

**DEPARTMENT OF TRANSPORTATION****Office of the Secretary****14 CFR Part 255 and Part 399**

[Dockets Nos. OST-97-2881, OST-97-3014, OST-98-4775, and OST-99-5888]

RIN 2105-AC65

**Computer Reservations System (CRS) Regulations; Statements of General Policy**

**AGENCY:** Office of the Secretary, Department of Transportation.

**ACTION:** Notice of change in time of public hearing; notice of procedures for hearing.

**SUMMARY:** On Thursday, May 22, 2003, at 9 a.m., the Department will conduct a public hearing on its pending rulemaking on computer reservations systems (CRSs). The public hearing will be held at the Marriott at Metro Center, 775 12th Street, NW., Washington, DC. This notice changes the beginning time from 9:30 a.m. to 9 a.m., sets forth the procedures for the hearing, and lists the speakers in order of appearance.

**FOR FURTHER INFORMATION CONTACT:** Thomas Ray, Office of the General Counsel, 400 Seventh St., SW., Washington, DC 20590, (202) 366-4731.

**SUPPLEMENTARY INFORMATION:** The Department is conducting a rulemaking to determine whether its rules governing CRS operations, 14 CFR part 255, remain necessary and, if so, whether the current rules are effective. Our notice of proposed rulemaking set forth our tentative proposals regarding the existing rules and our tentative belief that we should not extend the rules to cover the sale of airline tickets through the Internet. 67 FR 69366, November 15, 2002. While interested persons have the opportunity to file comments and reply comments, we are also holding a public hearing on May 22 where interested persons may present their views on the major issues. 68 FR 25844, May 14, 2003. Michael Reynolds, the Deputy Assistant Secretary for Aviation and International Affairs, will preside. We must limit each speaker's time and the number of persons who may speak, because the hearing will last only one day. Persons who are unable to speak at the hearing may, of course, present their views on the issues (and on statements made at the hearing) in their reply comments.

We initially planned to begin the hearing at 9:30 a.m. We have now decided to begin at 9 a.m., which will allow us to give each speaker more time for his or her presentation.

We asked persons who wished to speak at the hearing to submit requests to us as soon as possible. We received 26 requests by noon on Friday, May 16. We have determined to allow all 26 persons to speak. Each of them will have fifteen minutes to speak, which will include any time needed for answering questions from Mr. Reynolds. If we have additional time at the end of the hearing, we may allow others to speak as well. We are not allowing rebuttals, and we have decided that organizing the hearing in panel form would be impracticable due to the number of speakers and the complexity of the issues.

We plan to have the following persons speak in the morning session, in the following order: Sabre, Amadeus, Worldspan, TechNet Texas, Galileo, Orbitz, America West, American, Travelers First, and United. The speakers in the afternoon session will be as follows: Delta, Continental, U.S. Airways, Northwest, Southwest, Shepherd Systems, Air Carrier Association, Travelocity, American Society of Travel Agents, Expedia, Large Agency Coalition, Stratton Travel Management, Interactive Travel Services Association, Competitive Enterprise Institute, Progress & Freedom Foundation, and Mercatus.

Speakers need not provide written statements at the hearing. If they choose to do so, they must also submit a copy to the docket for this proceeding.

A transcript of the hearing prepared by a court reporter will be put in the docket for this rulemaking, so that anyone who is unable to attend the hearing can learn what was said. We plan to place the transcript in the docket within one week of the hearing.

Issued in Washington, DC, on May 19, 2003.

**Read C. Van de Water,**

*Assistant Secretary for Aviation and International Affairs.*

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**BILLING CODE 4910-62-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard****33 CFR Part 165**

[CGD05-02-099]

RIN 1625-AA11 (Formerly RIN 2115-AE84)

**Regulated Navigation Area in Hampton Roads, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to revise the Regulated Navigation Area in Hampton Roads, Virginia, by imposing vessel reporting requirements and speed limit restrictions in certain areas of the port. These measures are necessary because of the unique physical characteristics and resources contained in the port. These regulations will enhance the safety and security of vessels and property in the Hampton Roads port complex while minimizing, to the extent possible, the impact on commerce and legitimate waterway use.

**DATES:** Comments and related material must reach the Coast Guard on or before July 21, 2003.

**ADDRESSES:** You may mail comments and related material to the Marine Safety Division, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704. The Marine Safety Division of the Fifth Coast Guard District maintains the public docket for this rulemaking. The docket, as well as documents indicated in this preamble as being available in the docket, will be available for inspection or copying at the Coast Guard Fifth District, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Roger Smith, Marine Safety Division, Fifth Coast Guard District, (757) 398-6389, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**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 (CGD05-02-099), 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 they 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. You may submit a request for a meeting by writing to the Marine Safety Division at the address 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 later notice in the **Federal Register**.

### Background and Purpose

#### History

Terrorist attacks on September 11, 2001, inflicted catastrophic human casualties and property damage. These attacks highlighted the terrorists' ability and desire to utilize multiple means in different geographic areas to increase their opportunities to successfully carry out their mission, thereby maximizing destruction using multiple terrorist acts.

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. The threat of maritime attacks is real as evidenced by the October 2002 attack on a tank vessel off the coast of Yemen and the prior attack on the USS COLE. These attacks manifest a continuing threat to U.S. assets as described in the President's finding in Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002) that the security of the U.S. is endangered by the September, 11, 2001 attacks and that such disturbances continue to endanger the international relations of the United States. See also Continuation of the National Emergency with Respect to Certain Terrorist Attacks, (67 FR 58317, September 13, 2002); Continuation of the National Emergency With Respect To Persons Who Commit, Threaten To Commit, Or Support Terrorism, (67 FR 59447, September 20, 2002). The U.S. Maritime Administration (MARAD) in Advisory 02-07 advised U.S. shipping interests to maintain a heightened state of alert against possible terrorist attacks. MARAD more recently issued Advisory 03-01 informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attack to the transportation community in the United States. The ongoing hostilities in Afghanistan and growing tensions in Iraq have made it prudent for U.S. ports and waterways 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 increased awareness that future terrorist attacks are possible, the Coast Guard as lead federal agency for maritime homeland security, has determined that the District Commander

must have the means to be aware of, deter, detect, intercept, and respond to asymmetric threats, acts of aggression, and attacks by terrorists on the American homeland while still maintaining our freedoms and sustaining the flow of commerce. A Regulated Navigation Area is a tool available to the Coast Guard that may be used to control vessel traffic by specifying times of vessel entry, movement, or departure to, from, within, or through ports, harbors, or other waters.

On October 24, 2001, we published a temporary final rule entitled, "Regulated Navigation Area; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters," in the **Federal Register** (66 FR 53712). The temporary final rule required that all vessels of 300 gross tons or greater to reduce speed to eight knots in the vicinity of Naval Station Norfolk, in order to improve security measures and reduce the potential threat to Naval Station Norfolk security that may be posed by these vessels. We have received no comments since the publication of this rule.

On December 27, 2001, we published a temporary final rule entitled, "Regulated Navigation Area; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters," in the **Federal Register** (66 FR 66753). The temporary rule expanded the geographic definitions of the Hampton Roads Regulated Navigation Area to include the waters of the 12 nautical mile territorial sea off the Coast of Virginia and added new port security measures. The port security measures required that vessels in excess of 300 gross tons, including tug and barge combinations in excess of 300 gross tons combined, perform the following. Check in with the Captain of the Port or his representative at least 30 minutes prior to entry to obtain permission to transit the Regulated Navigation Area. The vessel may enter the Regulated Navigation Area upon authorization and approval by the Captain of the Port or his representative. A vessel that receive permission to enter the Regulated Navigation Area remain subject to a Coast Guard port security boarding. Thirty (30) minutes prior to getting underway, vessels departing or moving within the Regulated Navigation Area must contact the Captain of the Port or his representative via VHF-FM channel 13 or 16, call (757) 444-5209/5210 or (757) 441-3298 for the Captain of the Port Duty Officer. We have received no comments since the publication of this rule.

This rule proposes to update the Regulated Navigation Area to encompass aspects of navigational safety and security in a post September 11, 2001 environment. The reporting and speed limit restrictions will enable the COTP to closely monitor vessel movements in the Regulated Navigation Area.

### Discussion of Proposed Rule

#### Regulated Navigation Area

*Offshore Zone:* The proposed rule will expand the geographical definition of the Hampton Roads Regulated Navigation Area to include the waters of the 12 nautical mile territorial sea off the Coast of Virginia.

*Inland Zone:* The geographical boundaries of the inland waters included in the existing Regulated Navigation Area will be unchanged under the proposed rule.

#### Definitions

The proposed rule will expand the definition section of the existing Regulated Navigation Area to define I-664 Bridge, Designated Representative of the Captain of the Port, Offshore waters, Inland waters, and Coast Guard Patrol Commander.

#### Applicability

This section will be unchanged by the proposed rule.

#### Regulations

*Anchoring Restrictions:* The proposed rule will simplify anchoring restrictions. Under the proposed rule vessels may anchor in all areas of the offshore waters of the Regulated Navigation Area except for the entrances to the shipping channels without prior permission from the Captain of the Port. No vessel over 65 feet long may anchor or moor in the inland waters of the Regulated Navigation Area outside the anchorage designated in § 110.168 of 33 CFR unless the vessel has the permission of the Captain of the Port or has an emergency. Vessels may not anchor within the confines of Little Creek Harbor, Desert Cove, or Little Creek Cove without the permission of the Captain of the Port.

*Anchoring Detail Requirements:* The proposed rule will not change the Anchoring Detail Requirements section, but places it immediately after the Anchoring Restrictions section.

*Secondary Towing Rig Requirements:* This section will be unchanged by the proposed rule.

*Thimble Shoals Channel Controls:* The proposed rule will combine the Draft Limitation section and Traffic Direction sections of the existing

Regulated Navigation Area into one section.

*Restrictions on Vessels with Impaired Maneuverability:* The proposed rule will simplify this section by preventing vessels over 100 gross tons, with impaired maneuverability, from entering the Regulated Navigation Area without the permission of the Captain of the Port. The proposed rule will require vessels over 100 gross tons that experience impaired maneuverability, while operating within the Regulated Navigation, to report the impairment to the Captain of the Port.

*Requirements for Navigation Charts, Radars and Pilots:* The proposed rule will exempt naval and public vessels from maintaining corrected charts of the Regulated Navigation Area if the naval or public vessel carries electronic charting and navigation systems that have met the applicable agency regulations regarding navigation safety.

*Emergency Procedure:* The proposed rule will simplify this section by removing many of the existing restrictions. The proposed rule will allow any vessel experiencing an emergency to deviate from the regulations in this section to the extent necessary to avoid endangering the safety of persons, property, or the environment. The proposed rule will require that vessels over 100 gross tons with an emergency that is within two nautical miles of the CBBT or I-664 Bridge Tunnel to notify the Captain of the Port of its location and the nature of the emergency as soon as possible.

*Vessel Speed Limits:* The proposed rule will consolidate the Vessel Speed Limits sections into one section. The proposed rule will incorporate the vessel speed limit for the Norfolk Harbor Reach, as originally published as a temporary final rule in the **Federal Register** (66 FR 53712). Under the proposed rule vessels 300 gross tons or greater may not transit through the Southern Branch of the Elizabeth River alongside Naval Station Norfolk Restricted Area at a speed in excess of 8 knots. This speed restriction does not apply to public vessels as defined in 33 U.S.C. 1321(a)(4). The vessel speed limits on Little Creek and the Southern Branch of the Elizabeth River will be unchanged by the proposed rule.

*Port Security Requirements:* The proposed rule will incorporate the additional port security measures for all vessels over 300 gross tons, as originally published as a temporary final rule in the **Federal Register** (66 FR 66753). Under the proposed rule the additional port security measures will require that vessels over 300 gross tons, including tug and barge combinations in excess of

300 gross tons combined to do the following. Obtain authorization from the Captain of the Port, or the designated representative of the Captain of the Port, prior to entering the Regulated Navigation Area. Ensure that no person who is not a permanent member of the vessel's crew, or a member of a Coast Guard boarding team, boards the vessel without a valid purpose and photo identification. Report any departure from or movement within the Regulated Navigation Area to the designated representative of the Captain of the Port prior to getting underway. The designated representative of the Captain of the Port shall be contacted on VHF-FM channel 12, or by calling (757) 444-5209, (757) 444-5210, or (757) 668-5555. All vessels entering or remaining in the Regulated Navigation Area may be subject to a vessel port security inspection. Vessels awaiting a port security inspection or Captain of the Port authorization to enter may be directed to anchor in a specific location.

The proposed rule will expand port security measures for vessels over 300 gross tons operating inside inland waters. All vessels over 300 gross tons, including tug and barge combinations in excess of 300 gross tons, must receive authorization from the Captain of the Port prior to any vessel movement. This requirement enables the Captain of the Port to maintain maritime domain awareness.

#### *Waivers*

This section will be unchanged by the proposed rule.

#### *Control of Vessels Within the Regulated Navigation Area*

The proposed rule will make minor grammatical and syntax changes to the existing section.

#### *Deleted Sections*

Section (d)(11), Restrictions on Vessel Operations During Aircraft Carrier and Other Large Naval Transits of the Elizabeth River will be deleted under the proposed rule. This section is no longer necessary because the Coast Guard published 33 CFR 165.2025, Protection of Naval Vessels, which creates a naval vessel protection zone around U.S. naval vessels greater than 100 feet in length overall at all times in the navigable waters of the United States.

Section (d)(12), Restrictions on Vessel Operations During Liquefied Petroleum Gas Carrier Movements on the Chesapeake Bay and Elizabeth River will be deleted under the proposed rule. Liquefied Petroleum Gas and Liquefied Natural Gas Carriers will be addressed

in a future notice of proposed rulemaking.

Section (d)(13), Restrictions on the Use of the Elizabeth River Ferry Dock at the Foot of High Street, Portsmouth, Virginia will be deleted under the proposed rule. The Elizabeth River Ferry Dock has been removed and replaced by a cove at the Foot of High Street, Portsmouth, Virginia. This section was a necessary safety measure to avoid potential collisions between Elizabeth River traffic and the Elizabeth River Ferry when the ferry operated from the then existing dock. Since the dock has been removed and the Elizabeth River Ferry embarks and disembarks passengers within a cove, there is no longer a need for this section.

Additional grammar and syntax changes have been made throughout this proposed rule.

#### **Regulatory Evaluation**

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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 Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is not necessary. The eight knot speed limit restriction for the Norfolk Harbor Reach will apply to vessels 300 gross tons or greater. Vessels under 300 gross tons will be exempt. The speed limit requirements will only be in effect for less than four miles, and typical vessel speed will be 10 knots, so the actual delay for each vessel will be less than 6 minutes in each direction. Therefore, the delay caused by the two-knot reduction in speed will be minimal. The proposed port security measures will affect only those vessels in excess of 300 gross tons that enter or move within the Port of Hampton Roads.

Based upon the information received in response to this NRPM, the Coast Guard intends to carefully consider the costs and benefits associated with this rulemaking. Accordingly, comments, information and data are solicited on the economic impact of any proposed recommendation for changes to the Fifth District regulations as mentioned in *Background and Purpose*, above.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have 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. The proposed rule would affect the following entities, some of which might be small entities: Shipping companies, towing companies, dredging companies, commercial fishing vessels, small passenger vessels and recreational vessels that operate within the Regulated Navigation Area.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this 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), we want 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 Lieutenant Commander Roger Smith, Marine Safety Division, Fifth Coast Guard District, (757) 398–6389.

### 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

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This proposed rule would not affect 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

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might 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, because it would not have 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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

### 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.

### Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.ID, this 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 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, and 160.5; 49 CFR 1.46.

2. Revise § 165.501 to read as follows:

#### § 165.501 Chesapeake Bay entrance and Hampton Roads, VA and adjacent waters—regulated navigation area.

(a) *Location.* The waters enclosed by the shoreline and the following lines are a Regulated Navigation Area:

(1) *Offshore zone.* A line drawn due East from the mean low water mark at the North Carolina and Virginia border at latitude 36°33'03" N, longitude 75°52'00" W, to the Territorial Seas boundary line at latitude 36°33'05" N, longitude 75°36'51" W, thence generally Northeastward along the Territorial Seas boundary line to latitude 38°01'39" N, longitude 74°57'18" W, thence due West to the mean low water mark at the Maryland and Virginia border at latitude 38°01'39" N, longitude 75°14'30" W,

thence South along the mean low water mark until Cape Charles Light, thence South along the inland waters boundary line at the entrance to Chesapeake Bay.

(2) *Inland Zone*.—

(i) A line drawn across the entrance to Chesapeake Bay between Wise Point and Cape Charles Light, and then continuing to Cape Henry Light.

(ii) A line drawn across the Chesapeake Bay between Old Point Comfort Light and Cape Charles City Range "A" Rear Light.

(iii) A line drawn across the James River along the eastern side of U.S. Route 17 highway bridge, between Newport News and Isle of Wight County, Virginia.

(iv) A line drawn across Chuckatuck Creek along the northern side of the north span of the U.S. Route 17 highway bridge, between Isle of Wight County and Suffolk, Virginia.

(v) A line drawn across the Nansemond River along the northern side of the Mills Godwin (U.S. Route 17) Bridge, Suffolk, Virginia.

(vi) A line drawn across the mouth of Bennetts Creek, Suffolk, Virginia.

(vii) A line drawn across the Western Branch of the Elizabeth River along the eastern side of the West Norfolk Bridge, Portsmouth, Virginia.

(viii) A line drawn across the Southern Branch of the Elizabeth River along the northern side of the I-64 highway bridge, Chesapeake, Virginia.

(ix) A line drawn across the Eastern Branch of the Elizabeth River along the western side of the west span of the Campostella Bridge, Norfolk, Virginia.

(x) A line drawn across the Lafayette River along the western side of the Hampton Boulevard Bridge, Norfolk, Virginia.

(xi) A line drawn across Little Creek along the eastern side of the Ocean View Avenue (U.S. Route 60) Bridge, Norfolk, Virginia.

(xii) A line drawn across Lynnhaven Inlet along the northern side of Shore Drive (U.S. Route 60) Bridge, Virginia Beach, Virginia.

(b) *Definitions*. In this section:

(1) *CBBT* means the Chesapeake Bay Bridge Tunnel.

(2) *Thimble Shoal Channel* consists of the waters bounded by a line connecting Thimble Shoal Channel Lighted Bell Buoy 1TS, thence to Lighted Gong Buoy 17, thence to Lighted Buoy 19, thence to Lighted Buoy 21, thence to Lighted Buoy 22, thence to Lighted Buoy 18, thence to Lighted Buoy 2, thence to the beginning.

(3) *Thimble Shoal North Auxiliary Channel* consists of the waters in a rectangular area 450 feet wide adjacent to the north side of Thimble Shoal

Channel, the southern boundary of which extends from Thimble Shoal Channel Lighted Buoy 2 to Lighted Buoy 18.

(4) *Thimble Shoal South Auxiliary Channel* consists of the waters in a rectangular area 450 feet wide adjacent to the south side of Thimble Shoal Channel, the northern boundary of which extends from Thimble Shoal Channel Lighted Bell Buoy 1TS, thence to Lighted Gong Buoy 17, thence to Lighted Buoy 19, thence to Lighted Buoy 21.

(5) *I-664 Bridge* means the Monitor Merrimac Bridge Tunnel.

(6) *Designated representative of the Captain of the Port* means a person, including the duty officer at the Coast Guard Marine Safety Office Hampton Roads, the Joint Harbor Operations Center watchstander, or the Coast Guard or Navy patrol commander who has been authorized by the Captain of the Port to act on his or her behalf and at his or her request to carry out such orders and directions as needed. All patrol vessels shall display the Coast Guard Ensign at all times when underway.

(7) *Offshore waters* means waters seaward of the COLREGS Line of Demarcation.

(8) *Inland waters* means waters within the COLREGS Line of Demarcation.

(9) *Coast Guard Patrol Commander* is a Coast Guard commissioned, warrant or petty officer who has been designated by the Commander, Coast Guard Group Hampton Roads.

(c) *Applicability*. This section applies to all vessels operating within the Regulated Navigation Area, including naval and public vessels, except vessels that are engaged in the following operations:

(1) Law Enforcement.

(2) Servicing aids to navigation.

(3) Surveying, maintenance, or improvement of waters in the Regulated Navigation Area.

(d) *Regulations*. (1) *Anchoring Restrictions*. (i) Vessels may anchor in all areas of the offshore waters of the Regulated Navigation Area except for the entrances to the shipping channels without prior permission from the Captain of the Port.

(ii) No vessel over 65 feet long may anchor or moor in the inland waters of the Regulated Navigation Area outside an anchorage designated in § 110.168 of this title, with these exceptions:

(A) The vessel has the permission of the Captain of the Port.

(B) Only in an emergency, when unable to proceed without endangering the safety of persons, property, or the

environment, may a vessel anchor in a channel.

(C) A vessel may not anchor within the confines of Little Creek Harbor, Desert Cove, or Little Creek Cove without the permission of the Captain of the Port. The Captain of the Port shall consult with the Commander, Naval Amphibious Base Little Creek, before granting permission to anchor within this area.

(2) *Anchoring Detail Requirements*. A self-propelled vessel over 100 gross tons, which is equipped with an anchor or anchors (other than a tugboat equipped with bow fenderwork of a type of construction that prevents an anchor being rigged for quick release), that is underway within two nautical miles of the CBBT or the I-664 Bridge Tunnel shall station its personnel at locations on the vessel from which they can anchor the vessel without delay in an emergency.

(3) *Secondary Towing Rig Requirements on Inland Waters*. (i) A vessel over 100 gross tons may not be towed in the inland waters of the Regulated Navigation Area unless it is equipped with a secondary towing rig, in addition to its primary towing rig, that:

(A) Is of sufficient strength for towing the vessel.

(B) Has a connecting device that can receive a shackle pin of at least two inches in diameter.

(C) Is fitted with a recovery pickup line led outboard of the vessel's hull.

(ii) A tow consisting of two or more vessels, each of which is less than 100 gross tons, that has a total gross tonnage that is over 100 gross tons, shall be equipped with a secondary towing rig between each vessel in the tow, in addition to its primary towing rigs, while the tow is operating within this Regulated Navigation Area. The secondary towing rig must:

(A) Be of sufficient strength for towing the vessels.

(B) Have connecting devices that can receive a shackle pin of at least two inches in diameter.

(C) Be fitted with recovery pickup lines led outboard of the vessel's hull.

(4) *Thimble Shoals Channel Controls*.

(i) A vessel drawing less than 25 feet may not enter the Thimble Shoal Channel, unless the vessel is crossing the channel. Channel crossings shall be made as perpendicular to the channel axis as possible.

(ii) Except when crossing the channel, a vessel in the Thimble Shoal North Auxiliary Channel shall proceed in a westbound direction.

(iii) Except when crossing the channel, a vessel in the Thimble Shoal

South Auxiliary Channel shall proceed in an eastbound direction.

(5) *Restrictions on Vessels with Impaired Maneuverability.* (i) *Before entry.* A vessel over 100 gross tons, whose ability to maneuver is impaired by heavy weather, defective steering equipment, defective main propulsion machinery, or other damage, may not enter the Regulated Navigation Area without the permission of the Captain of the Port.

(ii) *After entry.* A vessel over 100 gross tons, which is underway in the Regulated Navigation Area, that has its ability to maneuver become impaired for any reason, shall, as soon as possible, report the impairment to the Captain of the Port.

(6) *Requirements for Navigation Charts, Radars, and Pilots.* No vessel over 100 gross tons may enter the Regulated Navigation Area, unless it has on board: (i) Corrected charts of the Regulated Navigation Area. In lieu of corrected paper charts, naval and public vessels may carry electronic charting and navigation systems that have met the applicable agency regulations regarding navigation safety;

(ii) An operative radar during periods of reduced visibility;

(iii) When in inland waters, a pilot or other person on board with previous experience navigating vessels on the waters of the Regulated Navigation Area.

(7) *Emergency Procedures.* (i) Except as provided in paragraphs (d)(7)(b) of this section, in an emergency any vessel may deviate from the regulations in this section to the extent necessary to avoid endangering the safety of persons, property, or the environment.

(ii) A vessel over 100 gross tons with an emergency that is located within two nautical miles of the CBBT or I-664 Bridge Tunnel shall notify the Captain of the Port of its location and the nature of the emergency, as soon as possible.

(8) *Vessel Speed Limits.* (i) *Little Creek.* A vessel may not proceed at a speed over five knots between the Route 60 bridge and the mouth of Fishermans Cove (Northwest Branch of Little Creek).

(ii) *Southern Branch of the Elizabeth River.* A vessel may not proceed at a speed over six knots between the junction of the Southern and Eastern Branches of the Elizabeth River and the Norfolk and Portsmouth Belt Line Railroad Bridge between Chesapeake and Portsmouth, Virginia.

(iii) *Norfolk Harbor Reach.* Nonpublic vessels of 300 gross tons or more may not proceed at a speed over eight knots between the Elizabeth River Channel Lighted Gong Buoy (LL 9470) of Norfolk Harbor Reach (southwest of Sewells

Point) at approximately 36°58'00" N, 076°20'00" W, and gated Elizabeth River Channel Lighted Buoys 17 (LL 9595) and 18 (LL 9600) of Craney Island Reach (southwest of Norfolk International Terminal at approximately 36°54'17" N, and 076°20'11" W).

(9) *Port Security Requirements.* Vessels in excess of 300 gross tons, including tug and barge combinations in excess of 300 gross tons (combined), shall not enter the Regulated Navigation Area, move within the Regulated Navigation Area, or be present within the Regulated Navigation Area, unless they comply with the following requirements.

(i) Obtain authorization to enter the Regulated Navigation Area from the designated representative of the Captain of the Port prior to entry. All vessels entering or remaining in the Regulated Navigation Area may be subject to a Coast Guard boarding.

(ii) Ensure that no person who is not a permanent member of the vessel's crew, or a member of a Coast Guard boarding team, boards the vessel without a valid purpose and photo identification.

(iii) Report any departure from or movement within the Regulated Navigation Area to the designated representative of the Captain of the Port prior to getting underway.

(iv) The designated representative of the Captain of the Port shall be contacted on VHF-FM channel 12, or by calling (757) 444-5209, (757) 444-5210, or (757) 668-5555.

(v) In addition to the authorities listed in this Part, this paragraph is promulgated under the authority under 33 U.S.C. 1226.

(e) *Waivers.* (1) The Captain of the Port may, upon request, waive any regulation in this section.

(2) An application for a waiver must state the need for the waiver and describe the proposed vessel operations.

(f) *Control of Vessels Within the Regulated Navigation Area.* (1) When necessary to prevent damage, destruction or loss of any vessel, facility or port infrastructure, the Captain of the Port may direct the movement of vessels or issue orders requiring vessels to anchor or moor in specific locations.

(2) If needed for the maritime, commercial or security interests of the United States, the Captain of the Port may order a vessel to move from the location in which it is anchored to another location within the Regulated Navigation Area.

(3) The master of a vessel within the Regulated Navigation Area shall comply with any orders or directions issued to

the master's vessel by the Captain of the Port.

Dated: April 16, 2003.

**James D. Hull,**

*Vice Admiral, Coast Guard, Commander, Fifth Coast Guard District.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[VT-1226b; FRL-7501-9]

### Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Vermont; Negative Declaration

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the sections 111(d) negative declaration submitted by the Vermont Department of Environmental Conservation (DEC) on August 29, 1996. This negative declaration adequately certifies that there are no existing municipal solid waste (MSW) landfills located in the state of Vermont that have accepted waste since November 8, 1987 and that must install collection and control systems according to EPA's emissions guidelines for existing MSW landfills. **DATES:** EPA must receive comments in writing by June 23, 2003.

**ADDRESSES:** You should address your written comments to: Mr. Steven Rapp, Chief, Air Permits, Toxics & Indoor Programs Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114-2023.

Copies of documents relating to this proposed rule are available for public inspection during normal business hours at the following location: Environmental Protection Agency, Air Permits, Toxics & Indoor Program Unit, Office of Ecosystem Protection, One Congress Street, Suite 1100, Boston, Massachusetts 02114-2023. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

**FOR FURTHER INFORMATION CONTACT:** John Courcier, Office of Ecosystem Protection (CAP), EPA-New England, Region 1, Boston, Massachusetts 02203, (617) 918-1659, or by e-mail at [courcier.john@epa.gov](mailto:courcier.john@epa.gov). While the public may forward questions to EPA via e-