

(ii) *Middle zone.* Beginning at the intersection of the Harry W. Nice Bridge with the Virginia shore; thence to Light 33; thence to latitude 38°19'06", longitude 76°57'06", a point that is about 3,300 yards east-southeast of Light 30; thence to Line of Fire Buoy O, about 1,150 yards southwest of Swan Point; thence to Line of Fire Buoy M, about 1,700 yards south of Potomac View; thence to Line of Fire Buoy K, about 1,400 yards southwest of the lower end of Cobb Island; thence to Buoy 14, abreast of St. Clements Island, thence southwest to a point near the northeast shore of Hollis Marsh at latitude 38°10'00", longitude 76°45'22.4"; thence northwest to Line of Fire Buoy J, about 3,000 yards off Popes Creek, Virginia; thence to Line of Fire Buoy L, about 3,600 yards off Church Point; thence to Line of Fire Buoy N, about 900 yards off Colonial Beach; thence to Line of Fire Buoy P, about 1,000 yards off Bluff Point; thence northwest to latitude 38°17'54", longitude 77°01'02", a point of the Virginia shore on property of Naval Support Facility, Dahlgren, a distance of about 4,080 yards; thence north along the Potomac shore of Naval Surface Warfare Center, Dahlgren to Baber Point; and thence west along the Upper Machodoc Creek shore of Naval Surface Warfare Center, Dahlgren to Howland Point at latitude 38°19'0.5", longitude 77°03'23"; thence northeast to latitude 38°19'18", longitude 77°02'29", a point on the Naval Surface Warfare Center, Dahlgren shore about 350 yards southeast of the base of the Navy recreational pier. Hazardous operations are normally conducted in this zone daily except Saturdays, Sundays, and national holidays.

(iii) *Upper zone.* Beginning at Mathias Point, Va.; thence north to Light 5; thence north-northeast to Light 6; thence east-southeast to Lighted Buoy 2, thence east-southeast to a point on the Maryland shore at approximately latitude 38°23'35.5", longitude 76°59'15.5"; thence south along the Maryland shore to, and then along, a line passing through Light 1 to the Virginia shore, parallel to the Harry W. Nice Bridge; thence north with the Virginia shore to the point of beginning. Hazardous operations are conducted in this zone at infrequent intervals.

(2) *The regulations.* (i) Hazardous operations normally take place between the hours of 8 a.m. and 5 p.m. daily except Saturdays, Sundays and national holidays, with infrequent night firing between 5 p.m. and 10:30 p.m. During a national emergency, hazardous operations will take place between the hours of 6 a.m. and 10:30 p.m. daily, except Sundays. Hazardous operations

may involve firing large or small caliber guns and projectiles, aerial bombing, use of directed energy, and operating manned or unmanned watercraft.

(ii) When hazardous operations are in progress, no person, or fishing or oystering vessels shall operate within the danger zone affected unless so authorized by Naval Surface Warfare Center, Dahlgren's patrol boats. Oystering and fishing boats or other craft may cross the river in the danger zone only after they have reported to the patrol boat and received instructions as to when and where to cross. Deep-draft vessels using dredged channels and propelled by mechanical power at a speed greater than five miles per hour may proceed directly through the danger zones without restriction except when notified to the contrary by the patrol boat. Unless instructed to the contrary by the patrol boat, small craft navigating up or down the Potomac River during hazardous operations shall proceed outside of the northeastern boundary of the Middle Danger Zone. All craft desiring to enter the Middle Danger Zone when proceeding in or out of Upper Machodoc Creek during hazardous operations will be instructed by the patrol boat; for those craft that desire to proceed in or out of Upper Machodoc Creek on a course between the western shore of the Potomac River and a line from the Main Dock of Naval Surface Warfare Center, Dahlgren to Line of Fire Buoy P, clearance will be granted to proceed upon request directed to the patrol boat.

(iii) Due to hazards of unexploded ordnance, no person or craft in the Middle Danger Zone shall approach closer than 100 yards to the shoreline of Naval Surface Warfare Center, Dahlgren.

(3) *Enforcement.* The regulations in this section shall be enforced by the Commander, Naval Surface Warfare Center, Dahlgren and such agencies as he/she may designate. Patrol boats, in the execution of their mission assigned herein, shall display a square red flag during daylight hours for purposes of identification; at night time, a 32 point red light shall be displayed at the mast head. Range Control at Naval Surface Warfare Center, Dahlgren can be contacted by Marine VHF radio (Channel 16) or by telephone at (540) 653-8791.

(4) *Exceptions.* Nothing in this regulation shall be intended to prevent commercial fishing or the lawful use of approved waterfowl hunting blinds along the shorelines of Naval Surface Warfare Center, Dahlgren, provided that all necessary licenses and permits have been obtained from the Maryland Department of Natural Resources, the

Virginia Department of Game and Inland Fisheries, or the Potomac River Fisheries Commission. Waterfowl hunters shall provide a completed copy of their blind permit to the Natural Resources Manager at Naval Surface Warfare Center, Dahlgren. Commercial fishermen and waterfowl hunters must observe all warnings and range clearances, as noted herein.

* * * * *

Dated: November 3, 2010.

Michael G. Ensich,

Chief, Operations and Regulatory, Directorate of Civil Works.

[FR Doc. 2010-28385 Filed 11-9-10; 8:45 am]

BILLING CODE 3720-58-P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Menominee River, Marinette Marine Corporation Shipyard, Marinette, WI

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 its regulations to establish a restricted area in the Menominee River, at the Marinette Marine Corporation Shipyard, Marinette, Wisconsin, to provide adequate protection during the construction and launching of Littoral Combat Ships. The regulations are necessary to provide adequate protection of U.S. Navy combatant vessels, its materials, equipment to be installed therein, and crew, while located at the property of Marinette Marine Corporation.

DATES: Written comments must be submitted on or before December 10, 2010.

ADDRESSES: You may submit comments, identified by docket number COE-2010-0041, 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. Include the docket number, COE-2010-0041, 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-2010-0041. All comments received will be included in the public docket without change and may be made available on-line at <http://www.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://www.regulations.gov) or e-mail. The [regulations.gov](http://www.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://www.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 Ms. Linda M. Kurtz, Corps of Engineers, St. Paul District, Regulatory Branch, at (920) 448-2824.

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 its restricted area regulations at 33 CFR part 334 by adding § 334.815 to establish a restricted area in the Menominee River, at the Marinette Marine Corporation Shipyard, Marinette, Wisconsin, to provide adequate protection for the construction and launching of Littoral Combat Ships. By correspondence dated July 27, 2006, Marinette Marine Corporation, on behalf of the Department of the Navy, has requested the Corps of Engineers to establish this restricted area.

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

The 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). Unless information is obtained to the contrary during the public notice comment period, 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. This proposed rule if adopted, will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

A preliminary draft environmental assessment has been prepared for this action. Due to the administrative nature of this action and because the intended change will only impact waters a distance of 100-feet from Marinette Marine Corporation's pier (an area of approximately 2.81 acres), the Corps expects that this regulation, if adopted, 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. The environmental assessment will be finalized after the public notice period is closed and all comments have been received and considered. It may be reviewed at the District office listed at the end of the **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act

This proposed rule does not impose an enforceable duty among the private sector and, therefore, it is not a Federal private section mandate and it is not subject to the requirements of either section 202 or Section 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, Navigation (water), Restricted areas, Waterways.

For the reasons stated 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. Add § 334.815 to read as follows:

§ 334.815 Menominee River, at the Marinette Marine Corporation Shipyard, Marinette, Wisconsin; naval restricted area.

(a) *The area.* The waters 100-feet from Marinette Marine Corporation's pier defined by a rectangular shaped area on the south side of the river beginning on shore at the eastern property line of Marinette Marine Corporation at latitude 45°5'58.8" N, longitude 087°36'56.0" W; thence northerly to latitude 45°5'59.7" N, longitude 087°36'55.6" W; thence westerly to latitude 45°6'3.2" N, longitude 087°37'9.6" W; thence southerly to latitude 45°6'2.2" N, longitude 087°37'10.0" W; thence easterly along the Marinette Marine Corporation pier to the point of origin. The restricted area will be marked by a lighted and signed floating boat barrier.

(b) *The regulation.* All persons, swimmers, vessels and other craft, except those vessels under the supervision or contract to local military or Naval authority, vessels of the United States Coast Guard, and local or state law enforcement vessels, are prohibited from entering the restricted area when marked by signed floating boat barrier without permission from the United States Navy, Supervisor of Shipbuilding Gulf Coast or his/her authorized representative.

(c) *Enforcement.* The regulation in this section shall be enforced by the United States Navy, Supervisor of Shipbuilding Gulf Coast and/or such

agencies or persons as he/she may designate.

Dated: November 3, 2010.

Michael G. Ensich,

Chief, Operations and Regulatory, Directorate of Civil Works.

[FR Doc. 2010-28386 Filed 11-9-10; 8:45 am]

BILLING CODE 3720-58-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[EPA-HQ-OAR-2008-0338; FRL-9223-6]

Notice of Data Availability Regarding Potential Changes to Required Ozone Monitoring Seasons for Colorado, Kansas, and Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Data Availability (NODA).

SUMMARY: The EPA is providing notice that it is supplementing the record to the Proposed Rule—Ambient Ozone Monitoring Regulations: Revisions to Network Design Requirements, published July 16, 2009. The EPA has placed in the docket for the Proposed Rule—Ambient Ozone Monitoring Regulations: Revisions to Network Design Requirements (Docket ID No. EPA-HQ-OAR-2008-0338) additional ambient ozone monitoring data for the period January 1, 2007, through April 30, 2010, for the states of Colorado, Kansas, and Utah that cover time periods outside of the current required ozone monitoring seasons. The data for these states consist of daily maximum 8-hour ozone concentrations. These data have become available since original analyses were completed for the proposal, which relied on ambient data covering the period 2004–2006. EPA is specifically considering how these more recent data could impact changes to the current and proposed required ozone monitoring seasons for Colorado, Kansas, and Utah.

DATES: Comments must be received on or before December 10, 2010. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on submitting comments.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2008-0338, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments. Attention Docket ID No. EPA-HQ-OAR-2008-0338.

- **Fax:** (202) 566-1741.

- **Mail:** EPA Docket Center, EPA West (Air Docket), Attention Docket ID No. EPA-HQ-OAR-2008-0338, U.S. Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include 2 copies.

- **Hand Delivery:** U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, NW., Room 3334, Washington, DC 20004, Attention Docket ID No. EPA-HQ-OAR-2008-0338. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2008-0338. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless 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 <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.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, EPA recommends 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 EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly

available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA East Building Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: For questions regarding the additional ambient ozone data, contact Lewis Weinstock, Air Quality Assessment Division/Ambient Air Monitoring Group (C304-06), Research Triangle Park, NC 27711; telephone number: 919-541-3661; fax number: 919-541-1903; e-mail address: weinstock.lewis@epa.gov.

SUPPLEMENTARY INFORMATION:

Outline

1. What is the purpose for this action?
2. What information is EPA making available for review and comment?
3. How does this information relate to the Proposed Rule—Ambient Ozone Monitoring Regulations: Revisions to Network Design Requirements?
4. Where can I get this information?
5. What issue is EPA taking comment on?
6. What should I consider as I prepare my comments for EPA?
7. Submitting Confidential Business Information (CBI)

1. What is the purpose for this action?

This NODA provides for public review and comment on ambient ozone monitoring data for the period January 1, 2007, through April 30, 2010, for the states of Colorado, Kansas, and Utah.

2. What information is EPA making available for review and comment?

EPA is making available for review and comment ozone monitoring data for the states of Colorado, Kansas, and Utah that were obtained during the months outside of the current ozone monitoring seasons required by 40 CFR part 58, Appendix D, Table D-3. The data include a listing of days when ozone concentrations reached an 8-hour average level of at least 0.060 parts per million (ppm) during the following months: Colorado (January, February, October, November, December); Kansas (January, February, March, November, December); and Utah (January, February, March, April, October, November, December). These data were obtained from EPA's Air Quality System (AQS) and represent data from monitors