

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.