

**§ 1.356-6 Rules for treatment of nonqualified preferred stock as other property.**

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**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

Approved: May 5, 2000.

**Jonathan Talisman,**

*Deputy Assistant Secretary of the Treasury.*

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**DEPARTMENT OF THE TREASURY**

**Bureau of Alcohol, Tobacco and Firearms**

**27 CFR Part 275**

[T.D. ATF-424a]

RIN 1512-AB92

**Implementation of Public Law 105-33, Section 9302, Relating to the Imposition of Permit Requirements on the Manufacturer of Roll-Your-Own Tobacco (98R-370P)**

**ACTION:** Temporary rule; correction.

**SUMMARY:** This document corrects a section of regulations that was erroneously revised in a temporary rule (T.D. ATF-424) published in the **Federal Register** of December 22, 1999, regarding the imposition of permit requirements on manufacturers of roll-your-own tobacco.

**DATES:** This rule is effective May 16, 2000.

**FOR FURTHER INFORMATION CONTACT:** Robert Ruhf, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW, Washington, DC 20226 (202-927-8210).

**SUPPLEMENTARY INFORMATION:** The Bureau of Alcohol, Tobacco and Firearms (ATF) published a document in the **Federal Register** of December 22, 1999 (64 FR 71929). We erroneously revised § 275.117(e). This document corrects that error.

In rule FR Doc. 99-32602 published on December 22, 1999, on page 71932, in the third column, remove the instruction and amendatory text in paragraph 25.

Signed: May 9, 2000.

**Bradley A. Buckles,**

*Director.*

[FR Doc. 00-12160 Filed 5-15-00; 8:45 am]

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**DEPARTMENT OF DEFENSE**

**Department of the Navy**

**32 CFR Part 767**

RIN 0703-AA57

**Application Guidelines for Archeological Research Permits on Ship and Aircraft Wrecks Under the Jurisdiction of the Department of the Navy**

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Final rule.

**SUMMARY:** This final rule adds guidelines for obtaining Department of the Navy (DON) archeological research permits for those applying for permission to conduct research on, and/or recover, ship or aircraft wrecks under the jurisdiction of the DON. This permit process will assist the DON in managing and protecting its historic ship and aircraft wrecks. This rule will provide clear guidance on the permit application requirements to conduct research on, and/or recover, DON ship and aircraft wrecks.

**DATES:** Effective May 16, 2000.

**FOR FURTHER INFORMATION CONTACT:** Dr. Robert S. Neyland, Underwater Archeologist, or Barbara A. Voulgaris, 202-433-2210.

**SUPPLEMENTARY INFORMATION:** On November 19, 1999 (64 FR 63263), the Department of the Navy (DON) published a notice of proposed rulemaking on the application guidelines for archeological research permits on Submerged Cultural Resources under the jurisdiction of DON. The comment period closed on January 18, 2000. Interested persons have been afforded the opportunity to participate in the making of this rule. Seven comments were submitted in response to the notice of proposed rulemaking. The comments from cultural resource professionals focused on the meaning of several definitions. In particular, there was a concern that the term "submerged cultural resources" would include more than ship and aircraft wrecks and the term would exclude ship and aircraft wrecks on land. As a result, a change was made to replace the terms "submerged cultural resources" and "underwater cultural resources" with "ship and aircraft wrecks". Also adopted were suggestions that provide additional time in the permit review process, to increase the permit duration, and to clarify guidance on state participation when a DON resource is on a State bottomland. Comments from those representing

salvage interests were generally against restrictions. These comments and suggestions were carefully considered, but most were not adopted since they were in opposition to our goal of protecting DON cultural resources.

As background, in 1993, DON initiated an archeological management program for its historic ship and aircraft wreck sites. This was aided in part by the U.S. Department of Defense (DoD) Legacy Resource Management Program that was established by Congress in 1991, 10 U.S.C. 114, to provide DoD with an opportunity to enhance the management of DoD stewardship resources. The U.S. Naval Historical Center's (NHC) Office of Underwater Archeology is the DON command responsible for managing the DON's ship and aircraft wrecks under the guidelines of the Federal Archeological Program. Under the National Historic Preservation Act of 1966 as amended (NHPA), 16 U.S.C. 470 (1999), DON is obligated to protect historic properties, including ship and aircraft wrecks, for which it has custodial responsibilities. The NHPA directs federal agencies to manage their cultural resource properties in a way that emphasizes preservation and minimizes the impact of undertakings that might adversely affect such properties. Management of DON cultural resources such as ship and aircraft wrecks is not only a matter of preservation. The issues of gravesites, unexploded ordnance, and potential military usage of recovered weapons systems must also be addressed in wrecksite management.

**Custody and Management of DON Ship and Aircraft Wrecksites**

a. DON ship and aircraft wrecks are government property in the custody of DON. These seemingly abandoned wrecks remain government property until specific formal action is taken to dispose of them. DON custody of its wrecks is based on the property clause of the U.S. Constitution and international maritime law, and is consistent with Articles 95 and 96 of the Law of the Sea Convention. These laws establish that right, title, or ownership of Federal property is not lost to the government due to the passage of time. Department of the Navy ships and aircraft cannot be abandoned without formal action as authorized by Congress. Aircraft and ships stricken from the active inventory list are not considered formally disposed of or abandoned. Through the sovereign immunity provisions of admiralty law, DON retains custody of all its naval vessels and aircraft, whether lost in U.S., foreign, or international boundaries.

b. Divers may dive on DON wrecks at their own risk; however, Federal property law dictates that no portion of a government wreck may be disturbed or removed. The DON strongly encourages cooperation with other agencies and individuals interested in preserving our maritime and aviation heritage. Diving on sunken DON ships and aircraft located in units of the national park system or the national marine sanctuary system may be prohibited unless authorized by a Federal land manager.

c. The diving public is encouraged to report the location of underwater ship and aircraft wrecksites to the NHC. Documentation of these wreck locations allows the DON to evaluate and preserve important sites for the future. Under no circumstances will salvage of DON aircraft or shipwrecks be undertaken without prior and specific written approval by the NHC.

d. Wrecksites that are not entire aircraft or ships, but are parts strewn in a debris field, are considered potential archeological sites. Such sites still contain DON property and must be managed by the DON in accordance with the NHPA, the Secretary of the Interior's Standards and Guidelines on Archeology and Historic Preservation, 48 FR 44716 (1983), and departmental regulations. Permits for recovery of DON ship or aircraft wrecks will be considered only for educational or scientific reasons. It is unlikely DON will recommend the disposal and sale of a DON ship or aircraft wreck that is eligible for listing on the National Register of Historic Places. The DON maintains a policy of not disposing of wrecked ships and aircraft for the following reasons:

1. Congress has mandated through the NHPA that DON make every effort to preserve its historic cultural resources;
2. The remains of crewmembers, if any, deserve respect and should remain undisturbed unless proper retrieval and burial become necessary;
3. There is a possibility that live explosives or ordnance may still be associated with the vessel or aircraft;
4. The arbitrary disposal and sale of wrecks may foster commercial exploitation of cultural resources and;
5. The abandonment of wrecks could deplete a finite inventory of significant cultural resources.

#### Matters of Regulatory Procedure

*Executive Order 12866, Regulatory Planning and Review.* This rule does not meet the definition of "significant regulatory action" for purposes of E.O. 12866.

*Executive Order 13132, Federalism.* It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will have little or no direct effect on States or local governments.

*Regulatory Flexibility Act.* This rule will not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

*Paperwork Reduction Act.* This rule does not impose collection of information requirements for purposes of the Paperwork Reduction Act (44 U.S.C. Chapter 35, 5 CFR part 1320).

#### List of Subjects in 32 CFR Part 767

Aircraft, Archeology, Educational research, Government property, Government property management, Historic preservation, Research, Vessels.

For the reasons stated in the preamble, the Department of the Navy adds 32 CFR part 767 to read as follows:

#### PART 767—APPLICATION GUIDELINES FOR ARCHEOLOGICAL RESEARCH PERMITS ON SHIP AND AIRCRAFT WRECKS UNDER THE JURISDICTION OF THE DEPARTMENT OF THE NAVY

##### Subpart A—Regulations and Obligations

Sec.

- 767.1 Purpose.
- 767.2 Definitions.
- 767.3 Policy.

##### Subpart B—Permit Guidelines

Sec.

- 767.4 Application for permit.
- 767.5 Evaluation of permit application.
- 767.6 Credentials of principal investigator.
- 767.7 Conditions of permits.
- 767.8 Requests for amendments or extensions of active permits.
- 767.9 Content of permit holder's final report.
- 767.10 Monitoring of performance.
- 767.11 Violations of permit conditions.
- 767.12 References for submission of permit application to conduct archeological research.

**Authority:** 5 U.S.C. 301; 16 U.S.C. 470.

##### Subpart A—Regulations and Obligations

###### § 767.1 Purpose.

(a) The purpose of this part is to establish the requirement and procedural guidelines for permits to conduct research on and/or recover Department of the Navy (DON) ship and aircraft wrecks.

(b) The U.S. Naval Historical Center's (NHC) Office of Underwater Archeology is the DON command responsible for

managing DON ship and aircraft wrecks under the guidelines of the Federal Archeological Program. In order for the NHC's management policy to be consistent with the Federal Archeology Program, and the goals of the NHPA, DON has implemented a permitting process applicable to DON property consistent with and applying the Archeological Resources Protection Act of 1979 as amended (ARPA), 16 U.S.C. 470aa-mm, permitting criteria. Department of the Navy policies regarding its ship and aircraft wrecks are consistent with ARPA permitting requirements. Department of the Navy application of ARPA permitting criteria promotes consistency among federal agencies and meets DON's responsibilities under the NHPA while allowing qualified non-federal and private individuals and entities access to DON historic ship and aircraft wrecks.

(c) To assist NHC in managing, protecting, and preserving DON ship and aircraft wrecks.

###### § 767.2 Definitions.

*Aircraft wreck* means the physical remains of an aircraft, intact or otherwise, its cargo, and other contents. Aircraft wrecks are classified as either historic structures or archeological sites.

*Archeological site* means the location of an event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure. A ship or aircraft wreck, along with its debris field, is an archaeological site when it lacks the structural integrity of an intact aircraft or vessel and when it and its location retain archeological or historical value regardless of the value of any existing remains.

*Artifact* means any object or assemblage of objects, regardless of age, whether in situ or not, that may carry archeological or historical information that yields or is likely to yield information to the scientific study of culture or human history.

*Cultural resource* means any prehistoric or historic district, site, building, structure, or object, including artifacts, records, and material remains related to such a property or resource. Historic aircraft wrecks or shipwrecks are classified as either archeological sites or historic structures.

*Gravesite* means any natural or prepared physical location, whether

originally below, on, or above the surface of the earth, where individual human remains are deposited.

*Historic structure* means a structure made up of interdependent and interrelated parts in a definite pattern or organization. Constructed by humans, it is often an engineering project large in scale. An aircraft wreck or shipwreck is a historic structure when it is relatively intact and when it and its location retain historical, architectural, or associative value.

*Permit holder* means any person authorized and given the exclusive right by the NHC to conduct any activity under these regulations.

*Permitted activity* means any activity that is authorized by the NHC under the regulations in this part.

*Research vessel* means any vessel employed for scientific purposes under the regulations in this part.

*Ship wreck* means the physical remains of a vessel, intact or otherwise, its cargo, and other contents.

Shipwrecks are classified as either historic structures or archeological sites.

*Wrecksite* means the location of a ship or aircraft that has been sunk, crashed, ditched, damaged, or stranded. The wreck may be intact or scattered, may be on land or in water, and may be a structure or a site. The site includes the physical remains of the wreck and all other associated artifacts.

#### **§ 767.3 Policy.**

(a) The Naval Historical Center's policy has been to evaluate each DON ship and aircraft wreck on an individual basis. In some cases, the removal of DON ship and aircraft wrecks may be necessary or appropriate to protect the cultural resource and/or to fulfill other NHC goals, such as those encompassing research, education, public access, and appreciation. Recovery of DON ship and aircraft wrecks may be justified in specific cases where the existence of a cultural resource may be threatened. Therefore, recovery of some or all of a cultural resource may be permitted for identification and/or investigation to answer specific questions; or the recovery presents an opportunity for public research or education.

(b) Generally, DON ship and aircraft wrecks will be left in place unless artifact removal or site disturbance is justified and necessary to protect DON ship and aircraft wrecks, to conduct research, or provide public education and information that is otherwise inaccessible. While NHC prefers non-destructive, in situ research on DON ship and aircraft wrecks, it recognizes that site disturbance and/or artifact recovery is sometimes necessary. At

such times, site disturbance and/or archeological recovery may be permitted, subject to conditions specified by NHC.

#### **Subpart B—Permit Guidelines**

##### **§ 767.4 Application for permit.**

(a) To request a permit application form, please write to: Department of the Navy, U.S. Naval Historical Center, Office of the Underwater Archeologist, 805 Kidder Breese St. SE, Washington Navy Yard, DC 20374-5060. Telefax number: 202-433-2729.

(b) Applicants must submit three copies of their completed application at least 120 days in advance of the requested effective date to allow sufficient time for evaluation and processing. Requests should be sent to the Department of the Navy, U.S. Naval Historical Center, Office of the Underwater Archeologist, 805 Kidder Breese St. SE, Washington Navy Yard, DC 20374-5060.

(c) If the applicant believes that compliance with one or more of the factors, criteria, or procedures in the guidelines contained in this part is not practicable, the applicant should set forth why and explain how the purposes of NHC are better served without compliance with the specified requirements. Permits are valid for one year from the issue date.

##### **§ 767.5 Evaluation of permit application.**

(a) Permit applications for archeological research are reviewed for completeness, compliance with program policies, and adherence to the guidelines of this subpart. Incomplete applications will be returned to the applicant for clarification. Complete applications are reviewed by NHC personnel and, when necessary, outside experts. In addition to the criteria set forth in § 767.6, applications are also judged on the basis of: relevance or importance; archeological merits; appropriateness and environmental consequences of technical approach; and qualifications of the applicants.

(b) Under certain circumstances, it may be necessary to consult with the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP) about the need to comply with section 106 of the NHPA. A section 106 review may require the NHC to consult with the appropriate SHPO and the ACHP. The ACHP review can take up to 60 days beyond the NHC's required 120-day review. Therefore, the entire review process may take up to 180 days.

(c) The NHC shall send applications for research at sites located in units of

the national park system, national wildlife refuge system, and national marine sanctuary system to the appropriate Federal land manager for review. The Federal land manager is responsible for ensuring that the proposed work is consistent with any management plan or established policy, objectives or requirements applicable to the management of the public lands concerned. NHC shall send applications for research at sites located on state bottomlands to the appropriate state agency for review. The burden of obtaining any and all additional permits or authorizations, such as from a state or foreign government or agency, private individual or organization, or from another federal agency, is on the applicant.

(d) Based on the findings of the NHC evaluation, the NHC Underwater Archeologist will recommend an appropriate action to the NHC Director. If approved, NHC will issue the permit; if denied, applicants are notified of the reason for denial and may appeal within 30 days of receipt of the denial. Appeals must be submitted in writing to: Director of Naval History, Naval Historical Center, 805 Kidder Breese St. SE, Washington Navy Yard, DC 20374-5060.

##### **§ 767.6 Credentials of principal investigator.**

A resume or curriculum vitae detailing the professional qualifications and professional publications and papers of the principal investigator (PI) must be submitted with the permit application. The PI must have: a graduate degree in archeology, anthropology, maritime history, or a closely related field; at least one year of professional experience or equivalent specialized training in archeological research, administration or management; at least four months of supervised field and analytic experience in general North American historic archaeology and maritime history; the demonstrated ability to carry research to completion; and at least one year of full-time professional experience at a supervisory level in the study of historic marine archeological resources. This person shall be able to demonstrate ability in comprehensive analysis and interpretation through authorship of reports and monographs.

##### **§ 767.7 Conditions of permits.**

(a) Upon receipt of a permit, permit holders must counter-sign the permit and return copies to the NHC and the applicable SHPO, Federal or State land manager, or foreign government official prior to conducting permitted activities

on the site. Copies of countersigned permits should also be provided to the applicable federal land manager when the sunken vessel or aircraft is located within a unit of the national park system, the national wildlife refuge system, or the national marine sanctuary system.

(b) Permits must be carried aboard research vessels and made available upon request for inspection to regional preservation personnel or law enforcement officials. Permits are non-transferable. Permit holders must abide by all provisions set forth in the permit as well as applicable state or Federal regulations. Permit holders should abide by applicable regulations of a foreign government when the sunken vessel or aircraft is located in foreign waters. To the extent reasonably possible, the environment must be returned to the condition that existed before the activity occurred.

(c) Upon completion of permitted activities, the permit holder is required to submit to NHC a working and diving log listing days spent in field research, activities pursued, and working area positions.

(d) The permit holder must prepare and submit a final report as detailed in § 767.9, summarizing the results of the permitted activity.

(e) The permit holder must agree to protect all sensitive information regarding the location and character of the wreck site that could potentially expose it to non-professional recovery techniques, looters, or treasure hunters. Sensitive information includes specific location data such as latitude and longitude, and information about a wreck's cargo, the existence of armaments, or the knowledge of gravesites.

(f) All recovered DON cultural resources remain the property of the United States. These resources and copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution and must meet the standards set forth in 36 CFR part 79, Curation of Federally Owned and Administered Archeological Collections, at the expense of the applicant. The repository shall be specified in the permit application.

#### **§ 767.8 Requests for amendments or extensions of active permits.**

(a) Requests for amendments to active permits (e.g., a change in study design or other form of amendment) must conform to the regulations in this part. All necessary information to make an objective evaluation of the amendment

should be included as well as reference to the original application.

(b) Permit holders desiring to continue research activities must reapply for an extension of their current permit before it expires. A pending extension or amendment request does not guarantee extension or amendment of the original permit. Therefore, you must submit an extension request to NHC at least 30 days prior to the original permit's expiration date. Reference to the original application may be given in lieu of a new application, provided the scope of work does not change significantly. Applicants may apply for one-year extensions subject to annual review.

(c) Permit holders may appeal denied requests for amendments or extensions to the appeal authority listed in § 767.5.

#### **§ 767.9 Content of permit holder's final report.**

The permit holder's final report shall include the following:

(a) A site history and a contextual history relating the site to the general history of the region;

(b) A master site map;

(c) Feature map(s) of the location of any recovered artifacts in relation to their position within the wrecksite;

(d) Photographs of significant site features and significant artifacts both in situ and after removal;

(e) If applicable, a description of the conserved artifacts, laboratory conservation records, and before and after photographs of the artifacts at the conservation laboratory;

(f) A written report describing the site's historical background, environment, archeological field work, results, and analysis;

(g) A summary of the survey and/or excavation process; and

(h) An evaluation of the completed permitted activity that includes an assessment of the permit holder's success of his/her specified goals.

#### **§ 767.10 Monitoring of performance.**

Permitted activities will be monitored to ensure compliance with the conditions of the permit. NHC on-site personnel, or other designated authorities, may periodically assess work in progress by visiting the study location and observing any activity allowed by the permit or by reviewing any required reports. The discovery of any potential irregularities in performance under the permit will be promptly reported and appropriate action will be taken. Permitted activities will be evaluated and the findings will be used to evaluate future applications.

#### **§ 767.11 Violations of permit conditions.**

The Director of Naval History, the Underwater Archeologist for DON, or his/her designee may, amend, suspend, or revoke a permit in whole or in part, temporarily or indefinitely, if in his/her view the permit holder has acted in violation of the terms of the permit or of other applicable regulations, or for other good cause shown. Any such action will be communicated in writing to the permit holder and will set forth the reason for the action taken. The permit holder may appeal the action to the appeal authority listed in § 767.5.

#### **§ 767.12 References for submission of permit application to conduct archeological research.**

(a) National Historic Preservation Act of 1966, as amended (NHPA), 16 U.S.C. 470 *et seq.* (1999), and Protection of Historic Properties, 36 CFR part 800. These regulations govern the Section 106 Review Process established by the NHPA.

(b) Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation published on September 29, 1983 (48 FR 44716). These guidelines establish standards for the preservation planning process with guidelines on implementation.

(c) Archeological Resources Protection Act of 1979, as amended (ARPA), 16 U.S.C. 470aa-mm, and the Uniform Regulations, 43 CFR part 7, subpart A. These regulations establish basic government-wide standards for the issuance of permits for archeological research, including the authorized excavation and/or removal of archeological resources on public lands or Indian lands.

(d) Secretary of the Interior's regulations, Curation of Federally-Owned and Administered Archeological Collections, 36 CFR part 79. These regulations establish standards for the curation and display of federally-owned artifact collections.

(e) Antiquities Act of 1906, Public Law 59-209, 34 Stat. 225 (codified at 16 U.S.C. 431 *et seq.* (1999)).

(f) Executive Order 11593, 36 FR 8291, 3 CFR, 1971-1975 Comp., p. 559 (Protection and Enhancement of the Cultural Environment).

(g) Department of Defense Instruction 4140.21M (DoDI 4120.21M, August 1998). Subject: Defense Disposal Manual.

(h) Secretary of the Navy Instruction 4000.35 (SECNAVINST 4000.35, 17 August 1992). Subject: Department of the Navy Cultural Resources Program.

(i) Naval Historical Center Instruction 5510.4. (NAVHISTCENINST 5510.4, 14

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 CGD707-00-014 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.