

actions listed below. We will consider any additional evidence we receive together with the evidence we already have.

(1) We may recontact your treating physician, psychologist, or other medical source. We may choose not to seek additional evidence or clarification from a medical source if we know from experience that the source either cannot or will not provide the necessary evidence. If we obtain medical evidence over the telephone, we will send the telephone report to the source for review, signature, and return;

(2) We may request additional existing records (see § 416.912);

(3) We may ask you to undergo a consultative examination at our expense (see §§ 416.917 through 416.919t); or

(4) We may ask you or others for more information.

(d) When there are inconsistencies in the evidence that we cannot resolve or when, despite efforts to obtain additional evidence, the evidence is insufficient to determine whether you are disabled, we will make a determination or decision based on the evidence we have.

13. Amend § 416.927 as follows:

a. Revise paragraph (b);

b. Remove paragraph (c);

c. Redesignate paragraphs (d) through (f) as (c) through (e);

d. In newly redesignated paragraph (c) remove “(d)(2)” and add in its place “(c)(2)”;

e. In newly redesignated paragraph (c)(2) remove “(d)(2)(i) and (d)(2)(ii)” and add in its place “(c)(2)(i) and (c)(2)(ii)” and remove “(d)(3) through (d)(6)” and add in its place “(c)(3) through (c)(6)”;

f. In newly redesignated paragraph (d)(3) remove “(e)(1) and (e)(2)” and add in its place “(d)(1) and (d)(2)”;

g. In newly redesignated paragraph (e) remove “(a) through (e)” and add in its place “(a) through (d)”;

h. In newly redesignated paragraph (e)(2)(ii) remove “(a) through (e)” and add in its place “(a) through (d)”;

i. In newly redesignated paragraph (e)(2)(iii) remove “(a) through (e)” and add in its place “(a) through (d)”.

The revision reads as follows:

§ 416.927 Evaluating opinion evidence.

* * * * *

(b) *How we consider medical opinions.* In determining whether you are disabled, we will always consider the medical opinions in your case record together with the rest of the relevant evidence we receive. See § 416.920b.

* * * * *

14. Amend § 416.945 by revising the fifth sentence of paragraph (a)(3) to read as follows:

§ 416.945 Your residual functional capacity.

(a) * * *
 (3) * * * (See §§ 416.912(d) through (e).) * * *

* * * * *

[FR Doc. 2011–8388 Filed 4–11–11; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Chapter I

No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Bureau of Indian Affairs is announcing that the No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee will hold its sixth meeting in Albuquerque, New Mexico. The purpose of the meeting is to continue working on reports and recommendations to Congress and the Secretary as required under the No Child Left Behind Act of 2001.

DATES: The Committee’s sixth meeting will begin at 8 a.m. on April 27, 2011, and end at 12 p.m. on April 29, 2011.

ADDRESSES: The meeting will be held at the National Indian Program Training Center, second floor, 1011 Indian School Road, NW., Albuquerque, New Mexico 87104.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Official, Michele F. Singer, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs, 1001 Indian School Road, NW., Suite 312, Albuquerque, NM 87104; telephone (505) 563–3805; fax (505) 563–3811.

SUPPLEMENTARY INFORMATION: The No Child Left Behind School Facilities and Construction Negotiated Rulemaking Committee was established to prepare and submit to the Secretary a catalog of the conditions at Bureau-funded schools, and to prepare reports covering: The school replacement and new construction needs at Bureau-funded school facilities; a formula for the equitable distribution of funds to address those needs; a list of major and

minor renovation needs at those facilities; and a formula for equitable distribution of funds to address those needs. The reports are to be submitted to Congress and to the Secretary. The Committee also expects to draft proposed regulations covering construction standards for heating, lighting, and cooling in home-living (dormitory) situations.

The following items will be on the agenda:

- Review and approve February 2011 meeting summary;
- Reach consensus on unresolved issues in the draft report;
- Finalize draft report language and prepare for tribal consultation;
- Agree on a schedule, standard agenda and presentation material for tribal consultation sessions;
- Discuss and clarify next steps for synthesizing and sharing comments received from tribal consultation and highlighting key topics for final committee meeting; and
- Public comments.

Written comments may be sent to the Designated Federal Official listed in the **FOR FURTHER INFORMATION CONTACT** section above. All meetings are open to the public; however, transportation, lodging, and meals are the responsibility of the participating public.

Dated: April 5, 2011.

Paul Tsosie,

Chief of Staff, Assistant Secretary—Indian Affairs.

[FR Doc. 2011–8649 Filed 4–11–11; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 110 and 165

[Docket No. USCG–2010–1119]

RIN 1625–AA01; 1625–AA11

Superfund Site, New Bedford Harbor, New Bedford, MA: Anchorage Ground and Regulated Navigation Area

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend an existing anchorage ground which currently overlaps a pilot underwater cap (“pilot cap”) in the U.S. Environmental Protection Agency’s (EPA) New Bedford Harbor Superfund Site in New Bedford, MA. The Coast Guard also proposes to establish a regulated navigation area (RNA) prohibiting activities that disturb the

seabed around the site. The proposed RNA would not affect transit or navigation of the area.

DATES: Comments and related material must be received by the Coast Guard on or before May 12, 2011. Requests for public meetings must be received by the Coast Guard on or before April 27, 2011.

ADDRESSES: You may submit comments identified by docket number USCG–2010–1119 using any one of the following methods:

(1) *Federal eRulemaking Portal:*
<http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the

SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Lieutenant Junior Grade Isaac Slavitt, Waterways Management Branch, First Coast Guard District; telephone 617–223–8385, e-mail Isaac.M.Slavitt@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2010–1119), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or

hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the “submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop down menu select “Proposed Rule” and insert “USCG–2010–1119” in the “Keyword” box. Click “Search” then click on the balloon shape in the “Actions” column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the “read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2010–1119” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy

Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before April 27, 2011 using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting 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**.

Basis and Purpose

The legal basis for the proposed rule is 33 U.S.C. 471, 1221–1236, 2030, 2035, and 2071; 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; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory anchorage grounds and RNAs.

The purpose of the proposed rule is to minimize the potential for human exposure to contamination and to help protect the integrity of the EPA’s remedy at a portion of the New Bedford Harbor Superfund Site by reducing an existing anchorage ground so that it no longer overlaps the pilot cap, and by placing the pilot cap in a RNA that would protect the site from damage by mariners, and protect mariners and the general public from contaminants in the site.

The New Bedford Superfund cleanup site is an urban tidal estuary with sediments contaminated by polychlorinated biphenyls (PCBs) and heavy metals. An extensive history and background of the cleanup project can be found on the EPA’s Web site, at <http://www.epa.gov/nbh/>.

The specific cleanup project and surrounding area addressed by this regulation is the pilot cap, which is located south of the New Bedford Harbor hurricane barrier in the outer harbor. The pilot cap consists of sand and gravel covering approximately 20 acres of contaminated sediments. Based on data collected in 2010, the thickness of the cap is predominantly one to two feet (98% of the cap area has a thickness greater than one foot; 68% greater than two feet; and in a few isolated areas, the thickness is up to 6.4 feet). A copy of the latest data for the pilot cap area can be found on EPA’s Web site for New Bedford Harbor. While the pilot cap is protective of human health and the environment, it remains vulnerable to human actions that tend to disturb the seabed.

Several maritime practices that involve physical contact with the seabed (e.g., anchoring, dragging, trawling, and spudding) pose a specific threat to the pilot cap. It is also conceivable that PCBs or heavy metals could stick to gear penetrating the seabed; any contaminants that come up with gear could create a threat to human health and the environment. The proposed RNA would prohibit these specific activities without in any way inhibiting surface navigation.

Discussion of Proposed Rule

Presently, anchorage ground "B" designated in 33 CFR 110.140 directly overlaps the pilot cap, which is particularly susceptible to damage by anchoring. To avoid that damage we propose amending anchorage ground "B" by moving its northern boundary sufficiently southward such that it no longer overlaps with the pilot cap. Although this would reduce the anchorage ground's area by roughly half, we do not expect this to pose a significant inconvenience to mariners because anchorage "A" is located nearby and is much larger.

Additionally, we propose establishing a RNA around the pilot cap. Anchoring, dragging, trawling, spudding, or any other action making contact with the seabed would be prohibited without the express permission of the Captain of the Port (COTP) Coast Guard Sector Southeastern New England, in consultation with the EPA; waivers could be requested in writing. Transit or navigation activities that do not make contact with the seabed would not be affected.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Executive Order 12866 and Executive Order 13563

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, 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.

We expect minimal additional cost impacts to industry because this rule would not affect normal surface navigation. Although this regulation may have some impact on the public,

the potential impact will be minimized for the following reasons: normal surface navigation will not be affected; approximately half of the existing anchorage area will still be available for use; the number of vessels using the anchorage is limited due to depth (less than or equal to 18 feet); and anchoring over the pilot cap could pose a risk to human health and the environment, making it an already unattractive option.

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. This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of recreational and small fishing vessels intending to anchor in New Bedford's outer harbor.

The proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons: Normal surface navigation will not be affected; approximately half of the existing anchorage area will still be available for use, and there is another, much larger anchorage nearby; the number of vessels using the anchorage is limited due to draft (less than or equal to 18 feet); and anchoring over the pilot cap could pose a risk to human health and the environment, making it an already unattractive option.

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 Junior Grade Isaac Slavitt, Waterways Management Branch, First Coast Guard District; telephone 617–223–8385, e-mail *Isaac.M.Slavitt@uscg.mil*. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

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 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not cause 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.

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.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast

Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Preliminary NEPA documentation is available in the docket for this proposed rule. We believe the proposed rule would be categorically excluded, under figure 2-1, paragraphs (34)(f) and (34)(g) of the Instruction because it involves shrinking an existing anchorage ground, and establishing an RNA prohibiting activities that disturb the seabed. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 110

Anchorage grounds.

33 CFR Part 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 parts 110 and 165 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; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 110.140, by revising paragraph (a)(2) to read as follows:

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

(a) * * *

(2) Anchorage B. All waters bounded by a line beginning at 41°36'42.3" N, 070°54'24.9" W; thence to 41°36'55.5" N, 070°54'06.6" W; thence to 41°36'13.6" N, 070°53'40.2" W; thence to 41°36'11.1" N, 070°54'07.6" W; thence along the shoreline to the beginning point.

* * * * *

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

3. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

4. Add § 165.125 to read as follows:

§ 165.125 Regulated Navigation Area; EPA Superfund Site, New Bedford Harbor, Massachusetts.

(a) *Location.* The regulated navigation area encompasses all waters bounded by a line beginning at 41°37'22.5" N, 070°54'34.1" W; thence to 41°37'14.4" N, 070°54'19.6" W; thence to 41°36'58.5" N, 070°54'08.1" W; thence to 41°36'45.0" N, 070°54'26.9" W; thence along the shoreline and south side of the hurricane barrier to the beginning point.

(b) *Regulations.* (1) All vessels and persons are prohibited from activities that would disturb the seabed within the regulated navigation area, including but not limited to, anchoring, dragging, trawling, and spudding. Vessels may otherwise transit or navigate within this area without reservation.

(2) The prohibition described in paragraph (b)(1) of this section shall not apply to vessels or persons engaged in activities associated with remediation efforts in the New Bedford Harbor Superfund Site, provided that the Coast Guard Captain of the Port Southeastern New England (COTP) is given advance notice of those activities by the U.S. Environmental Protection Agency (EPA).

(c) *Waivers.* The COTP may, in consultation with the U.S. EPA, authorize a waiver from this section if he or she determines that the proposed activity can be performed without undue risk to environmental remediation efforts. Requests for waivers should be submitted in writing to Commander, U.S. Coast Guard Sector Southeastern New England, 1 Little Harbor Road, Woods Hole, MA, 02543, with a copy to the U.S. Environmental Protection Agency, Region 1, New Bedford Harbor Remedial Project Manager, 5 Post Office Square, Suite 100 (OSRR07), Boston, MA 02109, to facilitate review by the EPA and U.S. Coast Guard.

Dated: March 24, 2011.

J.A. Servidio,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 2011-8518 Filed 4-11-11; 8:45 am]

BILLING CODE 9110-04-P