

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 would not be 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.

#### 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2-1, paragraph (34)(g), of

the Instruction, from further environmental documentation because we would be establishing a Regulated Navigation Area.

A draft "Environmental Analysis Check List" and a draft "Categorical Exclusion Determination" (CED) will be available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.1185, to read as follows:

#### § 165.1185 Regulated Navigation Area; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and connecting waters in California.

(a) *Location.* All waters of San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, Sacramento River, San Joaquin River, and connecting waters in California are a Regulated Navigation Area.

(b) *Definition.* *Liquefied hazardous gas (LHG)* means a liquid containing one or more of the products listed in Table 127.005 of 33 CFR 127.005 that is carried in bulk on board a tank vessel as a liquefied gas product.

(c) *Regulations.* All vessels loaded with a cargo of liquefied hazardous gas (LHG) within the Regulated Navigation Area established by this section must proceed directly to their intended cargo reception facility to discharge their LHG cargo, unless:

(1) The vessel is otherwise directed or permitted by the Captain of the Port. The Captain of the Port can be reached at telephone number 415-399-3547 or on VHF-FM channel 16 (156.8 MHz). If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative; or,

(2) The vessel is in an emergency situation and unable to proceed as

directed in paragraph (a) of this section without endangering the safety of persons, property, or the environment.

Dated: January 29, 2004.

**Kevin J. Eldridge,**

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

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 223

[I.D 020904A]

RIN 0648-AR69

#### Sea Turtle Conservation; Public Hearing Notification

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

**ACTION:** Notice of public hearing.

**SUMMARY:** The National Marine Fisheries Service (NMFS) is announcing its intent to hold a public hearing to inform interested parties of the proposed prohibitions and restrictions on Virginia pound net leaders and to accept public comments on this action. **DATES:** NMFS will hold a public hearing at the Holiday Inn SunSpree Resort - Virginia Beach, on Thursday, February 19, 2004, at 7 p.m., eastern daylight time.

**ADDRESSES:** The Holiday Inn SunSpree Resort - Virginia Beach is located at 3900 Atlantic Avenue, at the corner of Atlantic Avenue and 39th Street, Virginia Beach, VA 23451 (ph. 757-428-1711). The public hearing will take place in the Cape Henry Room.

**FOR FURTHER INFORMATION CONTACT:** Carrie Upite (ph. 978-281-9328 x6525), NMFS, One Blackburn Drive, Gloucester, MA 01930.

**SUPPLEMENTARY INFORMATION:** A proposed rule was issued on February 6, 2004 (69 FR 5810), which proposes to prohibit the use of all pound net leaders from May 6 to July 15 each year in the Virginia waters of the mainstem Chesapeake Bay, south of 37° 19.0' N. lat. and west of 76° 13.0' W. long., and all waters south of 37° 13.0' N. lat. to the Chesapeake Bay Bridge Tunnel at the mouth of the Chesapeake Bay, and the portion of the James River downstream of the Hampton Roads Bridge Tunnel (I-64) and the York River downstream of the Coleman Memorial Bridge (Route

17). Additionally, the rule proposes to prohibit the use of all leaders with stretched mesh greater than or equal to 8 inches (20.3 cm) and leaders with stringers from May 6 to July 15 each year in the Virginia waters of the Chesapeake Bay outside the aforementioned closed area, extending to the Maryland-Virginia State line (approximately 37° 55' N. lat., 75° 55' W. long.) and the Rappahannock River downstream of the Robert Opie Norris Jr. Bridge (Route 3), and from the Chesapeake Bay Bridge Tunnel to the COLREGS line at the mouth of the Chesapeake Bay. Additional information on the justification for this action can be found in that proposed rule.

NMFS recognizes the need and importance to obtain public comment on the proposed action. In addition to

the February 19 meeting announced in this notice, NMFS is accepting written comments on the proposed action. Written comments on the proposed rule or requests for copies of the literature cited, the draft Environmental Assessment, or Regulatory Impact Review and Initial Regulatory Flexibility Analysis should be addressed to the Assistant Regional Administrator for Protected Resources, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments and requests for supporting documents may also be sent via fax to 978-281-9394. Comments will not be accepted if submitted via e-mail or the Internet. The public comment period closes at 5 p.m., eastern daylight time, on March 8, 2004.

In preparing the final rule for this action, NMFS will fully consider the

public comments received during the 30-day comment period (either in writing or verbally during the public hearing).

#### **Special Accommodations**

This meeting is accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Carrie Upite, telephone 978-281-3928 x6525, fax 978-281-9394, at least 5 days before the scheduled meeting date.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: February 12, 2004.

**Laurie K. Allen,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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