Dated: April 24, 2002.

**Donald V. Hammond,**

*Fiscal Assistant Secretary.*

[FR Doc. 02–10547 Filed 4–25–02; 10:29 am]

**BILLING CODE 4810–39–P**

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 165

**[CGD01–02–016]**

**RIN 2115–AA97**

## Safety and Security Zones; Boston, Massachusetts Captain of the Port Zone, Boston and Salem Harbors, MA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing safety and security zones around vessels when they are moored at the Black Falcon Terminal, Boston, MA and the P G & E Power Plant Terminal, Salem, MA. We are also proposing continuous safety and security zones around the Coast Guard Integrated Support Command (ISC) Boston, MA. These safety and security zones would prohibit entry into or movement within portions of Boston and Salem Harbors and are needed to ensure public safety and prevent sabotage or terrorist acts against facilities and vessels with the potential for catastrophic damage and casualties if successful.

**DATES:** Comments and related materials to reach the Coast Guard on or before May 29, 2002.

**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.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Dave Sherry, Marine Safety Office Boston, Maritime Security Operations Division, at (617) 223–3030.

**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 (CGD1–02–016), 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

We do not now plan to hold a public meeting. However, you may submit a request for a meeting by writing to Marine Safety Office Boston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting 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

The terrorist attacks on New York, New York and Washington, DC on September 11, 2001, inflicted catastrophic human casualties and property damage. National security and intelligence officials warn that future terrorist attacks are likely. Following the September 11 attacks, we published a temporary rule in the **Federal Register** September 27, 2001 (66 FR 49280), establishing temporary anchorage grounds, regulated navigation areas, and safety and security zones in the Boston, Massachusetts Marine Inspection Zone and Captain of the Port Zone. These measures were taken to safeguard human life, vessels and waterfront facilities from sabotage or terrorist acts.

We published a notice of proposed rulemaking (NPRM) on February 27, 2002 (67 FR 8915), proposing to make permanent three of the safety and security zones established by the September 27 temporary rule, and to make the safety and security zones around the Distrigas Liquefied Natural Gas Facility effective for an additional period. That NPRM provided for a short comment period, which would have allowed the zones to be effective on March 16, 2002. This short comment period was intended to prevent any lapse in protective measures provided by the temporary rule. The comment period for that proposed rule did not allow adequate time for public comment.

In order to provide additional time for public comment, the Coast Guard extended the effective period of four of the safety and security zones established in September 2001—namely those zones around Coast Guard Integrated Support Command, Boston, the PG & E Power Plant in Salem, MA, in the Reserved Channel, Boston, MA, and the Distrigas Liquefied Natural Gas Facility in Everett, Massachusetts—until June 30, 2002. That extension was published March 15, 2002 (67 FR 11577). The regulated navigation areas and anchorage ground established in September 2001 expired as scheduled on March 15, 2002. In response to comments already received, the Coast Guard is amending the parameters of the proposed safety and security zones, as discussed in the *Discussion of Comments* section below. The safety and security zones proposed at the Distrigas Facility are being incorporated into a separate rulemaking, and are therefore no longer proposed in this supplemental notice of proposed rulemaking (SNPRM).

The Coast Guard proposes to establish permanent safety and security zones in Boston and Salem Harbors as part of a comprehensive port security regime designed to safeguard human life, vessels, and waterfront facilities from sabotage or terrorist acts. Due to continued heightened security concerns, permanent safety and security zones in Boston and Salem Harbor are prudent to provide for the safety of the port, the facilities, and the public. This proposed rule would establish three pairs of safety and security zones having identical boundaries, around Coast Guard Integrated Support Command, Boston, the PG & E Power Plant in Salem, MA, and in the Reserved Channel, Boston, MA.

These zones would restrict entry into or movement within portions of Boston and Salem Harbor. These zones are deemed necessary due to the vulnerable nature of these locations as possible targets of terrorist attack. Entry into or movement within these safety and security zones is prohibited unless authorized by the Captain of the Port, Boston. Mariners may request entry into these safety and security zones from the Coast Guard representative on scene.

The Captain of the Port anticipates some impact on vessel traffic due to this proposed regulation. However, the impact would be minimal, and the safety and security zones are deemed necessary for the protection of life and property within the COTP Boston zone.

No person or vessel would be allowed to remain in the proposed safety and security zones at any time without the

permission of the Captain of the Port, Boston, MA. Each person or vessel in the proposed safety and security zone must obey any direction or order of the Captain of the Port, Boston, MA. The Captain of the Port, Boston, MA may take possession and control of any unauthorized vessel in the proposed safety and security zone and/or remove any unauthorized person, vessel, article or thing from the proposed safety and security zone. No person may board, take or place any article or thing on board any vessel or waterfront facility in the proposed safety and security zone without permission of the Captain of the Port, Boston, MA.

Any violation of the proposed safety or security zone 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 $250,000), 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.

**Discussion of Comments and Changes to the Proposed Rule**

The Coast Guard received three comments from the public regarding the NPRM published in February 2002. All comments received were considered, and have contributed to us amending the proposed zones in this SNPRM. The public comments received addressed the burden the zones pose on the fishing and recreational boating communities, the effective times of the zones, and property located inside the zones.

Based on the comments received, the Coast Guard has determined that the dimensions of the proposed zones are too large, would unreasonably impact the public, and would be difficult to adequately enforce. The Coast Guard proposes to amend their sizes. The comments and proposed changes are:

*I. Burden on the Boating Community*

The Coast Guard received comments expressing concern over the potential negative impacts this proposal would have on the fishing and recreational boating communities. The comments stated that the zones might unduly restrict the movement of fishing vessels to and from their home piers and their placement of fixed fishing gear.

In addition, the zones were perceived to unduly restrict the movement of recreational mariners to and from their home marinas. At the same time, the Coast Guard determined the size of the zones may be excessive in terms of providing adequate protection, and would also make enforcement difficult. As a result, the Coast Guard has modified the zones it proposed in February to minimize the impact these zones would have on the recreational boating and fishing communities, and to facilitate enforcement.

*II. Why Must This Regulation Be in Effect at All Times?*

The Coast Guard received comments seeking to make the proposed regulation in effect ''only at times of high risk.'' ''High risk'' periods may not always be predictable by the public or the Coast Guard. Having the regulation in effect at all times provides maximum flexibility to respond to changing threat conditions. In addition, making the regulation effective only at certain times with regards to ''high risk'' periods can cause confusion among the public. Thus the Coast Guard still proposes to make this regulation effective at all times. However, the time that two of the three safety and security zones under the proposed regulation would be in use would be sporadic—only at times vessels are moored at Black Falcon and Salem PG & E Generating power plant terminals. The Coast Guard may allow access into any of the three zones if no safety or security risks are present.

*III. How Would This Proposed Rule Affect Property Inside the Proposed Zones?*

The Coast Guard received comments from waterfront facilities and pier owners located inside the proposed zone areas concerned with how the zone would affect their property and business inside the zones. The Captain of the Port does not seek to restrict use of public or private lands within the boundaries of these proposed zones. The Captain of the Port would allow entities in fixed locations within the proposed zone boundaries to continue their normal operations; with the caveat that this permission may be modified if a security risk is identified on property within the zone.

*IV. Resulting Changes*

As a result of the comments received and interagency review, we propose changes to the safety and security zones in our NPRM published February 21, 2002. Where paragraph 165.115 (a)(1) was proposed to read: All waters of Boston Harbor, including the Reserved Channel, west of a line connecting the Southeastern tip of the Black Falcon pier and the Northeastern corner of the Paul W. Conley Marine Terminal pier; it is proposed to now read: All waters within 150 yards off the bow and stern and 100 yards abeam of any vessel moored at the Massachusetts Port Authority Black Falcon Terminal. The intent of this portion of the regulation is to protect vessels at the Black Falcon Terminal. These new proposed boundaries and criteria provide adequate protection while minimizing the impact this zone would have on the recreational boating and fishing communities.

Where paragraph 165.115 (a)(2) was proposed to read: All waters of Boston Inner Harbor within a 200-yard radius of Pier 2 at the Coast Guard Integrated Support Command Boston, Boston, MA; it is proposed to now read: All waters of Boston Harbor within 100 feet of the Coast Guard Integrated Support Command (ISC) Boston piers. This change still provides adequate protection and was made to allow marine traffic adequate space outside the zones to safely transit to and from the Charles River.

Where paragraph 165.115 (a)(3) was proposed to read: All waters of Salem Harbor within a 500-yard radius of the PG & E Generating power plant pier in Salem, MA; it is proposed to now read: All waters of Salem Harbor within a 250-yard radius of the center point of the Salem Terminal Wharf located at 42°31.33′ N, 070°52.67′ W when a vessel is moored at the PG & E terminal. The intent of this portion of the regulation is to protect vessels at the PG & E Terminal. This change was made to accommodate this intent and allow mariners adequate space outside the zones to safely transit to the south and east of the zone.

**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 minimal enough that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This proposed rule would impose zero mandatory costs. The effect of this proposed regulation would not be significant for several reasons: The proposed zones would prohibit movement in small portions of Boston

and Salem Harbors, allowing ample room for vessels to navigate around the zones and advance notifications would be made to the local maritime community via marine information broadcasts and Local Notice to Mariners.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this proposed 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 would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit, anchor, or conduct commercial fishing operations in a portions of Boston and Salem Harbor. These sections of Boston and Salem Harbor do not restrict passenger and commuter vessel routes, do not unduly restrict recreational boat traffic, and are so small they would have a negligible impact on the commercial fishing industry. For these and the reasons enumerated in the Regulatory Evaluation section above, these safety and security zones would not have a significant economic impact on a substantial number of small entities.

**Assistance for Small Entities**

Under subsection 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 your small business or organization would be affected by this proposed rule and you have questions concerning its provisions or options for compliance, please call Lieutenant Dave Sherry, Marine Safety Office Boston, at (617) 223–3030. 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).

**Collection of Information**

This proposed rule would call 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.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

**Energy Effects**

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

**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 § 165.115 to read as follows:

### § 165.115 Safety and Security Zones: Salem and Boston Harbors, Massachusetts.

(a) *Location.* The following areas are safety and security zones:

(1) All waters within 150 yards off the bow and stern and 100 yards abeam of any vessel moored at the Massachusetts Port Authority Black Falcon Terminal.

(2) All waters of Boston Harbor within 100 feet of the Coast Guard Integrated Support Command (ISC) Boston piers and;

(3) All waters of Salem Harbor within a 250-yard radius of the center point of

the Salem Terminal Wharf located at 42°;31.33′ N, 070°52.67′ W when a vessel is moored at the PG & E Power Plant Terminal.

(b) *Effective date.* This section becomes effective July 1, 2002.

(c) *Regulations.* (1) In accordance with the general regulations in §§ 165.23 and 165.33, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port (COTP) 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.

(3) No person may enter the waters or land area within the boundaries of the safety and security zones unless previously authorized by the Captain of the Port, Boston or his authorized patrol representative.

Dated: April 11, 2002.

**B.M. Salerno,**

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

[FR Doc. 02–10471 Filed 4–26–02; 8:45 am]

**BILLING CODE 4910–15–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 02–925, MB Docket No. 02–81, RM–10422]**

### Digital Television Broadcast Service; Bethlehem, PA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Sonshine Family Television, Inc., licensee of station WBPH–TV, NTSC channel 60, Bethlehem, Pennsylvania, proposing the substitution of DTV channel 9 for station WBPH–TV's assigned DTV channel 59. DTV Channel 9 can be allotted to at reference coordinates 40–33–52 N. and 75–26–24 W. with a power of 3.2, a height above average terrain HAAT of 284 meters. However, since the community of Bethlehem is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government must be obtained for this allotment.

**DATES:** Comments must be filed on or before June 17, 2002, and reply comments on or before July 2, 2002.

**ADDRESSES:** The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (except in broadcast allotment proceedings). *See Electronic Filing of Documents in Rule Making Proceedings,* GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: J. Geoffrey Bentley, Bentley Law Office, P.O. Box 710207, Herndon, Virginia 20171 (Counsel for Sonshine Family Television, Inc.).

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–81, adopted April 22, 2002, and released April 26, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com.*

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

## PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

**§ 73.622 [Amended]**

2. Section 73.622(b), the Table of Digital Television Allotments under Pennsylvania is amended by removing DTV channel 59c and adding DTV channel 9 at Bethlehem.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

[FR Doc. 02–10476 Filed 4–26–02; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 02–926, MB Docket No. 02–82, RM–10408]**

### Digital Television Broadcast Service; Burlington, VT

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by C–22 FCC Licensee Subsidiary, LLC, licensee of station WVNY–TV, proposing the substitution of DTV channel 13 for station WVNY–TV's assigned DTV channel 16 at Burlington. DTV Channel 13 can be allotted to Burlington at reference coordinates (44–31–40 N. and