



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket Number USCG-2024-0303]

RIN 1625-AA00

### Safety Zone; Thames River, Groton, CT

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary interim rule.

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**SUMMARY:** The Coast Guard is establishing a temporary safety zone for certain waters of the Thames River, Groton, CT. This action is necessary to provide for the safety of life on the navigable waters in the vicinity of Fort Trumbull. New London, CT to the south of the Pfizer Pier in Groton, CT during installation of submerged cable and the removal and replacement of a floating drydock. When enforced, entry of vessels or persons into this zone is prohibited unless specifically authorized Captain of the Port Long Island Sound.

**DATES:** This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through 11:59 p.m. on July 31, 2024. For the purposes of enforcement, actual notice will be used from May 17, 2024, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2024-0303 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY**

**INFORMATION** section for further instructions on submitting comments. To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2024-0303 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Marine Science Technician First Class Mark Paget, Waterways Management Division, Sector Long Island Sound; Telephone (203) 468-4565; E-mail [Mark.A.Paget@uscg.mil](mailto:Mark.A.Paget@uscg.mil) .

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
COTP	Captain of the Port Long Island Sound
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
TIR	Temporary Interim Rule
U.S.C.	United States Code

### **II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM would be impracticable, and contrary to the public interest. The construction details were not finalized until there was insufficient time to publish a NPRM, take public comments, and consider those comments, and issue a final rule by May 17, 2024. It is impracticable to publish an NPRM because we must establish this

safety zone by May 17, 2024, to ensure the safety of mariners transiting the area from the dangers associated with the cable installation process and floating drydock installation.

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 safety zone established is to ensure public safety during the installation of submerged cable and the removal/ replacement of a floating drydock.

We are soliciting comments on this safety zone. If the Coast Guard determines that changes to the temporary interim rule are necessary, we will publish a temporary final rule or other appropriate document.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Long Island Sound (COTP) has determined that potential hazards associated with the submerged cable installation and floating drydock removal/replacement starting May 17, 2024; will be a safety concern for anyone within a 200-yard radius of the construction. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while submerged cable laying and drydock replacement operations are taking place.

### **IV. Discussion of the Rule**

This rule establishes a safety zone from May 17, 2024, through 11:59 p.m. on July 31, 2024. While the safety zone will be effective through this period, it will only be enforced during active submerged cable laying operations and dry dock construction or other instances which may create a hazard to navigation. The Coast Guard anticipates the active submerged cable laying and dry dock construction to take place within a four-to-six-hour period on May 17, 2024, unless the event is delayed because of weather conditions or construction delays in which case it may be subject to enforcement those same hours on a date to be determined before 11:59 p.m. on July 31, 2024. A broadcast

notice to mariners will inform the public of the exact date and the enforcement of the safety zone. The duration of the zone is intended to ensure the safety of vessels and these navigable waters during the scheduled cable installation construction. The safety zone will cover all navigable waters of the Thames River within 200 yards of a construction barge located 750 yards southeast of Fort Trumbull, New London, CT, in approximate position 41°20'14" N, 72°05'06" W. During times of enforcement, all persons or vessels would be prohibited from entering the safety zone without permission from the COTP or a designated representative. If the project is completed before 11:59 p.m. on July 31, 2024, enforcement of the safety zone will be suspended, and notice given via Broadcast Notice to Mariners.

## **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone will be of limited duration to minimize any adverse impacts to vessels who seek to transit the navigable waters of Thames River, New London, CT, in support of the cable installation construction on May 17, 2024, or on a to be determined date. Advance public notifications will be made to local mariners through

appropriate means, which may include Local Notice to Mariners and/or Broadcast Notice to Mariners. Additionally, mariners may request permission to enter the regulated area by contacting the COTP or the COTP's representative.

*B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator because they are able to transit with permission from COTP or the COTP's designated representative.

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. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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.

*C. 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).

*D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this 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.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive

023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have 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 involves a safety zone lasting up to six-hours that would prohibit entry within 200 yards of a construction barge. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

#### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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.

## **VI. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. If we determine that changes to the temporary interim rule are necessary, the Coast Guard will publish a temporary final rule or other appropriate document. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2024-0303 in the search box and click

"Search." Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the FOR FURTHER INFORMATION CONTACT section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this temporary interim rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you click on the Dockets tab and then the temporary interim rule, you should see a "Subscribe" option for email alerts. The option will notify you when comments are posted, or a subsequent document is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

### **List of Subjects in 33 CFR Part 165**

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 165.T01-0303 to read as follows:

**§ 165.T01-0303 Safety Zone; Thames River, New London, CT.**

(a) *Location.* The following area is a safety zone: All waters within a 200-yard radius of the construction barge located at 41°20'14" N, 72°05'06" W.

(b) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the Captain of the Port Long Island Sound (COTP) or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by (866) 299-8031. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(c) *Enforcement period.* This section is effective from May 17, 2024, through 11:59 p.m. on July 31, 2024. The rule will only be subject to enforcement within 4–6-hour window increments beginning on Wednesday, May 17, 2024, unless the project is delayed because of construction delays or weather conditions. If the project is delayed, a Broadcast Notice to Mariners will indicate the date to which this safety zone will be enforced at those same hours.

Dated: May 17, 2024.

E. Garrity,  
Captain, U.S. Coast Guard,  
Captain of the Port Long Island Sound.

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