

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### **§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

\* \* \* \* \*

*Paragraph 6005: Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

AGL MN E5 St. James, MN [REVISED]  
St. James Municipal Airport, MN  
(lat. 43°59'11"N., long. 94°33'29"W.)

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of the St. James Municipal Airport.

\* \* \* \* \*

Issued in Des Plaines, Illinois on December 5, 2001.

**Nancy B. Shelton,**

*Manager, Air Traffic Division, Great Lakes Region.*

[FR Doc. 02–1012 Filed 1–17–02; 8:45 am]

**BILLING CODE 4910–13–M**

## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

#### **33 CFR Part 165**

**[CGD01–01–227]**

**RIN 2115–AA97**

#### **Safety and Security Zones; High Interest Vessels—Boston Harbor, Weymouth Fore River, and Salem Harbor, Massachusetts**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rule making.

**SUMMARY:** The Coast Guard proposes to establish safety and security zones for vessels determined to be high interest vessels (HIVs) by the Captain of the Port (COTP), Boston. The safety and security zones would close all waters of Boston Harbor, the Weymouth Fore River Channel, and Salem Harbor 1000 yards ahead and astern and 200 yards on each side of an HIV in transit or at anchor. The zones will prohibit entry into or movement within this portion of the COTP Boston zone without Captain of the Port authorization. These safety and security zones are needed to safeguard the vessels, the public, and the surrounding area from sabotage or other subversive acts, accidents, or other events of a similar nature.

**DATES:** Comments and related material must reach the Coast Guard on or before February 28, 2002. The public meeting will be held on February 20, 2002 from 11 a.m. to 1 p.m. Further public meetings will be scheduled if necessary.

**ADDRESSES:** You may mail comments and related material to Marine Safety Office Boston, 455 Commercial Street, Boston, MA. Marine Safety Office Boston maintains the public docket for this rulemaking. Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of the docket and will be available for inspection or copying at Marine Safety Office Boston between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The public meeting will be held at the Black Falcon Cruise Terminal, located at One Black Falcon Avenue Boston, Massachusetts.

**FOR FURTHER INFORMATION CONTACT:** LT Dave Sherry, Marine Safety Office Boston, Maritime Security Operations Division, at (617) 223–3067.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–01–227), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know your comments reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### **Public Meeting**

The Coast Guard plans to hold a public meeting within the comment period on February 20, 2002 from 11 a.m. to 1 p.m. at the Black Falcon Cruise Terminal, located at One Black Falcon Avenue Boston, Massachusetts, to discuss the proposed high interest vessel security zones. This date coincide with the monthly Port Operators Group meeting, which provides the best forum to discuss the proposed rulemaking. For information regarding this meeting contact LT Dave Sherry at the address listed under **ADDRESSES**. If you wish to hold additional meetings, you may

contact LT Dave Sherry with a request in writing explaining why one would be beneficial. If we determine an additional meeting would aid in this rulemaking, we will extend the comment period and hold one at a time and place announced by a later notice in the **Federal Register**. Those who wish to comment on the proposed rulemaking but cannot attend the public meeting may submit written comments to LT Dave Sherry at the address listed under **ADDRESSES**.

##### **Background and Purpose**

On September 11, 2001, two commercial aircraft were hijacked from Logan Airport in Boston, Massachusetts and flown into the World Trade Center in New York, New York inflicting catastrophic human casualties and property damage. A similar attack was conducted on the Pentagon on the same day. National security and intelligence officials warn that future terrorist attacks are likely. Due to these heightened security concerns, safety and security zones are prudent for vessels which may be likely targets of terrorist acts. This regulation proposes to establish safety and security zones for high interest vessels (HIVs). These zones would close all waters of Boston Harbor, the Weymouth Fore River Channel, and Salem Harbor 1000 yards ahead and astern, and 200 yards on each side of an HIV in transit or at anchor.

For the purposes of this rule, high interest vessels operating in Boston Harbor, Salem Harbor or the Weymouth Fore River, include the following: Barges or ships carrying gasoline, chlorine, anhydrous ammonia, or any other bulk hazardous chemicals or other cargo deemed to be high interest by the Captain of the Port; passenger vessels; or any other vessels deemed to be of high interest by the Captain of the Port, Boston under the circumstances. For purposes of this rule, neither small passenger vessels regulated by 33 Code of Federal Regulations, subchapter T, nor liquefied natural gas carrier vessels will be considered HIVs.

Whether a vessel is considered high interest is determined by the Captain of the Port (COTP) Boston based on the potential threat posed by the vessel to the safety and/or security to the maritime community, the crews or passengers of the HIVs, and the surrounding communities from subversive or terrorist attack.

These proposed safety and security zones would prohibit entry into or movement in all waters 1000 yards ahead or astern, and 200 yards on each side of any HIV in the following waters of the Boston Captain of the Port Zone: (1) All waters of Boston Inner Harbor,

including the waters of the Mystic River, Chelsea River, and Reserved Channel west of a line running from Deer Island Light at position 42°20'25"N, 070°57'15"W to Long Island at position 42°19'48"N, 070°57'15"W, and west of the Long Island Bridge, running from Long Island to Moon Head; (2) in Salem Inner Harbor, all waters southwest of a line running from Juniper Point at position 42°32'02"N, 070°51'52"W and Fluen Point at position 42°31'16"N, 070°51'12"W; and (3) all waters of the Weymouth Fore River Channel, Hingham Bay and Hull Bay south of a line running from Windmill Point at position 42°18'14"N, 070°55'19"W to Peddocks Island at position 42°18'10"N, 070°55'38"W and east of a line running across West Gut from West Head at position 42°17'13"N, 070°56'55"W and Nut Island at position 42°16'48"N, 070°57'15"W.

The safety and security zones are necessary to protect the HIVs, their crews and/or passengers, others in the maritime community, and the surrounding communities from subversive or terrorist attack against a vessel which could, by the nature of its cargo or the destructive capability of the vessel structure itself, potentially cause serious negative impact to vessels, the port, or the environment. Safety and security zones are necessary to protect passenger vessels due to the their potential as a target of subversive or terrorist attack from the water, which could result in numerous casualties.

The Captain of the Port anticipates some impact on vessel traffic due to this proposed regulation. However, the safety and security zones are deemed necessary for the protection of life and property within the COTP Boston zone. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

No person or vessel may enter or remain in a prescribed safety or security zone at any time without the permission of the Captain of the Port. Each person or vessel in a safety or security zone shall obey any direction or order of the Captain of the Port. The Captain of the Port may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from a security zone. No person may board, take or place any article or thing on board any vessel or waterfront facility in a security zone without permission of the Captain of the Port.

Any violation of any safety or security zone proposed herein, is punishable by, among others, civil penalties (not to exceed \$25,000 per violation, where each day of a continuing violation is a

separate violation), criminal penalties (imprisonment for not more than 10 years and a fine of not more than \$100,000), in rem liability against the offending vessel, and license sanctions. This regulation is proposed under the authority contained in 50 U.S.C. 191, 33 U.S.C. 1223, 1225 and 1226.

#### Regulatory Evaluation

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

The Coast Guard expects 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 this proposed regulation will prevent traffic from transiting a portion of Boston Harbor, the Weymouth Fore River Channel, and Salem Harbor during HIV operations, the effect of this regulation will not be significant due to the minimal time that vessels will be restricted from the area, vessels can pass safely around the zones, and advance notifications will be made to the local maritime community by marine information broadcasts.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Boston Harbor, the Weymouth Fore River Channel, and Salem Harbor during HIV operations. This proposed rule will not have a significant economic impact on a substantial number of small entities because the zone is limited in duration,

vessels can pass safely around the zones, and the Coast Guard will issue marine information broadcasts before the effective period widely available to users of the harbor.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT Dave Sherry at the address listed under **ADDRESSES**.

#### Collection of Information

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

#### Federalism

The Coast Guard analyzed this proposed 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 proposed rule would not impose an unfunded mandate.

#### Taking of Private Property

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

## Civil Justice Reform

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

## Protection of Children

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

## Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has 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.

## Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under figure 2-1, (34)(g), of Commandant Instruction M16475.1D, this proposed rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

## 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 proposes to amend 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:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. Add § 165.114 to read as follows:

### § 165.114 Safety and Security Zones: High Interest Vessel-Boston Harbor, Weymouth Fore River, and Salem Harbor, Massachusetts.

(a) *Location.* The following waters within the Boston Captain of the Port Zone 1000 yards ahead and astern, and 200 yards on each side of any High Interest vessel are established as safety and security zones: (1) All waters of Boston Inner Harbor, including the waters of the Mystic River, Chelsea River, and Reserved Channel west of a line running from Deer Island Light at position 42°20'25"N, 070°57'15"W to Long Island at position 42°19'48"N, 070°57'15"W, and west of the Long Island Bridge, running from Long Island to Moon Head; (2) in Salem Inner Harbor, all waters southwest of a line running from Juniper Point at position 42°32'02"N, 070°51'52"W and Fluen Point at position 42°31'16"N, 070°51'12"W; and (3) all waters of the Weymouth Fore River Channel, Hingham Bay and Hull Bay south of a line running from Windmill Point at position 42°18'14"N, 070°55'19"W to Peddocks Island at position 42°18'10"N, 070°55'38"W and a east of a line running across West Gut from West Head at position 42°17'13"N, 070°56'55"W and Nut Island at position 42°16'48"N, 070°57'15"W.

(b) *High interest vessels.* For the purposes of this rule, high interest vessels operating in Boston Harbor, Salem Harbor or the Weymouth Fore River, include the following: barges or ships carrying gasoline, chlorine, anhydrous ammonia, or any other bulk hazardous chemicals or other cargo deemed to be high interest by the Captain of the Port; passenger vessels; or any other vessels deemed to be of high interest by the Captain of the Port, Boston under the circumstances. For purposes of this rule, neither small passenger vessels regulated by 33 CFR, chapter 1, subchapter T, nor liquefied natural gas carrier vessels will be considered HIVs

#### (c) Regulations.

(1) In accordance with the general regulations in §§ 165.23 and 165.33, entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: January 9, 2002.

**B.M. Salerno,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

[FR Doc. 02-1358 Filed 1-15-02; 3:13 pm]

**BILLING CODE 4910-15-U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 167

[USCG-2001-11201]

### Port Access Routes Study; Along the Sea Coast and in the Approaches to the Cape Fear River and Beaufort Inlet, NC

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of study; request for comments.

**SUMMARY:** The Coast Guard is conducting a Port Access Routes Study (PARS) to evaluate the need for vessel routing or other vessel traffic management measures along the sea coast of North Carolina and in the approaches to the Cape Fear River and Beaufort Inlet. The goal of the study is to help reduce the risk of marine casualties and increase vessel traffic management efficiency in the study area. The recommendations of the study may lead to future rulemaking action or appropriate international agreements.

**DATES:** Comments and related material must reach the Docket Management Facility on or before March 19, 2002.

**ADDRESSES:** To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG-2001-11201), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this document. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will