

December 1995). Subject: Disclosure of Information from the Naval Shipwreck Database.

Dated: April 26, 2000.

**J. L. Roth,**

*Lieutenant Commander, Judge Advocate General's Corp, Federal Register Liaison Officer.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Parts 100, 110

[CGD07-00-014]

RIN 2115-AE46, AA98

#### OPSAIL 2000, Port of San Juan, PR

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary regulations in the Port of San Juan, Puerto Rico for OPSAIL 2000 activities from 17 May through 29 May 2000. The Coast Guard is establishing temporary limited access areas and Special Local Regulations to control vessel traffic within the Port of San Juan during this event. This action is necessary to provide for the safety of life on navigable waters during OPSAIL 2000. This action will restrict vessel traffic in portions of the Port of San Juan during specific time periods.

**DATES:** This rule becomes effective at 9 p.m. Atlantic Standard Time (AST) on May 17, 2000, and terminates at 6 p.m. AST on May 29, 2000.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of the docket CGD07-00-014 and are available for inspection or copying at the U.S. Coast Guard Marine Safety Office San Juan, Puerto Rico, between the hours of 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays. Marine Safety Office San Juan Puerto Rico is located in the Rodriguez & Del Valle Building, 4th Floor, Calle San Martin, Carr #2 km 4.9, Guaynabo, Puerto Rico 00968.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Robert Le Fevers, U.S. Coast Guard Marine Safety Office, San Juan at (787) 706-2440, between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

### Regulatory Information

On January 13, 2000, we published an advanced notice of proposed rulemaking (ANPRM) (65 FR 2095), and on March 29, 2000 we published a notice of proposed rulemaking (NPRM) in the **Federal Register** (65 FR 16554) titled OPSAIL 2000, Port of San Juan, PR. We received no comments during the comment period for the ANPRM and two comments during the comment period for the NPRM. No public hearing was requested and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard certifies that good cause exists from making these regulations effective less than 30 days after **Federal Register** publication. There was not sufficient time remaining for a full 30-day delayed effective date after the comment period for the ANPRM and NPRM.

Furthermore, the event is very highly publicized.

### Background and Purpose

These temporary regulations are for OPSAIL 2000 events in the Port of San Juan, in San Juan Puerto Rico. These events will be held from May 17 through May 29, 2000, and the Coast Guard estimates many spectator craft and commercial vessels will be in the area during that period. This rule is proposed to provide for the safety of life on navigable waters and to promote maritime safety and protect participants and the Port of San Juan during this event. The restrictions stated for the regulated areas will be enforced at various times throughout the official Opsail 2000 event from May 17-29, 2000.

### Discussion of Rule

These regulations create temporary anchorage regulations and vessel movement controls. Special local regulations will be in effect for San Juan Bay including the waterways and adjacent piers along the Bar Channel, Anegado Channel, San Antonio Channel, Graving Dock Channel, Army Terminal Channel and Puerto Nuevo Channel for the period beginning at 9 p.m. on Friday, May 17 and ending at 6 p.m. on Monday, May 29. The safety of parade participants and spectators will require that spectator craft including, but not limited to, jet skis and sail boards be kept at a safe distance from participating tall ships while the vessels are in the harbor, whether moving, anchored, or tied up at their respective piers. The Bar Channel will be closed to inbound and outbound traffic to San Juan Harbor from 7 a.m. to 6 p.m. on Monday, May 29 during the Parade of Sail. No vessel will be

permitted to transit the entrance channel during that time without permission from the Captain of the Port. This is required to ensure the safety of Tall Ships during the Parade of Sail event. Vessel movements inside the Port of San Juan will be prohibited from 7 a.m. to 12 p.m. on May 29, 2000, except Tall Ships departing for the Parade of Sail, Law Enforcement Patrol vessels, and the Puerto Rico Ports Authority ferries. This is required to ensure the safety of participating Tall Ships as they queue up to depart San Juan Bay during the Parade of Sail. The San Juan Harbor entrance must be kept clear to ensure safety of participant vessels. Normal commercial vessel operations will resume within the harbor from noon to 6 p.m., and through the harbor entrance after all participant vessels have cleared the harbor.

These regulations establish multiple limited access areas and temporarily modify existing anchorage areas within the port area to provide for maximum spectator viewing areas and traffic patterns for deep draft and barge traffic.

The Parade of Sail route will extend from the EL MORRO Fortress, coastwise to Boca de Cangrejos Inlet where participants will turn to the west, set sail, and return to EL MORRO. The safety of parade participants and spectators will require that spectator craft including jet skis and sail boards be kept at a minimum of 300 yards from parade vessels while the vessels are in the parade route.

The vessel congestion due to the large number of participating and spectator vessels poses a significant threat to the safety of life. This rulemaking is necessary to ensure the safety of life on the navigable waters of the United States.

### Discussion of Comments and Changes

The Coast Guard received two comments during the comment period. Both comments requested that the beginning of the enforcement periods on May 29, 2000, be changed from 7 a.m. to 9 a.m. and 10 a.m. respectively, so commercial vessels can be moved through the harbor prior to the regulations taking effect. The Coast Guard decided not to change the time of the regulations but advised that the regulations as written permit vessels to move through the regulated areas with the permission of the Patrol Commander. Moreover, the Coast Guard plans to meet again with commercial maritime interests to coordinate requested harbor transits prior to and during the early stages of the port closure.

## Regulated Areas

Three regulated areas will be established in the Port of San Juan. These three regulated areas are needed to protect the maritime public and participating vessels from possible hazards to navigation associated with the large number of participant and spectator craft transiting the waters of the Port of San Juan, Puerto Rico.

Regulated Area A is in the proximity of the fireworks launch area at the point of Isla Grande. This regulated area will be in effect from 9 p.m. to 9:30 p.m. daily from 17 May to 29 May 2000. An area within a 300 yard radius around the point of Isla Grande will be kept clear for the duration of the fireworks display. Vessel traffic movements through the regulated area will be coordinated by the Patrol Commander to avoid conflict with the daily fireworks.

Regulated Area B covers all navigable channels within San Juan Bay and their adjacent piers from 7 a.m. until 12 noon on Monday, May 29, 2000. No vessels other than OPSAIL 2000 vessels, their assisting tugs, and enforcement vessels, may enter or navigate within the boundaries of the Port of San Juan unless specifically authorized by the Coast Guard Captain of the Port, San Juan, or his on-scene representative. The operation of seaplanes, including taxiing, landing, and taking off, is prohibited without prior written authorization from the Captain of the Port. The Catano Ferry will continue to operate on its established route during this time. This regulated area is necessary to ensure maritime safety and protect the boating public and the participating Tall Ships as the Tall Ships form up in order during the Outbound Parade of Sail.

Regulated Area C comprises the Parade of Sail route. No vessel will be permitted to transit the Bar Channel to enter or depart San Juan Bay from 7 a.m. to 6 p.m. on Monday, May 29, 2000 without the consent of the Captain of the Port or his on-scene representative. The Parade of Sail route will encompass an area starting at the Northeast point of Isla Las Cabras extending north to the Three Nautical Mile line then east to a point north of Boca de Congrejos then south to the twenty fathom line just north of Boca de Congrejos, then west to the Northeast point of Isla Las Cabras. A line of anchored official yachts will mark the southern portion of this parade of sail route. The safety of parade participants and spectators will require that spectator craft including jet skis and sail boards be kept at a minimum of 300 yards from parade vessels while the vessels are in the parade route.

Regulated Area D comprises Bar Channel, the entrance to San Juan Harbor. No vessel will be permitted to transit the Bar Channel to enter or depart San Juan harbor from 7 a.m. to 6 p.m. on Monday, May 29, 2000, without the consent of the Captain of the Port or his on-scene representative.

## Anchorage Regulations

These regulations also establish temporary Anchorage Regulations for participating OPSAIL 2000 vessels and spectator craft. The Anchorage Grounds are needed to provide viewing areas for spectator vessels while maintaining a clear parade route for the participating OPSAIL vessels and to protect boaters and spectator vessels. Rule 9 of the International Navigation Rules will be enforced. No vessel may anchor in any channel or otherwise impede the passage of a vessel, which can safely navigate only within a narrow channel or fairway. The Catano Ferry will continue to operate on its established route at all times. Spectator vessels will not anchor within 100 yards of the Catano Ferry route. The Catano Ferry route is defined by a line from the Catano Ferry pier at Punta Catano to pier two.

The following temporary anchorage regulations will be enforced, in addition to the existing anchorage regulations at 33 CFR 110.240, between 19 May and 29 May, 2000:

Anchorage "El Morro" (M)—Official Vessel Anchorage—Anchorage Permit Required. Temporary Anchorage M is a triangular area bounded by a line starting at 18–28.0N, 066–07.5W then southeast to 18–27.92N, 066–07.21W, then south to 18–27.65N, 066–07.15W, then to the starting point.

Anchorage "Catano" (C)—Spectator Anchorage—No Permit Required. Temporary anchorage area C is rectangular area near Catano bounded by a line starting at 18–27N, 066–07W, then south to 18–26.7N, 066–07W, then west to 18–26.7N, 066–07.55W, then north to 18–27N, 066–07.55W, then east to the starting point.

## Regulatory Evaluation

This 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. Although the Coast Guard anticipates restricting traffic in San Juan Harbor on Monday, May 29, 2000 during the events, the effect of this regulation will not be significant for the following reasons: the limited duration that the regulated areas will be in effect and the extensive advance notifications that will be made to the maritime community via the **Federal Register**, the Local Notice to Mariners, facsimile, the internet, marine information broadcasts, maritime association meetings, and San Juan area newspapers, so mariners can adjust their plans accordingly. Based upon the Coast Guard's experiences learned from previous events of a similar magnitude, these regulations have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety deemed necessary.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), we must consider whether this rule would have a significant economic impact on a substantial number of small entities. "Small entities" include 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. For the reasons discussed in the Regulatory Evaluation section above, 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 rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in portions of San Juan Harbor during May 29, 2000. These regulations would not have a significant economic impact on a substantial number of small entities for the following reasons. Before the effective period, the Coast Guard would make notifications to the public via mailings, facsimiles, the Local Notice to Mariners and use of the sponsors Internet site. In addition, the sponsoring organization, OPSAIL Inc., is planning to publish information of the event in local newspapers, pamphlets, and television and radio broadcasts.

## 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 rule so that they can better evaluate its effects on them and

participate in the rulemaking. If you are a small entity and believe 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 Coast Guard point of contact designated in the **FOR FURTHER INFORMATION CONTACT** section.

### Collection of Information

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

### Federalism

The Coast Guard has analyzed this rule under Executive Order 13132 and has 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 rule would not impose an unfunded mandate.

### Taking of Private Property

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

### Civil Justice Reform

This 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

The Coast Guard has 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Environment

We considered the environmental impact of this action and have determined under figure 2–1, paragraph 34 (f and h), of Commandant Instruction

M16475.IC; that this 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 the event, this rule is intended to minimize environmental impacts from increased vessel traffic during the parade of sail.

### List of Subjects

#### 33 CFR Part 100

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

#### 33 CFR Part 110

Anchorage grounds.

In consideration of the foregoing, the Coast Guard amends 33 CFR Parts 100, and 110 as follows:

### PART 100—[AMENDED]

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

**Authority:** 33 U.S.C. 1233, 49 CFR 1.46, and 33 CFR 100.35.

2. Temporary § 100.35T–07–014 is added as follows:

#### § 100.35T–07–014; OPSAIL 2000, Port of San Juan, Puerto Rico.

(a) *Regulated Areas:*

(1) Area A, fireworks exclusion area.

(i) Location. All waters within a 300 yard radius around the point of Isla Grande in position 18–27.58N, 066–06.33W.

(ii) Enforcement Period. Paragraph (a)(1)(i) of this section is enforced from 9 p.m. to 9:30 p.m. daily from May 17, 2000 until May 29, 2000.

(2) Regulated Area B, San Juan Harbor.

(i) Location. All waters within San Juan Harbor.

(ii) Enforcement Period. Paragraph (a)(2)(i) of this section is enforced from 7 a.m. May 29, 2000 until 12 noon on May 29, 2000.

(3) Regulated Area C, parade area.

(i) Location. The Parade of Sail route will encompass an area starting at the Northeast point of Isla Las Cabras at 18–28.5N, 066–08.4W; then north to the Three Nautical Mile line at 18–31.5N, 066–08.4W; then east to a point north of Boca de Congrejos at 18–31.5N, 066–00.0W, then south to the twenty fathom line just north of Boca de Congrejos at 18–28.5N, 066–00.0W, then west to the starting point. All coordinates reference Datum NAD:83.

(ii) Enforcement Period. Paragraph (a)(3)(i) of this section is enforced from 7 a.m. May 29, 2000 until 6 p.m. May 29, 2000.

(4) Regulated Area D, Bar Channel.

(i) Location. Bar Channel, San Juan Harbor.

(ii) Paragraph (a)(4)(i) of this section is enforced from 7 a.m. to 6 p.m. on May 29, 2000.

(b) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by Commander, Coast Guard Greater Antilles Section.

(c) *Special Local Regulations.*

(1) Entry into the regulated areas described in paragraph (a)(1), (a)(3) and (a)(4) of this section during enforcement periods is prohibited, unless otherwise authorized by the Patrol Commander.

(2) Entry into and movement by vessels already within the regulated area described in paragraph (a)(2) of this section will be prohibited from 7 a.m. to 12 p.m. on May 29, 2000, except for Tall Ships departing for the Parade of Sail, Law Enforcement Patrol vessels, and the Puerto Rico Ports Authority ferries.

(d) *Effective period.* This section becomes effective at 9 p.m. on May 17, 2000 and terminates at 6 p.m. on May 29, 2000.

### PART 110—[AMENDED]

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

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

4. In § 110.240, from 9 p.m. on May 17, 2000 through 6 p.m. on May 29, 2000, temporary new paragraphs (a)(3) and (a)(4) and (b)(3) and (b)(4) are added to read as follows:

#### § 110.240 San Juan Harbor, P.R.

(a) \* \* \*

(3) Temporary Anchorage (M). A triangular area bounded by a line starting at 18–28.0N, 066–07.5W then southeast to 18–27.92N, 066–07.21W, then south to 18–27.65N, 066–07.15W, then to the starting point.

(4) Temporary Anchorage (C). is rectangular area near Catano bounded by a line starting at 18–27N, 066–07W, then south to 18–26.7N, 066–07W, then west to 18–26.7N, 066–07.55W, then north to 18–27N, 066–07.55W, then east to the starting point.

(b) \* \* \*

(3)(i) Anchorage M is for Official Vessels and an Anchorage Permit from the Opsail 2000 organizers is required.

(ii) No vessel other than OPSAIL 2000 vessels and enforcement vessels may anchor, loiter, or approach any OPSAIL vessel when it is navigating or at anchor in this area.

(iii) Mariners are cautioned that anchorage area M has not been subject to any special survey or inspection and that charts may not show all seabed obstructions or the shallowest depths. Vessels must display anchor lights, as required by the navigation rules.

(4)(i) Anchorage C is a Spectator Anchorage and no permit is required.

(ii) Mariners are cautioned that anchorage area C has not been subject to any special survey or inspection and that charts may not show all seabed obstructions or the shallowest depths. Vessels must display anchor lights, as required by the navigation rules.

Dated: May 8, 2000.

**T.W. Allen,**

*Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

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**BILLING CODE 4910-15-U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Parts 100, 110, and 165

[CGD05-99-068]

RIN 2115-AA97, AA98, AE46, AE84

#### OPSAIL 2000, Port of Hampton Roads, VA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule; Notice of Implementation.

**SUMMARY:** The Coast Guard is establishing temporary regulations in the Port of Hampton Roads, Virginia and adjacent areas on the James and Elizabeth Rivers 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 Chesapeake Bay, Hampton Roads, and the James and Elizabeth Rivers.

**DATES:** This rule is effective from June 15, 2000 through June 20, 2000, except for the amendments to § 100.501 which are effective from 9:15 p.m. to 10:15 p.m. on June 17, 2000, the amendments to § 110.168 which are effective from 7 a.m. June 15, 2000 until 8 p.m. June 16, 2000, and the amendments to § 165.501 which are effective from June 15, 2000 through June 16, 2000.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05-99-068 and are available for inspection or copying at Coast Guard Marine Safety Office Hampton Roads,

200 Granby Street, Norfolk, Virginia 23510 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander S. Moody or Lieutenant K. Sniffen, Port Operations Department, Coast Guard Marine Safety Office Hampton Roads, (757) 441-6442.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On September 30, 1999, we published an advanced notice of proposed rulemaking; request for comments (ANPRM) entitled OPSAIL 2000, Port of Hampton Roads, VA in the **Federal Register** (64 FR 52723). We received no letters commenting on our anticipated rulemaking. No public hearing was requested and none was held.

On February 29, 2000, we published a notice of proposed rulemaking (NPRM) entitled OPSAIL 2000, Port of Hampton Roads, VA in the **Federal Register** (65 FR 10731). We received three letters commenting on the proposed rule. No public hearing was requested and none was held.

##### Background and Purpose

OPSAIL 2000® Norfolk is sponsoring OPSAIL 2000 in the Port of Hampton Roads. Planned events in the Port of Hampton Roads include: the arrival of more than 200 Tall Ships and other vessels at Lynnhaven Anchorage on June 15 and 16, 2000; a Parade of Sail of approximately 200 Tall Ships and other vessels from that anchorage to Town Point Park, downtown Norfolk, on June 16, 2000; a firework display adjacent to the Norfolk and Portsmouth seawalls on June 17, 2000. This event will substitute for the annual Harborfest, normally held on the first Friday, Saturday, and Sunday of June.

The Coast Guard anticipates 10,000 spectator craft for these events. Operators should expect significant vessel congestion along the parade route and viewing areas for the fireworks displays.

The purpose of these regulations is to promote maritime safety and protect participants and the boating public in the Port of Hampton Roads immediately prior to, during, and after the scheduled events. The regulations will establish a clear parade route for the participating vessels, establish no wake zones along the parade route and in certain anchorage areas, modify existing anchorage regulations for the benefit of participants and spectators, and provide a safety buffer around the planned fireworks displays. The regulations will impact the movement of all vessels

operating in the specified areas of the Port.

It may be necessary for the Coast Guard to establish 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.

Vessel operators are also reminded that Norfolk Naval Base will be strictly enforcing the existing restricted area defined at 33 CFR 334.300 during all of the OPSAIL 2000 events.

We recommend that vessel operators visiting the Port of Hampton Roads for this event obtain up to date editions of the following charts of the area: Nos. 12222, 12245, 12253, and 12254 to