

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