

annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### Collection of Information

This 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 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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This 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 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 rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This 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 rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Coast Guard has 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, 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 rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule fits the category from paragraph (34)(g) because it establishes a security zone. Under

figure 2-1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

#### 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 amends 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.T09-095 to read as follows:

#### § 165.T09-095 Security Zone; 2004 International Children's Games-Festivities and Barbeque, Cleveland, OH.

(a) *Location.* The following area is a security zone: All waters located within 300 feet of Voinovich Park and East 9th Street Pier, to include the entire Rock and Roll Inner Harbor.

(b) *Effective period.* This section is effective from 9 a.m. (local) until 11 p.m. (local) on Thursday, July 29, 2004.

(c) *Regulations.* Entry into, transit through, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port Cleveland or his designated on-scene representative. The designated on-scene representative will be the Coast Guard Patrol Commander. The Coast Guard Patrol Commander may be contacted via VHF Channel 16.

Dated: July 20, 2004.

**Lorne W. Thomas,**  
Commander, U.S. Coast Guard, Captain of the Port Cleveland.

[FR Doc. 04-17323 Filed 7-28-04; 8:45 am]

BILLING CODE 4910-15-P

#### DEPARTMENT OF DEFENSE

#### Department of the Army; Corps of Engineers

#### 33 CFR Part 334

#### United States Coast Guard Restricted Area, Coast Guard Base Mobile, AL

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers is amending its regulations to establish a 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 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:** Effective August 30, 2004.

**ADDRESSES:** U.S. Army Corps of Engineers, ATTN: CECW-OR, 441 G Street, NW., Washington, DC 20314-1000.

**FOR FURTHER INFORMATION CONTACT:** Ms. Joanne M. Barry, Headquarters Regulatory Branch at (202) 761-7763 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 is amending the Restricted Area 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. In addition to the publication of the proposed rule, the Mobile District Engineer published public notices dated 18 July 2003 and 20 April 2004. No objections to establishment of the final Restricted Area were received.

#### Procedural Requirements

##### A. Review Under Executive Order 12866

This rule is issued with respect to security and safety functions of the U.S. Coast Guard and the provisions of Executive Order 12866 do not apply.

##### B. Review Under the Regulatory Flexibility Act

This 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 an Environmental Assessment (EA) for this action. We have concluded that this action will not have a significant impact on the human environment, and preparation of an Environmental Impact Statement (EIS) is not required. The EA will be available for review at the Mobile District office listed at the end of the **FOR FURTHER INFORMATION CONTACT** paragraph above.

#### D. Unfunded Mandates Act

This 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.

#### E. Submission to Congress and the General Accounting Office

Pursuant to Section 801(a)(1)(A) of the Administrative Procedure Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this rule to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office. This rule is not a major rule within the meaning of Section 804(2) of the Administrative Procedure Act, as amended.

#### 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 are amending 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, Mobile, Alabama, Coast Guard 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 regulations.* 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: July 21, 2004.

**Michael B. White,**

*Chief, Operations Division, Directorate of Civil Works.*

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**BILLING CODE 3710-92-P**

#### POSTAL SERVICE

##### 39 CFR Part 111

#### Merged Five-Digit and Five-Digit Scheme Pallets for Periodicals, Standard Mail, and Package Services Mail

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends mailing standards in the *Domestic Mail Manual* (DMM™) to allow mailers to merge (place together) on the same 5-digit scheme pallet (using labeling list DMM L001) or same 5-digit pallet both carrier route bundles of flat-size or irregular parcel mailpieces and noncarrier route 5-digit bundles of flat-size mailpieces not meeting the criteria for the automated flat sorting machine (AFSM) 100, as well as noncarrier route 5-digit bundles of irregular parcel mailpieces.

Prior to this amendment, mailing standards for palletizing mail under DMM M045 permitted mailers to merge carrier route bundles and noncarrier