

**EFFECTIVE DATE:** June 7, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Anne Rollins at (703) 601-4043 or DSN 329-4043.

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866, "Regulatory Planning and Review"**

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

**Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)**

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

**Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)**

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

**Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"**

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

**Executive Order 13132, "Federalism"**

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism

implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

**List of Subjects in 32 CFR Part 806b**

Privacy.

■ For the reasons stated in the preamble, 32 CFR part 806b is amended as follows:

■ 1. The authority citation for 32 CFR part 806b continues to read as follows:

**Authority:** Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. Appendix C to part 806b, is amended by adding paragraphs (b)(24) and (b)(25) to read as follows:

**PART 806b—AIR FORCE PRIVACY ACT PROGRAM**

**Appendix C to Part 806b—General and specific exemptions.**

\* \* \* \* \*

(b) Specific exemptions. \* \* \*

(24) *System identifier and name:* F033 AF A, Information Requests-Freedom of Information Act.

(i) *Exemption:* During the processing of a Freedom of Information Act request, exempt materials from 'other' systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those other systems of records are entered into this system, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are apart.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reasons:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record, and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

(25) *System identifier and name:* F033 AF B, Privacy Act Request Files.

(i) *Exemption:* During the processing of a Privacy Act request, exempt materials from other systems of records may in turn become

part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Air Force hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are apart.

(ii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iii) *Reason:* Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record, and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

Dated: June 18, 2003.

**Patricia L. Toppings,**  
*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 03-16130 Filed 6-25-03; 8:45 am]

**BILLING CODE 5001-08-P**

**DEPARTMENT OF DEFENSE**

**Department of the Army, Corps of Engineers**

**33 CFR Part 334**

**United States Navy Restricted Area, Naval Weapons Station Earle, Sandy Hook Bay, NJ**

**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 Naval Weapons Station Earle.

**EFFECTIVE DATE:** July 28, 2003.

**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. Richard L. Tomer, U.S. Army Corps of Engineers, New York District, Regulatory Branch, at (212) 264-3996.

**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 section 334.102 to establish a restricted area in waters adjacent to Naval Weapons Station Earle at Sandy Hook Bay, Township of Middletown, New Jersey.

This amendment will close off an open area in Sandy Hook Bay within the following coordinates: latitude 40°25'55.6" N, longitude 074°04'31.4" W; thence to latitude 40°26'54.0" N, longitude 074°03'53.0" W; thence to latitude 40°26'58.0" N, longitude 074°04'03.0" W; thence to latitude 40°27'56.0" N, longitude 074°03'24.0" W; thence to latitude 40°27'41.7" N, longitude 074°02'45.0" W; thence to latitude 40°28'23.5" N, longitude 074°02'16.6" W; thence to latitude 40°28'21.2" N, longitude 074°01'56.0" W; thence to latitude 40°28'07.9" N, longitude 074°02'18.6" W; thence to latitude 40°27'39.3" N, longitude 074°02'38.3" W; thence to latitude 40°27'28.5" N, longitude 074°02'10.4" W; thence to latitude 40°26'29.5" N, longitude 074°02'51.2" W; thence to latitude 40°26'31.4" N, longitude 074°02'55.4" W; thence to latitude 40°25'27.1" N, longitude 074°03'39.7" W longitude; and thence along the shoreline to the point of origin (NAD 83).

These coordinates correct a small error in the coordinates in the proposed notice, but the change to the size and shape of the restricted area is considered to be negligible. The Department of the Navy plans to install buoys along these coordinates to outline the Restricted Area. These 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.

#### 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 (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 U.S. Army Corps of Engineers 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 amendment will have no significant economic impact on small entities.

##### *c. Review Under the National Environmental Policy Act*

The New York District has prepared an Environmental Assessment (EA) for this action. We have concluded, based on the minor nature of this change to the 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 New York 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 U.S. Army 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. Section 334.102 is added to read as follows:

##### **§ 334.102 Sandy Hook Bay, Naval Weapons Station EARLE, Piers and Terminal Channel, Restricted Area, Middletown, New Jersey.**

(a) *The area.* All of the navigable waters within the area bounded by these coordinates:

Latitude 40°25'55.6" N, longitude 074°04'31.4" W; thence to Latitude 40°26'54.0" N, longitude 074°03'53.0" W; thence to Latitude 40°26'58.0" N, longitude 074°04'03.0" W; thence to Latitude 40°27'56.0" N, longitude 074°03'24.0" W; thence to Latitude 40°27'41.7" N, longitude 074°02'45.0" W; thence to Latitude 40°28'23.5" N, longitude 074°02'16.6" W; thence to Latitude 40°28'21.2" N, longitude 074°01'56.0" W; thence to Latitude 40°28'07.9" N, longitude 074°02'18.6" W; thence to Latitude 40°27'39.3" N, longitude 074°02'38.3" W; thence to Latitude 40°27'28.5" N, longitude 074°02'10.4" W; thence to Latitude 40°26'29.5" N, longitude 074°02'51.2" W; thence to Latitude 40°26'31.4" N, longitude 074°02'55.4" W; thence to Latitude 40°25'27.1" N, longitude 074°03'39.7" W longitude; and thence along the shoreline to the point of origin (NAD 83).

The Department of the Navy plans to install buoys along these coordinates to outline the Restricted Area.

(b) *The regulation.* (1) Except as set forth in subparagraph (b)(2), no persons, unauthorized vessels or other unauthorized craft may enter the restricted area at any time;

(2) Vessels are authorized to cross the Terminal Channel provided that there are no naval vessels then transiting the channel bounded by:

Latitude 40°27'41.7" N, longitude 074°02'45.0" W; thence to Latitude 40°28'23.5" N, longitude 074°02'16.6" W; thence to Latitude 40°28'21.2" N, longitude 074°01'56.0" W; thence to Latitude 40°28'07.9" N, longitude 074°02'18.6" W; thence to Latitude 40°27'39.3" N, longitude 074°02'38.3" W; and (3) No person may swim in the Restricted Area.

(c) *Enforcement.* The regulation in this section, promulgated by the U.S. Army Corps of Engineers, shall be enforced by the Commanding Officer, Naval Weapons Station Earle, and/or other persons or agencies as he/she may designate.

Dated: June 5, 2003.

**Lawrence A. Lang,**

*Acting Chief, Operations Division, Directorate of Civil Works.*

[FR Doc. 03-16014 Filed 6-25-03; 8:45 am]

BILLING CODE 3710-92-P

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### 33 CFR Part 334

#### United States Navy Restricted Area, Naval Air Station North Island, San Diego, CA

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers is amending its regulations to establish a new restricted area in waters adjacent to the Naval Air Station North Island (NASNI), San Diego, California. This amendment will restrict activities by the public on the northeast side of the base. The regulations are necessary to safeguard Navy vessels and United States Government facilities from sabotage and other subversive acts, accidents, or incidents of a similar nature.

**EFFECTIVE DATE:** July 28, 2003.

**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. Russell L. Kaiser, Corps of Engineers, Los Angeles District, Regulatory Branch, at (213) 452-3293.

**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 restricted area at 334.865. The restricted area is being established for safety and security purposes in support of accommodating the homeport of a third aircraft carrier at NASNI. The restricted area is adjacent to a current U.S. Coast Guard security zone, which is enclosed

by latitude/longitude coordinates: 32°42'52.5" N, 117°11'45.0" W; 32°42'55.3" N, 117°11'45.0" W; 32°42'55.0" N, 117°11'30.5" W; 32°42'40.0" N, 117°11'06.5" W; 32°42'37.2" N, 117°11'06.8" W; 32°42'28.5" N, 117°11'11.0" W; 32°42'21.5" N, 117°10'47.7" W; and 32°42'13.1" N, 117°10'51.2" W. The connection of the restricted area with the security zone will occur at the following coordinates: 32°42'55.0" N, 117°11'30.5" W and 32°42'40.0" N, 117°11'06.5" W.

#### 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 new 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 rule will have no significant economic impact on small entities.

##### c. Review Under the National Environmental Policy Act

The Los Angeles District has prepared an Environmental Assessment (EA) for this action. The district has concluded, based on the minor nature of the addition of this restricted area, 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 Los Angeles 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. Section 334.865 is added to read as follows:

§ 334.865 Naval Air Station North Island, San Diego, California, Restricted Area.

(a) *The area.* The waters within an area beginning at 32°42'55.0" N, 117°11'30.5" W; thence running easterly to 32°42'57.0" N, 117°11'22.5" W; thence running easterly to 32°42'56.0" N, 117°11'19.0" W; thence running southeasterly to 32°42'49.0" N, 117°11'08.5" W; thence running southeasterly to 32°42'44.5" N, 117°11'06.5" W; thence running southerly to 32°42'40.0" N, 117°11'06.5" W.

(b) *The regulation.* (1) The restricted area shall not be open to swimming, fishing, water-skiing, mooring or anchorage.

(2) Dragging, seining, other fishing operations, and other activities not under the direction of the United States, which might foul underwater installations within the restricted area, are prohibited.

(3) All tows entering the restricted area shall be streamed and shortened to the seaward of the area and towing appendages and catenaries shall not be dragged along the bottom while proceeding through the area.

(4) All vessels entering the restricted area shall proceed across the area by the most direct route and without unnecessary delay.

(5) No vessel or craft of any size shall lie-to or anchor in the restricted area at