

DATES: Written comments must be submitted on or before June 25, 2001.

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

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, D.C. at (202) 761-4618, or Mr. Rick Henderson, Corps of Engineers, Norfolk District, Regulatory Branch, at (757) 441-7653.

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 proposes to amend the restricted area regulations in 33 CFR 334.300.

Procedural Requirements

a. Review Under Executive Order 12866

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.

b. Review Under the Regulatory Flexibility Act

These proposed rules have been reviewed under the Regulatory Flexibility Act (Public Law 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 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.

c. Review Under the National Environmental Policy Act

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action, if adopted, will not have a significant impact to the quality of the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act

This proposed 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.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR Part 334 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 334.300 would be revised to read as follows:

§ 334.300 Hampton Roads and Willoughby Bay, Norfolk Naval Base, Restricted Area.

(a) *The area.* (1) The waters within an area beginning at latitude 36°55'55" N, longitude 76°20'02" W; thence northwesterly to latitude 36°56'00" N, longitude 76°20'08" W; thence northerly along the eastern limit of Norfolk Harbor Channel to latitude 36°57'52" N, longitude 76°20'00" W; thence easterly to latitude 36°57'52" N, longitude 76°19'35" W; thence to latitude 36°57'47.7" N, 76°18'57" W; thence southeasterly to latitude 36°57'26" N, longitude 76°18'42" W; thence easterly to latitude 36°57'26.2" N, longitude 76°17'55.2" W; thence southerly to latitude 36°57'05" N, longitude 76°17'52" W; thence southeasterly to latitude 36°56'56.2" N, longitude 76°17'27" W; thence northeasterly to latitude 36°57'10" N, latitude 76°16'29" W; thence to the shoreline at latitude 36°57'18.8" N, longitude 76°16'22" W at the Naval Air Station.

(2) Beginning at a point on the Naval Station shore at latitude 36°56'37.5" N, longitude 76°19'44" W; thence westerly and northerly along the breakwater to its extremity at latitude 36°56'41.5" N, longitude 76°19'54" W; thence westerly to a point on the eastern limit of Norfolk Harbor Channel at latitude 36°56'41.5" N, longitude 76°20'05.5" W; thence northerly along the eastern limit of Norfolk Harbor Channel to latitude 36°57'52" N, longitude 76°20'00" W; thence easterly to latitude 36°57'52" N, longitude 76°19'35" W; thence to latitude 36°57'47.7" N., longitude 73°18'57" W; thence southeasterly to latitude 36°57'26" N, longitude 76°18'42" W; thence easterly to latitude

36°57'26.2" N, longitude 76°17'55.2" W; thence southerly to latitude 36°57'05" N, longitude 76°17'52" W; thence southeasterly to latitude 36°56'56.2" N, longitude 76°17'27" W; thence northeasterly to latitude 36°57'10" N, longitude 76°16'29" W; and thence to the shoreline at latitude 36°57'18.8" N, longitude 76°16'22" W, at the Naval Air Station.

(b) *The regulation.* No vessel or persons may enter the restricted area unless specific authorization is granted by the Commander, Navy Region, Mid-Atlantic and/or other persons or agencies as he/she may designate.

(c) *Enforcement.* The regulation in this section, promulgated by the United States Army Corps of Engineers, shall be enforced by the Commander, Navy Region, Mid-Atlantic, and/or persons or agencies as he/she may designate.

Dated: May 4, 2001.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 01-13105 Filed 5-23-01; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Little Creek Harbor, VA

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing regulations to establish a restricted area in the vicinity of the Little Creek Amphibious Base, Little Creek, Virginia. These regulations will enable the Navy to enhance security around vessels moored at the facility. 33 U.S.C. 1 states, in part that: It shall be the duty of the Secretary of the Army to prescribe such regulations for the use, administration, and navigation of the navigable waters of the United States as in his/her judgment the public necessity may require for the protection of life and property. The regulations are necessary to safeguard Navy vessels and United States government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions which may exist as a result of Navy use of the area.

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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 proposes to amend the restricted area regulations in 33 CFR Part 334 by adding § 334.305 which establishes a restricted area in Little Creek Harbor adjacent to the Naval Amphibious Base (NAB) in Little Creek, Virginia. NAB is the homeport of numerous ships, small boats and special operational units. The public currently has unrestricted access to the facility and units assigned there. To better protect vessels and personnel assigned to NAB, the Commander, Navy Region, Mid-Atlantic has requested the Corps of Engineers establish a Restricted Area which will enable the Navy to implement a waterside security program that is currently not available at the facility.

Procedural Requirements

a. Review Under Executive Order 12866

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.

b. Review Under the Regulatory Flexibility Act

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 establishment of this restricted area would 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.

c. Review Under the National Environmental Policy Act

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action, if adopted, will not have a significant impact to the quality of the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act

This proposed 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.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334, 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 334.305 would be added to read as follows:

§ 334.305 Little Creek Harbor, Fisherman's Cove, Little Creek Amphibious Base, Little Creek, Virginia, Restricted Area.

(a) *The area.* (1) *The restricted area.* The waters within an area beginning at a point on shore at latitude 36°55'57.7" N, longitude 76°10'35" W; thence

southwesterly to a point on the opposite shore at latitude 36°55'53" N, longitude 76°10'44" W, thence southerly to latitude 36°55'21.2" N, longitude 76°10'42" W; thence southwesterly to latitude 36°55'17.8" N, longitude 76°10'49" W; thence northwesterly to a point in Fisherman's Cove at latitude 36°55'22" N, longitude 76°11'15.5" W; thence southerly to latitude 36°55'19.2" N, longitude 76°11'16" W, thence easterly along the southern shoreline of Fisherman's Cove, the entire shoreline of Little Creek Harbor, Little Creek Cove and Desert Cove (so as to encompass the entire harbor area) to latitude 36°55'18" N, longitude 76°10'30" W; thence to the point of origin.

(2) *The exclusion area.* The exclusion area is a subset of the restricted area in paragraph (a)(1) of this section and includes all waters in Little Creek Harbor, Little Creek Cove and Desert Cove south of a line beginning at latitude 36°55'15.8" N, longitude 76°10'58.8" W; and ending at latitude 36°55'19.3" N, longitude 76°10'29.5" W.

(b) *The regulations.* (1) *Restricted area.* Vessels or persons may travel through the restricted area between the entrance to Little Creek Channel and Fisherman's Cove at anytime. Vessels or persons transiting through this area are subject to all applicable federal and state laws including laws or regulations designed to protect the naval facility, and persons or vessels assigned therein. Federal and State law enforcement officials may at any time take action to ensure compliance with their respective laws. In addition, this regulation authorizes navy security personnel, designated by the Commander Navy Region, Mid-Atlantic or persons authorized to act in his/her behalf, the authority to ascertain the identity and intent of any vessels and/or persons transiting the restricted area that indicate by way of appearance or action they are a possible threat to government assets. If a determination is made that the vessel and/or persons are a threat to government assets located within the restricted area, Navy security units may take actions as provided by law or regulation that are deemed necessary to protect government personnel and assets located within the restricted area.

(2) *Exclusion area.* No vessel or persons may enter the exclusion area unless specific authorization is granted by the Commander, Navy Region, Mid-Atlantic and/or other persons or agencies as he/she may designate.

(c) *Enforcement.* (1) The regulation in this section shall be enforced by the Commander, Navy Region, Mid-

Atlantic, and/or persons or agencies as he/she may designate.

(2) Federal and State Law enforcement vessels and personnel may enter either the restricted area or exclusion area at any time to enforce their respective laws.

(3) Enforcement actions will not be taken by the Navy or its designees for vessels or persons stationed at Coast Guard Station Little Creek, and vessels

or persons working at one of the commercial facilities within the exclusion area with proper identification and clearance.

Dated: May 4, 2001.

Charles M. Hess,

Chief, Operations Division, Directorate of Civil Works.

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