

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 110**

[CGD09-01-122]

RIN 2115-AA98

**Special Anchorage Area: Henderson Harbor, NY****AGENCY:** Coast Guard, DOT.**ACTION:** Notice of docket closure.

**SUMMARY:** On January 2, 2002 and again on June 5, 2002, the Coast Guard published requests for comments on the expanded special anchorage area in Henderson Harbor, New York. The Coast Guard received 27 comments in response to these requests. Based upon the comments and in the interest of safe navigation, the Coast Guard has decided that no change will be made at this time to the Henderson Harbor Special Anchorage Area A in Henderson Harbor, Henderson, New York.

**DATES:** The docket for this rulemaking is closed as of October 10, 2003.

**ADDRESSES:** The Ninth Coast Guard District Marine Safety Office maintains the public docket for this rulemaking. This docket is available for inspection or copying at room 2069, Ninth Coast Guard District, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Commander Michael Gardiner, Chief, Marine Safety Compliance Operations Branch, Ninth Coast Guard District Marine Safety Office, 1240 E. Ninth Street, Cleveland, Ohio 44199-2060. The phone number is (216) 902-6056.

**SUPPLEMENTARY INFORMATION:****Background**

On March 7, 2000, the Coast Guard published a final rule in the **Federal Register** that increased the size of the Henderson Harbor Special Anchorage Area (a) (65 FR 11892). The rulemaking to enlarge that special anchorage area was due to declining water levels and the safety of navigation in relation to the lower water levels. The Coast Guard received 5 positive comments in response to the original Notice of Proposed Rulemaking.

Subsequently, the Coast Guard published two requests for comments on January 2, 2002 and again on June 5, 2002 [67 FR 17, 67 FR 38625]. As a result of the subsequent requests for comments, the Coast Guard received 15 negative and 12 positive comments. Virtually every positive comment was

based upon a concern for vessel safety, primarily the safety of vessels due to low water levels.

The negative comments generally focused the concern with having vessels obstructing waterfront views, the economic impact of an expanded anchorage area, and the additional time it would take to transit the extension of 1000'. The concern for vessel safety is ultimately the most important consideration. Thus, while these latter comments are important, the Coast Guard is not persuaded at this time to make any changes in light of the concerns they raise.

The regulations governing special anchorage areas are found in 33 CFR 110.1. In particular, sound and light requirements are not applicable to certain vessels anchored in these areas established by the Coast Guard. The Coast Guard does not further regulate the particular use of a special anchorage area by local or state authorities.

In the special anchorage area established in Henderson Harbor, Henderson, New York, the Town Council has established mooring buoys and a fee-based system for the use of those mooring buoys. An enlargement of this special anchorage area by the Coast Guard did not impact what portion or how the Town Council wishes to utilize the special anchorage area. It only provided a larger area over which the Town Council may exercise their control.

Enlarging the special anchorage area did not require the Henderson Town Council to adopt new measures or change how they currently regulate usage of the special anchorage area. The two issues are separate and distinct. As such, the Coast Guard feels that in order to ensure the safety of vessels using that area, the larger anchorage area already established will be left in place.

As such, the Coast Guard is closing this docket. If future action is needed, the Coast Guard will open a rulemaking or issue a new request for comments.

Dated: October 14, 2003.

**R.F. Silva,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*

[FR Doc. 04-1612 Filed 1-26-04; 8:45 am]

**BILLING CODE 4910-15-P****DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 167**

[USCG-2002-12876]

**Port Access Routes Study; In the Approaches to Chesapeake Bay, VA****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of study results.

**SUMMARY:** The Coast Guard announces the completion of a Port Access Route Study that evaluated the need for modifications to current vessel routing and traffic management measures in the approaches to Chesapeake Bay, Virginia. The study was completed in June 2003. This document summarizes the study recommendations, which include enhancements and modifications to existing vessel routing measures and the creation of a new offshore anchorage area.

**ADDRESSES:** Comments and material received from the public, as well as the actual study and other documents mentioned in this document, are part of docket USCG-2002-12876 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street, SW., Washington, DC, 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For further information on this document, contact John Walters, Aids to Navigation and Waterways Management Branch, Fifth Coast Guard District, telephone 757-398-6230, e-mail [Jwalters@lantd5.uscg.mil](mailto:Jwalters@lantd5.uscg.mil); or George Detweiler, Office of Vessel Traffic Management, Coast Guard, telephone 202-267-0416, e-mail [Gdetweiler@comdt.uscg.mil](mailto:Gdetweiler@comdt.uscg.mil). For questions on viewing the docket, contact Andrea M. Jenkins, Program Manager, Docket Operations, telephone 202-366-0271.

**SUPPLEMENTARY INFORMATION:** You may obtain a copy of the Port Access Route Study by contacting either person listed under the **FOR FURTHER INFORMATION CONTACT** section. A copy is also available in the public docket at the address listed under the **ADDRESSES** section and electronically on the DMS Web site at <http://dms.dot.gov>.

## Definitions

The following definitions are from the International Maritime Organization's (IMO's) "Ships' Routing Guide" (except those marked by an asterisk) and should help you review this notice:

*Deep-water route* means a route within defined limits, which has been accurately surveyed for clearance of sea bottom and submerged obstacles as indicated on nautical charts.

*Offshore anchorage area* means an anchorage area located in the 3-to-12-nautical-mile belt of the territorial sea in which vessels directed by the Captain of the Port (COTP) to await further orders before entering a U.S. port may stand-by or anchor.

*Precautionary area* means a routing measure comprising an area within defined limits where vessels must navigate with particular caution and within which the direction of traffic flow may be recommended.

*Recommended track* means a route which has been specifically examined to ensure so far as possible that it is free of dangers and along which vessels are advised to navigate.

*Separation Zone or separation line* means a zone or line separating the traffic lanes in which vessels are proceeding in opposite or nearly opposite directions; or separating a traffic lane from the adjacent sea area; or separating traffic lanes designated for particular classes of vessels proceeding in the same direction.

*Traffic lane* means an area within defined limits in which one-way traffic is established. Natural obstacles, including those forming separation zones, may constitute a boundary.

*Traffic Separation Scheme or TSS* means a routing measure aimed at the separation of opposing streams of traffic by appropriate means and by the establishment of traffic lanes.

*Vessel routing system* means any system of one or more routes or routing measures aimed at reducing the risk of casualties; it includes traffic separation schemes, two-way routes, recommended tracks, areas to be avoided, inshore traffic zones, roundabouts, precautionary areas, and deep-water routes.

## Background and Purpose

### *When Did the Coast Guard Conduct This Port Access Route Study (PARS)?*

We announced the PARS in a notice published in the **Federal Register** on July 26, 2002, (67 FR 48837) and completed the PARS in June 2003.

### *What Is the Study Area?*

The study area encompassed the area bounded by a line connecting the following geographic points (All coordinates are NAD 1983.):

Latitude	Longitude
37°00.00'N .....	075°56.00'W
37°00.00'N .....	075°40.00'W
36°45.00'N .....	075°40.00'W
36°45.00'N .....	075°56.00'W

The study area included the Eastern and Southern approaches to Chesapeake Bay used by commercial and public vessels.

### *Why Did the Coast Guard Conduct This PARS?*

The approaches to Chesapeake Bay were last studied in 1989, and the final results were published in the **Federal Register** on April 28, 1994 (59 FR 21937). The study primarily examined the Southern Approach to determine its ability to accommodate vessels requiring a deep-water route. The PARS concluded that the Eastern Approach and Precautionary Area should remain unchanged and proposed the creation of the current deep-water route of the Southern Approach.

On April 12 through 17, 2001, the National Oceanic and Atmospheric Administration (NOAA) conducted a hydrographic data survey of the area. The survey indicated that Nautilus Shoal, which borders the northern edge of the Eastern Approach, is slowly moving southward and is encroaching on the inbound traffic lane. This limits the use of this traffic lane to vessels with drafts less than 27 feet (8.2 meters). Because of this encroachment, the current PARS evaluated changes to the Eastern Approach that would better accommodate deeper-draft, inbound vessels. Also, we decided to review the location of the Southern Approach, particularly in light of the many existing and proposed improvements to the ports of Hampton Roads, Baltimore, and Richmond that will directly affect the numbers, size, and types of vessels using these approaches.

These improvements include dredging and expanding the Norfolk International Terminal, improving the Portsmouth Marine Terminal, completing the Baltimore Harbor Anchorages and Channels improvement project, deepening portions of the James River, improving the Port of Richmond wharf, and completing the 55-foot anchorage for Hampton Roads. Future projects include building a new Virginia Port facility at Craney Island, improving the Pinners Point facility, reopening the

Cove Point liquefied natural gas facility, deepening the inbound segment of Thimble Shoals Channel from 45 to 50 feet, and deepening the outbound segment of Thimble Shoals Channel from 50 to 55 feet. Projections for the Port of Hampton Roads forecast a 5% growth rate in container shipping for 2003. In 2002, 24 cruise ships visited downtown Norfolk. Thirty-four cruise ships were scheduled to arrive in Norfolk during 2003. It is anticipated that passenger numbers will increase from 20,000 in 2001 to 80,000 in 2004. The size of vessels calling on these ports should also grow. The "S" class container ships, currently in use by Maersk Sealand, may soon call on the Port of Virginia. These massive container vessels are 1,138 feet in length, 140 feet wide, draft almost 48 feet when fully loaded, and have a capacity for 7,100 twenty-foot equivalent units (TEUs). Considering this projected growth in Hampton Roads and the potential growth in other ports accessed via the entrance to Chesapeake Bay, increases in all types of commercial vessel traffic is almost certain.

One potential study recommendation listed in the Notice of Study published July 26, 2002, in the **Federal Register** (67 FR 48837) was to disestablish Chesapeake Light. The PARS confirmed that this light should not be disestablished. Chesapeake Light has proved itself invaluable as a visual reference for inbound, outbound, and maneuvering vessel traffic as well as a platform that can be used to gather meteorological data.

### *How Did the Coast Guard Conduct This PARS?*

First, we announced the start of the study through a Notice of Study published July 26, 2002, in the **Federal Register** (67 FR 48837). This notice identified potential study recommendations and solicited comments concerning these recommendations as well as answers to questions provided in the notice. Second, we considered previous studies, analyses of vessel traffic density, and agency and stakeholder experience in vessel traffic management, navigation, ship handling, and the effects of weather. The recommendations of this PARS are based mainly on comments received to the docket and the results of the previous studies, analyses, and agency and stakeholder experience.

## Study Recommendations

The PARS recommendations include the following:

1. Modify the location of the existing Eastern Approach TSS;
2. Modify the regulations for the Southern Approach TSS to allow vessels with a draft of 42 feet (12.8 meters) or greater to use the deep-water route;
3. Retain the Chesapeake Light; and
4. Establish an offshore anchorage area.

This PARS recommendation was not previously identified as a potential study recommendation in the Notice of Study published July 26, 2002, in the **Federal Register** (67 FR 48837). This offshore anchorage area is for vessels that are unable or not approved to enter port.

#### Next Steps

A brief synopsis of how the PARS recommendations will proceed towards implementation follows:

1. Changes to the TSSs will require approval by the International Maritime Organization (IMO). Any changes to the TSSs will be accomplished through the rulemaking process.

2. The establishment of an offshore anchorage area will be accomplished through the rulemaking process.

3. Changes to aids to navigation resulting from the above actions will be accomplished through the following established procedures—notification of proposed changes in the Local Notice to Mariners with an opportunity for comment and notification of the final changes in the Local Notice to Mariners.

#### Conclusion

We appreciate the comments we received concerning the PARS. We will provide ample opportunity for additional comments on any recommended changes to existing routing or operational measures that require codification through notices of proposed rulemakings (NPRMs) published in the **Federal Register**.

Dated: January 15, 2004.

**Joseph J. Angelo,**

*Director of Standards, Marine Safety, Security and Environmental Protection.*

[FR Doc. 04-1441 Filed 1-26-04; 8:45 am]

**BILLING CODE 4901-15-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AI69

#### Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for *Yermo xanthocephalus* (Desert Yellowhead)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of public comment period and notice of availability of draft economic analysis and draft environmental assessment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of the draft economic analysis and draft environmental assessment for the proposed designation of critical habitat for *Yermo xanthocephalus* (desert yellowhead) under the Endangered Species Act of 1973, as amended. We also are reopening the public comment period for the proposal to designate critical habitat for this species to allow all interested parties to comment on the proposed rule and the associated draft economic analysis and draft environmental assessment. Over a 10-year time period, the total section 7-related direct costs associated with the *Y. xanthocephalus* listing and critical habitat are estimated at \$500,000 to \$600,000. Comments previously submitted need not be resubmitted as they have been incorporated into the public record as part of this extended comment period and will be fully considered in preparation of the final rule.

**DATES:** We will accept and consider all comments received on or before February 26, 2004. Any comments that we receive after the closing date may not be considered in the final decision on this proposal.

**ADDRESSES:** You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, 4000 Airport Parkway, Cheyenne, WY 82001, or by facsimile to 307-772-2358. You may hand deliver written comments to our Wyoming Field Office at the address given above. You may send comments by electronic mail (e-mail) to [fw6\\_desertyellowhead@fws.gov](mailto:fw6_desertyellowhead@fws.gov). See the "Public Comments Solicited" section below for file format and other information on electronic filing.

You may obtain copies of the draft economic analysis and draft

environmental assessment, review comments and materials received, and review supporting documentation used in preparation of the proposed rule, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service's Wyoming Field Office. The draft economic analysis and draft environmental assessment, as well as the proposed rule for the critical habitat designation, also are available on the Internet at <http://mountain-prairie.fws.gov/endspp/plants>.

#### FOR FURTHER INFORMATION CONTACT:

Brian T. Kelly, Field Supervisor, Wyoming Field Office, U.S. Fish and Wildlife Service, at the above address (telephone 307-772-2374; facsimile 307-772-2358; e-mail [Brian\\_T\\_Kelly@fws.gov](mailto:Brian_T_Kelly@fws.gov)).

#### SUPPLEMENTARY INFORMATION:

##### Background

*Yermo xanthocephalus*, a perennial herb in the sunflower family, is known from only one population, which occurs in central Wyoming on Federal land managed by the Bureau of Land Management (BLM). The one population numbered approximately 12,000 plants in 2001. *Y. xanthocephalus* has leafy stems up to 12 inches high with alternate, lance-shaped leathery leaves and 25 to 80 flower heads on each stem. Each flower head contains four to six yellow disk flowers surrounded by five small, yellow leaves. *Y. xanthocephalus* occupies shallow deflation hollows shaped by wind and erosion in outcrops of sandstone. Human activities, including potential oil and gas development, potential mining of uranium and zeolites, and recreational off-road vehicle use, resulted in *Y. xanthocephalus* being listed as a threatened species throughout its range on March 14, 2002 (67 FR 11442).

On March 14, 2003 (68 FR 12326), we proposed to designate critical habitat for *Yermo xanthocephalus* pursuant to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). The proposal includes approximately 146 hectares (360 acres) of federally-managed lands in the Beaver Rim area in Fremont County, Wyoming. This area contains the only known population of the desert yellowhead, as well as the physical or biological features essential for the conservation of the species.

Critical habitat identifies specific areas, both occupied and unoccupied, that are essential to the conservation of a listed species and that may require special management considerations or protection. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of