p.m. on July 7, 2012.

(2) Areas 3 and 4, from 7:30 a.m. until 5 p.m. on July 7, 2012.

(3) Areas 2 and 5, from 10 a.m. until 5 p.m. on July 7, 2012.

Dated: May 25, 2012

J. M. Vojvodich
Captain, U. S. Coast Guard
Captain of the Port Sector Long Island Sound

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