

(ii) Exclude such person from the definition of the term "party in interest" (as set forth in section 3(14)(B) of the Act) with respect to any assets of the plan.

\* \* \* \* \*

Signed at Washington, DC, this 13th day of October 2010.

**Phyllis C. Borzi,**

*Assistant Secretary, Employee Benefits Security Administration, Department of Labor.*

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## DEPARTMENT OF DEFENSE

### Corps of Engineers, Department of the Army

#### 33 CFR Part 334

#### Pamlico Sound and Adjacent Waters, NC; Danger Zones for Marine Corps Operations

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

**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The U.S. Army Corps of Engineers (Corps) is proposing to amend its regulations to establish one new danger zone in Pamlico Sound near Marine Corps Air Station Cherry Point, North Carolina. Establishment of this danger zone will enable the Marine Corps to control access and movement of persons, vessels, and objects within the danger zone during live fire training exercises.

**DATES:** Written comments must be received by November 22, 2010.

**ADDRESSES:** You may submit comments, identified by docket number COE-2010-0037, by any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*E-mail:* [david.b.olson@usace.army.mil](mailto:david.b.olson@usace.army.mil). Include the docket number COE-2010-0037 in the subject line of the message.

*Mail:* U.S. Army Corps of Engineers, Attn: CECW-CO (David B. Olson), 441 G Street, NW., Washington, DC 20314-1000.

*Hand Delivery/Courier:* Due to security requirements, we cannot receive comments by hand delivery or courier.

*Instructions:* Direct your comments to docket number COE-2010-0037. All comments received will be included in the public docket without change and

may be made available on-line at <http://regulations.gov>, including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through [regulations.gov](http://regulations.gov) or e-mail. The [regulations.gov](http://regulations.gov) Web site is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail directly to the Corps without going through [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202-761-4922 or Richard K. Spencer, U.S. Army Corps of Engineers, Wilmington District, at 910-251-4172.

**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 regulations in 33 CFR part 334 by adding § 334.420 (b)(1)(v) to establish an Intermittent Danger Zone abutting the existing 1.8 mile Danger Zone [as described in § 334.420(b)(1)(i)] in the Pamlico Sound

and adjacent waters in Carteret County, North Carolina. The public is currently restricted from accessing the existing 1.8 mile radius circular area and has limited access to three additional 0.5 mile radius circular danger zones described at §§ 334.420(b)(1)(ii), (iii), and (iv), but has unrestricted access to the surrounding waters. To better protect the public from potentially hazardous conditions during scheduled live fire training, Marine Corps Air Station Cherry Point has requested that the Corps establish the Intermittent Danger Zone that will enable the Marine Corps to ensure security and safety for the public.

The current military training mission requires enhanced public safety and protection of vessels that operate in the vicinity of the Bombing Target-11 range. This proposed amendment to the current danger zone regulation at 33 CFR 334.420 includes the addition of a danger zone in Pamlico Sound that abuts the existing 1.8 mile radius danger zone and extends out to 2.5 miles from the common center point. Establishment of this additional danger zone will allow the Marine Corps to minimize the public safety hazard resulting from the increased use of .50 caliber weapons firing from rotary-wing aircraft and small boats during training exercises at Bombing Target-11 Range. The new danger zone will optimize public safety and military training, and protect any vessels that operate in the vicinity of Bombing Target-11 Range.

#### 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.* This proposed rule has 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 has determined that revising this proposed rule would have practically no economic impact on the public, or result in no anticipated navigational hazard or interference with existing waterway traffic. This proposed rule will have no significant economic impact on small entities.

c. *Review Under the National Environmental Policy Act.* The Corps expects that the proposed rule will not have a significant impact to the quality of the human environment and,

therefore, preparation of an environmental impact statement will not be required. After the comment period, an environmental assessment will be prepared and it may be reviewed at the District office listed at the end of the **FOR FURTHER INFORMATION CONTACT**, above.

d. *Unfunded Mandates Act*. The 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 Reform Act (Pub. L. 104-4, 109 Stat. 48, 2 U.S.C. 1501 *et seq.*). We have also found under Section 203 of the Act, that small governments will not be significantly or uniquely affected by this proposed rule.

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

Danger zones, Navigation (water), 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 33 CFR 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. In § 334.420 add paragraphs (b)(1)(v) and (b)(2)(iii) to read as follows:

#### § 334.420 Pamlico Sound and adjacent waters, N.C.; danger zones for Marine Corps operations.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(v) The waters within a circular band with an inner radius of 1.8 statute miles and an outer radius of 2.5 statute miles having its center at latitude 35°02'12", longitude 76°28'00".

(2) \* \* \*

(iii) The areas described in paragraph (b)(1)(v) of this section shall be used as a strafing area. Practice and dummy ammunition will be used. Operations will be conducted on five consecutive days (Monday through Friday) per month during the months of February through November between the hours of 4 p.m. to 11 p.m. The block training dates will be scheduled two weeks in advance of the actual training start date. Marine Corps Air Station, Cherry Point will have a call-in number for public use to provide information on the current use of the training area. The Notification to Mariners System will also be utilized to inform the public on the status of the training area. No vessel

or person shall enter the area during the scheduled block training session except for such vessels as may be directed by the enforcing agency to enter on assigned duties. The area will be patrolled and vessels "buzzed" by the patrol plane prior to the conduct of operations in the area. Vessels or personnel which have inadvertently entered the danger zone shall leave the area immediately upon being so warned.

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Dated: October 8, 2010.

**Michael G. Ensich,**

*Chief, Operations, Directorate of Civil Works.*

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#### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 4

#### RIN 2900-AN75

#### Schedule for Rating Disabilities; AL Amyloidosis (Primary Amyloidosis)

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (rating schedule) by updating the schedule of ratings for the hemic and lymphatic systems to include AL amyloidosis. This regulatory action is necessary to add AL amyloidosis as one of the disease conditions and establish criteria for disability evaluation to fully implement the decision by the Secretary of Veterans Affairs to grant presumptive service connection based on herbicide exposure for this disease. The intended effects are to provide consistency in disability ratings and to ease tracking of AL amyloidosis for statistical analysis.

**DATES:** Comments must be received by VA on or before December 21, 2010.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AN75—Schedule for Rating Disabilities; AL Amyloidosis (Primary Amyloidosis)." All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the

hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments are available online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Thomas J. Kniffen, Chief, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-9725. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** A final rule was published in the **Federal Register** at 74 FR 21258 amending 38 CFR 3.309(e) by adding AL amyloidosis to the list of diseases associated with exposure to certain herbicide agents. Currently, the rating schedule does not have a diagnostic code for AL amyloidosis. As an unlisted condition, it is rated by analogy to non-Hodgkin's lymphoma using the "built-up" diagnostic code 7799-7715. However, AL amyloidosis is not part of the group of diseases under the non-Hodgkin's lymphoma classification, but a disorder of the bone marrow characterized by the accumulation and deposition of abnormal, insoluble proteins called light chain amyloid proteins in any organ of the body, interfering with the structure and function of the organ. Therefore, AL amyloidosis requires a set of evaluation criteria with a unique diagnostic code, which will serve as a basis for disability rating. VA proposes a regulation that would amend the rating schedule by adding rating guidance and a diagnostic code specifically for AL amyloidosis.

AL amyloidosis is a seriously disabling, progressive, and incurable condition. It is usually fatal within 1 to 2 years of diagnosis. Because of its rarity and rapid progression, AL amyloidosis may not be diagnosed until it has resulted in considerable multi-organ damage (to heart, kidney, liver, spleen, intestine, *etc.*). At the time of diagnosis, the most common findings are nephrotic syndrome with or without renal insufficiency, congestive cardiomyopathy, peripheral neuropathy, and hepatomegaly. The extent of the disease limits the specific types of treatments that can be used. Stem cell transplantation with high dose chemotherapy, an aggressive and risky treatment with serious side effects and a significant mortality rate, can be used in a limited number of patients who meet the criteria to undergo such severe treatment. This treatment has shown promise in prolonging life but does not