

him to enter any defense area has been denied, suspended or revoked.

(f) *Foreign nationals.* Persons who are not citizens or nationals of the United States.

(g) *Military installation.* A military (Army, Navy, Air Force, Marine Corps, and/or Coast Guard) activity ashore, having a commanding officer, and located in an area having fixed boundaries, within which all persons are subject to military control and to the immediate authority of a commanding officer.

(h) *Public vessel or aircraft.* A ship or aircraft owned by or belonging to a government and not engaged in commercial activity.

(i) *Territorial sea—(1) Trust Territory.* In accordance with title 19, section 101(3), of the Trust Territory Code “\* \* \* that part of the sea comprehended within the envelope of all arcs of circles having a radius of three marine miles drawn from all points of the barrier reef, fringing reef, or other reef system of the Trust Territory, measured from the low water line, or, in the absence of such reef system, the distance to be measured from the low water line of any island, islet, atoll, reef, or rocks within the jurisdiction of the Trust Territory.”

(2) *Other areas.* That part of the sea included within the envelope of all arcs of circles having a radius of three marine miles with centers on the low water line of the coast. For the purpose of this definition, the term “coast” includes the coasts of islands, islets, rocks, atolls, reefs and other areas of land permanently above the high water mark.

(j) *Trust Territory Registry.* Registration of a ship or aircraft in accordance with the laws of the Trust Territory.

(k) *U.S. Registry.* Registration of a ship or aircraft in accordance with the laws and regulations of the United States.

(l) *U.S. Armed Forces.* Military personnel of the Department of Defense, the Departments of the Army, Navy, Air Force, and the United States Coast Guard.

[28 FR 13778, Dec. 18, 1963, as amended at 35 FR 10009, June 18, 1970; 41 FR 28958, July 14, 1976]

## Subpart B—Criteria and Basic Controls

### § 761.6 Criteria.

(a) *General.* (1) Entry authorizations may be issued only after an Entry Control Commander, or a duly authorized subordinate acting in his behalf, has determined that the presence of the person, ship, or aircraft will not, under existing or reasonably foreseeable future conditions, endanger, place an undue burden upon, or otherwise jeopardize the efficiency, capability, or effectiveness of any military installation located within or contiguous to a defense area. Factors to be considered shall include, but not be limited to, the true purpose of the entry, the personal history, character and present or past associates of the individuals involved, the possible burdens or threats to the defense facilities which the presence of the ship, aircraft or the individual or individuals involved impose or might reasonably be expected to impose on the related base complex.

(2) Requests for entry authorizations will be evaluated and adjudged as to whether the entry at the time and for the purpose stated will or will not be inimical to the purposes of national defense.

(b) *Adverse.* Substantial evidence of any of the following shall preclude the granting of entry authorization except with the specific approval of the Chief of Naval Operations in each case:

(1) Prior noncompliance with entry control regulations or failure to observe terms under which any entry authorization may have been granted;<sup>1</sup>

(2) Willfully furnishing false, incomplete, or misleading information in an application for an entry authorization;<sup>1</sup>

(3) Advocacy of the overthrow or alteration of the Government of the United States by unconstitutional means;

(4) Commission of, or attempt or preparation to commit, an act of espionage, sabotage, sedition, or treason, or conspiring with or aiding or abetting another to commit such an act;

<sup>1</sup>The criteria so marked are applicable only to those applications concerning entry into areas under military cognizance.

(5) Performing, or attempting to perform, duties, or otherwise acting so as to serve the interest of another government to the detriment of the United States;

(6) Deliberate unauthorized disclosure of classified defense information;

(7) Knowing membership with the specific intent of furthering the aims of, or adherence to and active participation in, any foreign or domestic organization, association, movement, group, or combination of persons (hereinafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means;

(8) Serious mental irresponsibility evidenced by having been adjudged insane, or mentally irresponsible, or an incompetent, or a chronic alcoholic, or treated for serious mental or neurological disorders or for chronic alcoholism, without evidence of cure;<sup>1</sup>

(9) Conviction of any of the following offenses under circumstances indicative of a criminal tendency potentially dangerous to the security of a strategic area containing military establishments; arson, unlawful trafficking in drugs, murder, kidnaping, blackmail, or sex offenses involving minors or perversion.

(10) Chronic alcoholism or addiction to the use of narcotic drugs without adequate evidence of rehabilitation;<sup>1</sup>

(11) Illegal presence in the United States, its territories or possessions, having been finally subject to deportation order, or voluntary departure in lieu of deportation order, by the United States Immigration and Naturalization Service;<sup>1</sup>

(12) Being the subject of proceedings for deportation or voluntary departure in lieu of deportation for any reasons which have not been determined in the applicant's favor;<sup>1</sup>

(13) Conviction of larceny of property of the United States, willful injury to or destruction of property of the United States, fraudulent enlistment, impersonation of a commissioned officer of the United States or any state or territory thereof, or any offense involving moral turpitude, except offenses, which, in the jurisdiction within which the conviction was obtained, are punishable by imprisonment for not more than one year or a fine of not more than one thousand dollars.<sup>1</sup>

(c) *Aliens.* (1) Entry of aliens for employment or residence in an area entirely within the borders of a defense area is not authorized except when such entry would serve the interests of National Defense, and then only for specified periods and under prescribed conditions.

(2) Entry of aliens for any purpose into areas over which the United States exercises sovereignty is further subject to requirements imposed by law for the obtaining of a United States visa. Naval authorization for entry into areas covered by this part will not be issued to foreign nationals for purposes, places, or periods of time in excess of those stipulated in the visa.

(3) Alien spouses and bona fide dependents of U.S. citizen employees of the United States may, if otherwise qualified, be granted entry authorization so long as the U.S. citizen sponsor or principal remains on duty or resident within the defense area.

(d) *Renewals.* Entry authorizations having been granted and utilized may be extended or renewed upon request at the expiration of the period for which the entry was originally authorized or extended, provided the justification for remaining in the area or for making a reentry meets the criteria set forth in this part. It shall be the responsibility of every applicant to depart the defense area for which entry was authorized upon expiration of the time prescribed in the authorization, unless such authorization has been extended or renewed. Failure to comply herewith will be considered as evidence of violation

<sup>1</sup>The criteria so marked are applicable only to those applications concerning entry into areas under military cognizance.

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of this part and may result in denial of future authorizations.

[28 FR 13778, Dec. 18, 1963, as amended at 36 FR 21890, Nov. 17, 1971; 41 FR 28958, July 14, 1976]

### §761.7 Basic controls.

(a) *General.* Except for such persons, ship, or aircraft as are issued an authorization to enter by an Entry Control Commander:

(1) No person, except persons aboard public vessels or aircraft of the United States, shall enter any defense area.

(2) No vessel or other craft, except public vessels of the United States shall enter any naval defensive sea area or other defense area.

(3) No aircraft, except public aircraft of the United States, shall be navigated within any naval airspace reservation of the airspace over other defense areas.

(b) *Excluded persons*—(1) *Entry prohibited.* Excluded persons, as defined in §761.5(e), are prohibited from entering any defense area. In a bona fide emergency which requires an excluded person's presence in or transit through a military installation which is also a defense area, the commanding officer of the installation may grant permission to enter or transit subject to such restrictions as may be imposed by regulation or which may, in his discretion, be required.

(2) *Carrying prohibited.* Except in a bona fide emergency and after being authorized by the appropriate local authority, no vessel or aircraft, except public vessels and aircraft of the United States, shall enter into or be navigated within any defense area while carrying any excluded person, as defined in this part, as passenger, officer or crew member.

(c) *Control of violators.* No commanding officer of a military installation shall permit any ship or aircraft which has entered the limits of his command by passing through a defense area without authorization to land, except in emergency, or, if permitted to land, to disembark passengers or cargo except as authorized by the appropriate Entry Control Commander. Commanding officers will take appropriate action to apprehend violators who come within their jurisdiction and re-

quest disposition instructions from the appropriate Entry Control Commander.

(d) *Trust Territory.* An authorization from the High Commissioner is required for all persons desiring to enter the Trust Territory, except for those areas under military jurisdiction where entry is controlled by the Department of the Army (Kwajalein Atoll) and the Defense Nuclear Agency (Eniwetok Atoll).

(e) *Military areas.* Entries authorized under this Instruction do not affect the authority of a commanding officer or other appropriate commander to impose and enforce proper regulations pertaining to movement into or within naval stations or other military installations.

(f) *Waiver prohibited.* No officer of the U.S. Armed Forces, except as authorized in writing by the Chief of Naval Operations, has authority to waive the requirements of this part, and any waiver must be in writing and signed by an authorized person.

[28 FR 13778, Dec. 18, 1963, as amended at 36 FR 21890, Nov. 17, 1971; 41 FR 28958, July 14, 1976]

## Subpart C—Entry Authorization

### §761.8 General.

(a) As indicated in §761.7(a), certain persons, ships, and aircraft must be specifically authorized under the provisions of this part to enter defense areas.

(b) When entering or transiting a defense area each person, ship, or aircraft must have a valid authorization or satisfactory evidence thereof.

### §761.9 Entry Control Commanders.

The following commanders are designated Entry Control Commanders with authority to approve or disapprove individual entry authorizations for persons, ships, or aircraft as indicated (Commander Seventeenth Coast Guard District has been designated an Entry Control Commander by the authority of the Commandant, U.S. Coast Guard and Commander, Western Area, U.S. Coast Guard);

(a) *Chief of Naval Operations.* Authorization for all persons, ships, or aircraft to enter all defense areas.