

## § 160.5

## 33 CFR Ch. I (7–1–25 Edition)

other commonwealth, territory, or possession of the United States.

*Tanker* means a self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous materials in bulk in the cargo spaces.

*Tank Vessel* means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue.

*Vehicle* means every type of conveyance capable of being used as a means of transportation on land.

*Vessel* means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

*Vessel Traffic Services (VTS)* means a service implemented under part 161 of this chapter by the United States Coast Guard designed to improve the safety and efficiency of vessel traffic and to protect the environment. The VTS has the capability to interact with marine traffic and respond to traffic situations developing in the VTS area.

*Vessel Traffic Service Area* or *VTS Area* means the geographical area encompassing a specific VTS area of service as described in part 161 of this chapter. This area of service may be subdivided into sectors for the purpose of allocating responsibility to individual Vessel Traffic Centers or to identify different operating requirements.

NOTE: Although regulatory jurisdiction is limited to the navigable waters of the United States, certain vessels will be encouraged or may be required, as a condition of port entry, to report beyond this area to facilitate traffic management within the VTS area.

*VTS Special Area* means a waterway within a VTS area in which special operating requirements apply.

[CGD 90–020, 59 FR 36323, July 15, 1994, as amended at USCG–2010–0351, 75 FR 36286, June 25, 2010]

### § 160.5 Delegations.

(a) District Commanders and Captains of the Ports are delegated the authority to establish safety zones.

(b) Under the provisions of §§ 6.04–1 and 6.04–6 of this chapter, District Commanders and Captains of the Ports have been delegated authority to establish security zones.

(c) Under the provisions of § 1.05–1 of this chapter, District Commanders have been delegated authority to establish regulated navigation areas.

(d) Subject to the supervision of the cognizant Captain of the Port and District Commander, Directors, Vessel Traffic Services are delegated authority under 33 CFR 1.01–30 to discharge the duties of the Captain of the Port that involve directing the operation, movement, and anchorage of vessels within a Vessel Traffic Service area including management of vessel traffic within anchorages, regulated navigation areas and safety zones, and to enforce Vessel Traffic Service and ports and waterways safety regulations. This authority may be exercised by Vessel Traffic Center personnel. The Vessel Traffic Center may, within the Vessel Traffic Service area, provide information, make recommendations, or, to a vessel required under part 161 of this chapter to participate in a Vessel Traffic Service, issue an order, including an order to operate or anchor as directed; require the vessel to comply with orders issued; specify times of entry, movement or departure; restrict operations as necessary for safe operation under the circumstances; or take other action necessary for control of the vessel and the safety of the port or of the marine environment.

[CGD 79–026, 48 FR 35404, Aug. 4, 1983, as amended by CGD 88–037, 53 FR 21815, June 10, 1988; CGD 90–020, 59 FR 36324, July 15, 1994; USCG–2010–0351, 75 FR 36287, June 25, 2010]

### § 160.7 Appeals.

(a) Any person directly affected by a safety zone or an order or direction issued under this subchapter may request reconsideration by the official who issued it or in whose name it was issued. This request may be made orally or in writing, and the decision of the official receiving the request may be rendered orally or in writing.

(b) Any person directly affected by the establishment of a safety zone or by an order or direction issued by, or on behalf of, a Captain of the Port may appeal to the District Commander through the Captain of the Port. The

appeal must be in writing, except as allowed under paragraph (e) of this section, and shall contain complete supporting documentation and evidence which the appellant wishes to have considered. Upon receipt of the appeal, the District Commander may direct a representative to gather and submit documentation or other evidence which would be necessary or helpful to a resolution of the appeal. A copy of this documentation and evidence is made available to the appellant. The appellant is afforded five working days from the date of receipt to submit rebuttal materials. Following submission of all materials, the District Commander issues a ruling, in writing, on the appeal. Prior to issuing the ruling, the District Commander may, as a matter of discretion, allow oral presentation on the issues.

(c) Any person directly affected by the establishment of a safety zone or by an order or direction issued by, or on behalf of, a District Commander, or who receives an unfavorable ruling on an appeal taken under paragraph (b) of this section may appeal to the Area Commander through the District Commander. The appeal must be in writing, except as allowed under paragraph (e) of this section, and shall contain complete supporting documentation and evidence which the appellant wishes to have considered. Upon receipt of the appeal, the Area Commander may direct a representative to gather and submit documentation or other evidence which would be necessary or helpful to a resolution of the appeal. A copy of this documentation and evidence is made available to the appellant. The appellant is afforded five working days from the date of receipt to submit rebuttal materials. Following submission of all materials, the Area Commander issues a ruling, in writing, on the appeal. Prior to issuing the ruling, the Area Commander may, as a matter of discretion, allow oral presentation on the issues.

(d) Any person who receives an unfavorable ruling on an appeal taken under paragraph (c) of this section, may appeal to the Commandant (CG-5P), Attn: Assistant Commandant for Prevention, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Ave-

nue SE., Washington, DC 20593-7501. The appeal must be in writing, except as allowed under paragraph (e) of this section. The Area Commander forwards the appeal, all the documents and evidence which formed the record upon which the order or direction was issued or the ruling under paragraph (c) of this section was made, and any comments which might be relevant, to the Assistant Commandant for Prevention. A copy of this documentation and evidence is made available to the appellant. The appellant is afforded 5 working days from the date of receipt to submit rebuttal materials to the Assistant Commandant for Prevention. The decision of the Assistant Commandant for Prevention is based upon the materials submitted, without oral argument or presentation. The decision of the Assistant Commandant for Prevention is issued in writing and constitutes final agency action.

(e) If the delay in presenting a written appeal would have significant adverse impact on the appellant, the appeal under paragraphs (b) and (c) of this section may initially be presented orally. If an initial presentation of the appeal is made orally, the appellant must submit the appeal in writing within five days of the oral presentation to the Coast Guard official to whom the presentation was made. The written appeal must contain, at a minimum, the basis for the appeal and a summary of the material presented orally. If requested, the official to whom the appeal is directed may stay the effect of the action while the ruling is being appealed.

[CGD 79-026, 48 FR 35404, Aug. 4, 1983, as amended by CGD 88-052, 53 FR 25122, July 1, 1988; CGD 96-026, 61 FR 33668, June 28, 1996; CGD 97-023, 62 FR 33364, June 19, 1997; USCG-2002-12471, 67 FR 41333, June 18, 2002; USCG-2006-25150, 71 FR 39211, July 12, 2006; 72 FR 17409, Apr. 9, 2007; USCG-2010-0351, 75 FR 36287, June 25, 2010; USCG-2011-0257, 76 FR 31838, June 2, 2011; USCG-2014-0410, 79 FR 38439, July 7, 2014]

## Subpart B—Control of Vessel and Facility Operations

### § 160.101 Purpose.

This subpart describes the authority exercised by District Commanders and