

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 has 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

The Coast Guard has considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph (34)(f) of Commandant Instruction M16475.1D, this proposed rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under

ADDRESSES.

This rule proposes relocating one existing anchorage area to the East of the Recommend Route. This designated anchorage would enhance the safety in the waters of Buzzards Bay, MA by relieving vessel congestion within the bay. Thus, relocating this designated anchorage would provide a safer approach to the Cape Cod Canal by deep draft vessels.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons set forth in the preamble, the Coast Guard proposes to amend 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05-1(g) and Department of Homeland Security Delegation No. 0170.1.

2. In §110.140 paragraph (b)(3) is revised to read as follows:

§ 110.140 Buzzards Bay, Nantucket Sound, and adjacent waters, Mass.

* * * * *

(b) * * *

(3) *Anchorage L-*. The waters bounded by a rhumb line connecting the following points:

| Latitude | Longitude |
|---------------|------------------------------------|
| 41°030'011" N | 070°048'010" W; thence to |
| 41°030'046" N | 070°048'045" W; thence to |
| 41°032'024" N | 070°045'050" W; thence to |
| 41°031'048" N | 070°045'015" W; returning to start |

* * * * *

Dated: March 9, 2004.

Vivien S. Crea,

RADM, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 04-8498 Filed 4-15-04; 8:45 am]

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DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

RIN 0710-AA56

United States Coast Guard Restricted Area, Coast Guard Base Mobile, Mobile, Alabama

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers is proposing to establish a new restricted area in the waters of Arlington Channel surrounding the U.S. Coast Guard Base Mobile Docks at Mobile, Alabama. The designation would ensure public safety and satisfy the Coast Guard's security, safety, and operational requirements as they pertain to vessels at Coast Guard Base Mobile by establishing an area into which unauthorized vessels and persons may not enter.

DATES: Comments must be submitted on or before May 17, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch at (202) 761-1075 or Mr. John B. McFadyen, Corps Mobile District, at (251) 690-3261.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriation Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps proposes to amend the regulations in 33 CFR part 334 by establishing a new restricted area at 334.783 in the waters of Arlington Channel surrounding U.S. Coast Guard Base Mobile at Mobile, Alabama. The points defining the proposed restricted area were selected to minimize interference with other users of Arlington Channel, and to minimize the restricted area's interference with commercial and recreational fisheries.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the Homeland Security Department and the provisions of Executive Order 12866 do not apply.

b. Review under the Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act

(Pub. L. 96-354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (*i.e.*, small businesses and small governments). The Corps expects that the economic impact of the establishment of this restricted area would have no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic, and accordingly, certifies that this proposal, if adopted, will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

The Mobile District has prepared a preliminary Environmental Assessment (EA) for this action. The preliminary EA concluded that this action will not have a significant impact on the human environment. After receipt and analysis of comments from this **Federal Register** posting and the Mobile District's concurrent Public Notice, the Corps will prepare a final environmental document detailing the scale of impacts this action will have upon the human environment. The EA will be available for review at the Mobile District Office, Regulatory Branch, 109 St. Joseph St., Mobile, Alabama.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of section 202 or 205 of the Unfunded mandates Act. We have also found under section 203 of the Act that small governments will not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, we propose to amend 33 CFR part 334 to read as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

2. Section 334.783 is added to read as follows:

§ 334.783 Arlington Channel, U.S. Coast Guard Base, Mobile, Alabama, restricted area.

(a) *The area.* The waters of Arlington Channel west of a line from latitude 30°-39'-09" N, longitude 088°-03'-24" W to latitude 30°-38'-54" N., longitude 088°-03'-17" W.

(b) *The regulation.* The restricted area is open to U.S. Government vessels and transiting vessels only. U.S. Government vessels include U.S. Coast Guard vessels, Department of Defense vessels, State and local law enforcement and emergency services vessels and vessels under contract with the U.S. Government. Vessels transiting the restricted area shall proceed across the area by the most direct route and without unnecessary delay. Fishing, trawling, net-fishing and other aquatic activities are prohibited in the restricted area without prior approval from the Commanding Officer, U.S. Coast Guard Group Mobile or his designated representative.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commanding Officer, U.S. Coast Guard Group Mobile or his designated representative.

Dated: March 11, 2004.

Michael B. White,

Chief, Operations, Directorate of Civil Works.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04-914; MM Docket No. 01-153, RM-10169]

Radio Broadcasting Services; Tilden, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: In response to a *Notice of Proposed Rule Making*, 66 FR 38410 (July 24, 2001), this *Report and Order* dismisses the Petition for Rule Making in MM Docket No. 01-153, proposing to allot Channel 245C3 at Tilden, Texas. The proposal was dismissed because it is inconsistent with, and untimely filed in relation to, a previously-filed proposal in MM Docket No. 00-148.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01-153,

adopted April 2, 2004 and released April 5, 2004. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The 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*.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 040412112-4112-01; I.D. 040104C]

RIN 0648-AS02

Endangered and Threatened Wildlife; Sea Turtle Conservation Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS is proposing to amend the turtle excluder device (TED) regulations that require most shrimp trawlers to use TEDs in the southeastern Atlantic and the Gulf of Mexico to reduce the incidental capture of endangered and threatened sea turtles during shrimp trawling. Specifically, NMFS proposes to allow the use of a double cover flap TED with a modified flap design. This modification would allow the use of a flap that extends up to 24 inches (61 cm) past the posterior edge of the TED frame. This modification has been tested and meets the regulatory requirements for efficiency at releasing sea turtles.

DATES: Written comments (see **ADDRESSES**) will be accepted through May 3, 2004.

ADDRESSES: You may submit comments, identified by the docket number 040412112-4112-01 and/or the Regulatory Information Number (RIN) 0648-AS02, by any of the following