

activated, persons and vessels will be prohibited from entering these security zones without the permission of the Captain of the Port, Portland, Maine.

**DATES:** Comments and related materials much reach the U.S. Coast Guard on or before March 31, 2003.

**ADDRESSES:** You may mail comments and related material to Marine Safety Office Portland, 103 Commercial Street, Portland, ME 04101. Marine Safety Office Portland 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 this docket and will be available for inspection or copying at Marine Safety Office Portland between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant R. F. Pigeon, Port Operations Department, Marine Safety Office Portland at (207) 780-3092.

**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 (CGD01-03-001), 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 that your submission 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**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Portland at the address listed under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

**Background and Purpose**

Since the September 11, 2001, terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI)

has issued several warnings concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing operation in Afghanistan and growing tensions in Iraq have made it prudent for U.S. ports to be on a higher state of alert because the Al-Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide. Due to these concerns, security zones around passenger vessels are prudent to ensure the safety and protection of the passengers aboard. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99-399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. Moreover, the Coast Guard has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) (the "Magnuson Act"), and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

On October 7, 2002, a temporary final rule (TFR) entitled "Security Zones; Passenger Vessels, Portland, Maine, Captain of the Port Zone" was published in the **Federal Register** (67 FR 62373). That TFR, effective from September 25, 2002, until December 1, 2002, addressed concerns that vessels operating near passenger vessels present possible platforms from which individuals may gain unauthorized access to these vessels or launch terrorist attacks upon these vessels. The TFR was issued to safeguard human life, vessels, and waterfront facilities from sabotage or terrorist acts.

To address the aforementioned concerns, the Coast Guard proposes to establish permanent security zones to prevent vessels or persons from accessing the navigable waters around and under passenger vessels in the Portland, Maine, Captain of the Port zone. Due to the continued heightened security concerns, this proposed rule is necessary to provide for the safety of the port, the vessels, passengers and crew on the vessels, as well as to ensure passenger vessels are not used as possible platforms for terrorist attacks.

**Discussion of Proposed Rule**

This proposed rule would establish security zones that will be in effect in the navigable waters within a 100-yard

radius around any passenger vessel that is moored, or in the process of mooring, at any berth or anchored within the Portland, Maine, Captain of the Port zone. While underway, the security zones will be 100 yards aside and astern of the passenger vessel and 200 yards ahead which is needed due to the passenger vessel's speed of advance through the water. To clarify the types of passenger vessels this rule applies to, we have adopted a modified version of the definition in 33 CFR 120.100 for this rule by removing the requirement "lasting more than 24 hours" from the phrase "making voyages lasting more than 24 hours, any part of which is on the high seas; and by increasing the requirement for number of passengers from "authorized to carry more than 12 passengers for hire" to "authorized to carry more than 500 passengers for hire". This definition will include high capacity cruise ships and international ferries while excluding smaller vessels.

This proposed rule is needed to protect passenger vessels, persons aboard passenger vessels, the public, waterways, ports and adjacent facilities from sabotage or other subversive acts, accidents, or other events of a similar nature taken upon passenger vessels in the Portland, Maine, Captain of the Port zone. Entry into these zones will be prohibited unless specifically authorized by the Captain of the Port or his designated representative. Vessels already moored or anchored when these security zones take effect are not required to get underway to avoid either the moving or fixed zones unless specifically ordered to do so by the Captain of the Port or his designated representative.

These security zones will not preclude the routine loading and unloading of passengers, vehicles or cargo; or movement of authorized employees and support personnel at any facility or aboard any passenger vessel.

The Captain of the Port will enforce these zones and may enlist the aid and cooperation of any Federal, state, county, municipal, or private agency to assist in the enforcement of the regulation. To the extent that each is applicable, this regulation is issued under the authority contained in 33 U.S.C. 1226 and 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; and 49 CFR 1.46.

Any violation of the security zones described 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