

(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.*

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## 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