

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions 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 calls 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 rule will not result in such an expenditure, we so discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect 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 create 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 does 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. 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available for inspection or copying where indicated under ADDRESSES.

List of Subjects in 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 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. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6 160.5; 49 CFR 1.46.

2. A new temporary § 165.T08-047 is added to read as follows:

§ 165.T08-047 Ohio River Miles 307.0 to 308.0, Huntington, West Virginia.

(a) *Location.* The following area is a safety zone: the waters of the Ohio River from mile 307.0 to mile 308.0 extending the entire width of the river.

(b) *Effective date.* This section is effective from 9:30 p.m. to 10:45 p.m. on June 29, 2002.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry of vessels into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Huntington or his designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Huntington, or his designated representative. They may be contacted via VHF-FM Channel 13 or 16 or via telephone at (304) 529-5524.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Huntington and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: May 13, 2002.

L.D. Stroh,

Commander, U.S. Coast Guard, Captain of the Port Huntington.

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DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

United States Navy Restricted Area, Port Gardner and East Waterway, Washington

AGENCY: United States 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 waters adjacent to the Everett Naval Base at

Everett, Washington. This action will effectively establish a 300-foot restricted zone around moored vessels and major piers of Naval Station Everett, and lesser distances from the other piers, basins, and shorelines of the installation. The regulations are necessary to ensure public safety and meet the Navy's security, safety, and operational requirements pertaining to the moorage and movement of major combatants and other vessels at a major naval base.

EFFECTIVE DATE: June 24, 2002.

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, DC at (202) 761-4618, or Mr. Jack Kennedy, Corps of Engineers, Seattle District, Regulatory Branch, at (206) 764-6907.

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 amending the restricted area regulations in 33 CFR part 334 by adding a new section 334.1215 which establishes a restricted area in waters adjacent to Naval Station Everett at Everett, Washington.

Procedural Requirements

A. Review Under Executive Order 12866

This 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

This rule has 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 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 will have no significant economic impact on small entities.

C. Review Under the National Environmental Policy Act

The Seattle District has prepared an Environmental Assessment (EA) for this

action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action will not have a significant impact to the quality of the human environment, and preparation of an Environmental Impact Statement (EIS) is not required. The EA may be reviewed at the Seattle District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, 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, the Corps amends 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. Add § 334.1215 to read as follows:

§ 334.1215 Port Gardner, Everett Naval Base, Naval Restricted Area, Everett, Washington.

(a) *The area.* The waters of Port Gardner and East Waterway surrounding Naval Station Everett beginning at Point 1, a point near the northwest corner of Naval Station Everett at latitude 47°59'40" North, longitude 122°13'23.5" West and thence to latitude 47°59'40" North, longitude 122°13'30" West (Point 2); thence to latitude 47°59'20" North, longitude

122°13'33" West (Point 3); thence to latitude 47°59'13" North, longitude 122°13'38" West (Point 4); thence to latitude 47°59'05.5" North, longitude 122°13'48.5" West (Point 5); thence to latitude 47°58'51" North, longitude 122°14'04" West (Point 6); thence to latitude 47°58'45.5" North, longitude 122°13'53" West (Point 7); thence to latitude 47°58'45.5" North, longitude 122°13'44" West (Point 8); thence to latitude 47°58'48" North, longitude 122°13'40" West (Point 9); thence to latitude 47°58'59" North, longitude 122°13'30" West (Point 10); thence to latitude 47°59'14" North, longitude 122°13'18" West (Point 11); thence to latitude 47°59'13" North, longitude 122°13'12" West (Point 12); thence to latitude 47°59'20" North, longitude 122°13'08" West (Point 13); thence to latitude 47°59'20" North, longitude 122°13'02.5" West (Point 14), a point upon the Naval Station's shore in the northeast corner of East Waterway.

(b) *The regulation.* (1) All persons and vessels are prohibited from entering the waters within the restricted area for any reason without prior written permission from the Commanding Officer of the Naval Station Everett.

(2) Mooring, anchoring, fishing and/or recreational boating shall not be allowed within the restricted area without prior written permission from the Commanding Officer, Naval Station Everett.

(c) *Enforcement.* The regulation in this section, promulgated by the United States Army Corps of Engineers, shall be enforced by the Commanding Officer, Naval Station Everett and such agencies and persons as he/she shall designate.

Dated: May 9, 2002.

Karen Durham-Aguilera,

Acting Chief, Operations Division, Directorate of Civil Works.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-2002-0021; FRL-6834-2]

Pesticides; Tolerance Exemptions for Polymers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final rule action to add a new section which lists the pesticide chemicals that are exempt from the requirement of a tolerance