

DEPARTMENT OF DEFENSE**Department of the Army, Corps of Engineers****33 CFR Part 334****United States Navy Restricted Area, Cooper River and Tributaries, Naval Weapons Station Charleston, Charleston, SC**

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Corps of Engineers is proposing to amend existing regulations to expand the authority of the Commander, Naval Weapons Station Charleston, to restrict passage of watercraft and vessels within currently designated restricted areas in the Cooper River and its tributaries in the vicinity of the Naval Weapons Station in Charleston, South Carolina. The purpose of the proposed change is to provide effective security in the area of the Naval Weapons Station.

DATES: Written comments must be received on or before January 27, 2003.

ADDRESSES: Send comments to 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. Nathaniel Ball, Corps of Engineers, Charleston District, at (843) 329-8044.

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 modify restricted area regulations in 33 CFR 334.460(b)(6) to expand the authority to restrict the passage of watercraft and vessels within one of the currently designated restricted areas in the Cooper River and its tributaries in the vicinity of the

Naval Weapons Station in Charleston, South Carolina. The boundaries of restricted areas and danger zones identified in 33 CFR 334.460(a) are unchanged. The regulation at 33 CFR 334.460(b)(6) would be modified to include restricted area (a)(8) of section 334.460. The new regulation will allow this area to be closed in the interest of national security at the discretion of the Commanding Officer of the Naval Weapons Station, until such time as he/she determines such restrictions may be terminated.

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 of Engineers proposes to amend 33 CFR part 334, as follows:

PART 334—DANGER ZONES 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. Amend §334.460 by revising paragraph (b)(6) to read as follows:

§ 334.460 Cooper River and tributaries at Charleston, SC.

* * * * *

(b) * * *

(6) In the interest of National Security, Commanding Officer, U.S. Naval Weapons Station, Charleston, SC may, at his/her discretion, restrict passage of persons, watercraft, and vessels in the areas described in paragraphs (a)(7), (a)(8), and (a)(11) of this section until such time as he/she determines such restriction may be terminated.

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Dated: December 17, 2002.

Lawrence A. Lang,

Acting Chief, Operations Division, Directorate of Civil Works.

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