

**SUPPLEMENTARY INFORMATION:** The notice of proposed rulemaking was published at 60 FR 7723 (Feb. 9, 1995). The American Bar Association's Section on International Law and Practice and the ITC Trial Lawyers Association were the only organizations that commented on the proposed rules. The Commission has determined not to resolve these rules issues through rulemaking at this time. Post-investigation use and retention of CBI will continue to be governed by the terms of the APO issued by the presiding administrative law judge in each investigation.

By Order of the Commission.

Dated: February 13, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96-3953 Filed 2-26-96; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Corps of Engineers

#### 33 CFR Part 334

#### Chesapeake Bay Off Fort Monroe, VA, and Canaveral Harbor Adjacent to the Navy Pier at Port Canaveral, FL; Restricted Areas

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Corps proposes to amend the regulations which establish a restricted area in the waters off of Fort Monroe, which is located at Hampton Roads in the Chesapeake Bay. The purpose of the amendment is to increase the size of the restricted area to protect sensitive test equipment operated by the Navy in that area. The equipment is susceptible to damage by commercial fishing vessels, anchoring and dragging. The Corps also proposes to amend the regulations which establish a restricted area in Canaveral Harbor in the waters adjacent to the Navy pier at Port Canaveral, Florida. This amendment concerns the replacement of a warning light system in the Canaveral area. The change is necessary because the existing rules refer to a red ball displayed on the Port Canaveral water tower which has been dismantled. The light has been relocated.

**DATES:** Comments must be submitted on or before April 12, 1996.

**ADDRESS:** HQUSACE, CECW-OR, Washington, D.C. 20314-1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ralph Eppard, Regulatory Branch, CECW-OR at (202) 761-1783, or

questions concerning the Fort Monroe restricted area may be directed to Ms. Alice G. Riley of the Norfolk District at (804) 441-7389, and questions concerning the Port Canaveral restricted area may be directed to Ms. Shirley Stokes of the Jacksonville District at (904) 232-1668.

**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 Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps is proposing to amend the regulations in 33 CFR Part 334. The Commanding Officer, Naval Surface Warfare Center, Dahlgren Detachment, Fort Monroe, Virginia has requested an amendment to the regulations in 334.360, which establish a restricted area in the Chesapeake Bay off Fort Monroe, Virginia. The restricted area was established in 1948 and last amended October 31, 1990. The last revision resulted in reducing the size of the restricted area to accommodate Coast Guard Range lights. According to the Navy, this change if approved, will slightly enlarge the area over that in effect prior to the 1990 change. The restricted area is necessary to protect Government-owned test equipment. The Navy maintains an underwater test range used to develop underwater sensors at that site off Fort Monroe, Virginia. There is no prohibition on vessels transiting the area. The restriction on anchoring, trawling, fishing and dragging in the restricted area remain unchanged. In paragraph (b)(1), of the regulations, the words "danger zone" are incorrect and replaced by "restricted area". Also in subparagraph (b)(1) we are identifying a local Agency to contact in the event further information is necessary regarding the area or the prohibitions listed.

The Commanding Officer, Naval Ordnance Test Unit, Cape Canaveral, Florida, has requested the regulations which establish a restricted area in the waters adjacent to the Navy pier at Port Canaveral, Florida, be amended to delete a reference to a red warning light on a water tower and replace it with a new warning light system. The regulation will be amended to show that the area will be closed when a red square flag (bravo), and depending on the status of the hazardous operation, either an amber or red beacon, steady burning or rotating, day or night, is displayed from any of the three berths along the wharf. No other changes to these regulations are proposed.

Copies of all comments received in response to proposed changes to 33 CFR 334.360 will be available for inspection at the Norfolk District Office located at Fort Norfolk, 803 Front Street, Norfolk, Virginia. Comments received in response to the proposed change to 33 CFR 334.530 will be available for inspection at the Jacksonville District Office at 400 West Bay Street, Jacksonville, Florida.

#### Economic Assessment and Certification

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply. These proposed rules have 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 changes to the restricted areas will have practically 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.

#### National Environmental Policy Act Certification

An environmental assessment will be prepared for these proposed actions. We have preliminarily concluded, based on the minor nature of these proposed amendments that the action will not have a significant impact to the human environment, and preparation of an environmental impact statement is not required. Copies of the environmental assessment may be reviewed at the District Offices listed at the end of **SUPPLEMENTARY INFORMATION**, above.

#### List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Transportation, Waterways.

For the reasons set out in the preamble, 33 CFR Part 334 is proposed to be amended 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 334.360 is amended by revising paragraphs (a) and (b)(1) to read as follows:

**§ 334.360 Chesapeake Bay off Fort Monroe, Virginia; restricted area, U.S. Naval Base and Naval Surface Weapons Center**

(a) *The area.* Beginning at latitude 37°01'03", longitude 076°17'52"; thence to latitude 37°01'00", longitude 076°16'11"; thence to latitude 36°59'43", longitude 076°16'11"; thence to latitude 36°59'18", longitude 076°17'52"; thence to latitude 37°00'05", longitude 076°18'18"; thence north along the seawall to the point of beginning.

(b) *The regulations.* (1) Anchoring, trawling, fishing and dragging are prohibited in the restricted area, and no object, either attached to a vessel or otherwise, shall be placed on or near the bottom unless authorized by the Facility Manager, Naval Surface Warfare Center, Dahlgren Division Coastal Systems Station Detachment, Fort Monroe, Virginia.

\* \* \* \* \*

3. Section 334.530 is amended by revising paragraph (b)(2) to read as follows:

**§ 334.530 Canaveral Harbor adjacent to the Navy Pier at Port Canaveral, Fla.; restricted area.**

\* \* \* \* \*

(b) \* \* \*

(2) The area will be closed when a red square flag (bravo), and depending on the status of the hazardous operation, either an amber or red beacon, steady burning or rotating, day or night, when displayed from any of the three berths along the wharf.

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Dated: February 13, 1996.

Joseph G. Graf,

Colonel, U.S. Army, Executive Director of Civil Works.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 63, 264, 265, and 266**

**[EPA/OSW-FR-95- ; SWH-FRL-5430-5]**

**CEMS Demonstration Announcement**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of request for proposals.

**SUMMARY:** The Office of Solid Waste, U.S. Environmental Protection Agency, plans to conduct a demonstration of particulate matter (PM) and total mercury (Hg) Continuous Emissions Monitoring Systems (CEMS) for stack monitoring of hazardous waste combustors (e.g., incinerators, cement kilns, and light-weight aggregate kilns

that burn hazardous waste). The purpose of this notice is to solicit proposals from vendors that are interested in participating in the demonstration. EPA will select vendors to participate in the demonstration based on specified evaluation criteria.

**DATES:** Proposals must be submitted by May 7, 1996.

**ADDRESSES:** Vendors must submit an original and two copies of their proposal to H. Scott Rauenzahn, U.S. Environmental Protection Agency, 401 M Street, SW (5302W), Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** For information on this request for proposals, contact H. Scott Rauenzahn in the Office of Solid Waste at 703-308-8477 (FAX: 703-308-8433).

**SUPPLEMENTARY INFORMATION:** EPA plans to conduct a demonstration to determine whether PM and total Hg CEMS are sufficiently developed for use to document compliance with emission standards for hazardous waste combustors. The demonstration has two phases: (1) demonstration of ability to comply with the Agency's draft performance specifications; and (2) demonstration of long term endurance over a period of six months to one year.

**I. CEMS Performance Specifications**

The Agency's draft performance specifications contain requirements for: a one-week test period for calibration and zero drift; relative accuracy assessment against EPA manual reference methods; a calibration error check (if applicable); an interference test (if applicable); and demonstration to the EPA that other requirements, such as response time and data recorder scale, are met. The draft specifications are available on EPA's Technology Transfer Network (TTN). The files are *PM-PS.ZIP* for PM and *HG-PS.ZIP* for Hg. They can be found in the Emission Measurement Technical Information (EMTIC) bulletin board's "Continuous Emissions Monitoring" area.

The dial-in number for the TTN BBS is (919) 541-5742. That number can accommodate 14.4k kbps. Settings are 8 (Data), No parity, 1 (Stop), and Full duplex. The BBS can be reached on the internet via TELNET at "ttnbbs.rtpnc.epa.gov". The system is off-line Mondays from 8 am until 12 noon ET. For help using the BBS, dial (919) 541-5384.

In addition, the draft performance specifications are available in the EPA RCRA Docket, Docket number F-96-RCSP-FFFFF. The docket is located at U.S. Environmental Protection Agency, Crystal Gateway, First Floor, 1235

Jefferson Davis Highway, Arlington, Virginia. The RCRA Docket is open from 9 a.m. to 4 p.m. Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling 703-603-9230. The public may copy a maximum of 100 pages from any document at no cost. Additional copies cost \$0.15 per page.

**II. Description of the Demonstration**

EPA seeks vendors to participate in the demonstration that will supply, install, and operate the CEMS at no charge to the government. The Agency will select participants based on their proposals according to the selection criteria discussed below. The test site(s) will be selected by EPA. EPA will also provide site coordination and oversight, and will conduct the manual method reference measurements.

The vendors will conduct the demonstration under EPA oversight, and will provide to EPA at no charge and before removing the CEMS from the test site all data and information on the design of the CEMS and its operation and maintenance during the demonstration. EPA will present the results of the demonstration in a report.

At least one CEMS of each type (PM and total Hg) that participates in the demonstration will be selected for a long term (e.g., 6-12 month) endurance test.

The testing is scheduled to start in May 1996.

**III. Vendor Proposals**

Proposals should contain the following: a detailed description of the design, operation, and maintenance of the CEMS; the performance specifications of the device (including calibration and zero drift, detection limits, range, and accuracy); a detailed description of the calibration procedure(s) and standards; vendor generated test data pertinent to CEMS performance and calibration; field data demonstrating performance; a description of how the vendor will meet the responsibilities of supplying, installing, and operating the CEMS; and a statement that the vendor accepts the conditions of the program as presented in this notice.

EPA will select vendors for participation in the demonstration using the criteria presented below. Vendors selected after a preliminary selection must submit a site-specific installation plan based on site-specific information that the Agency will provide. This plan should include details such as: (1) the strategy to be used for handling the problem of liquid aerosol if the site uses