

in writing by any person that timely submits written or electronic comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is James Polfer, Office of the Associate Chief Counsel (Financial Institutions and Products), Internal Revenue Service. However, personnel from other offices of the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAX

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
Section 1.817-5 also issued under 26 U.S.C. 817(h). * * *

Par. 2. Section 1.817-5 is amended as follows:

- 1. The last sentence of paragraph (a)(2)(iii) is removed.
- 2. Paragraph (f)(3)(iii) is revised.
- 3. Paragraph (f)(3)(iv) is redesignated as paragraph (f)(3)(vii).
- 4. New paragraphs (f)(3)(iv) through (vi) are added.

The revisions and additions read as follows:

§ 1.817-5 Diversification requirements for variable annuity, endowment, and life insurance contracts.

* * * * *

- (f) * * *
- (3) * * *

- (iii) Held by the trustee of a qualified pension or retirement plan;
- (iv) Held by a qualified tuition program as defined in section 529;
- (v) Held by the trustee of a pension plan established and maintained outside of the United States, as defined in section 7701(a)(9), primarily for the benefit of individuals substantially all of whom are nonresident aliens, as defined in section 7701(b)(1)(B);
- (vi) Held by an account which, pursuant to Puerto Rican law or regulation, is segregated from the general asset accounts of the life insurance company that owns the

account, provided the requirements of section 817(d) and (h) are satisfied. Solely for purposes of this paragraph (f)(3)(vi), the requirement under section 817(d)(1) that the account be segregated pursuant to State law or regulation shall be disregarded; or

* * * * *

Kevin M. Brown,
Deputy Commissioner for Services and Enforcement.
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DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

33 CFR Part 334

Naval Restricted Area, Port Townsend, Indian Island, Walan Point, WA

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 for the restricted area established in the waters of Port Townsend Bay off Puget Sound adjacent to Naval Magazine Indian Island, Jefferson County, Washington. The amendments will enable the affected units of the United States military to enhance safety and security around an active military establishment. The regulations are necessary to safeguard military vessels and United States government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. The regulations are also necessary to protect the public from potentially hazardous conditions that may exist as a result of military use of the area.

DATES: Written comments must be submitted on or before August 30, 2007.

ADDRESSES: You may submit comments, identified by docket number COE-2007-0020, 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-2007-0020 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-2007-0020. 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 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.

Consideration will be given to all comments received within 30 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202-761-4922; Ms. Michelle Walker, Regulatory Branch Chief, U.S. Army Corps of Engineers, Seattle District, Northwest Division, at 206-764-6915; or Ms. Koko Ekendiz of the Regulatory Branch, U.S. Army Corps

of Engineers, Seattle District, at 206–764–6878.

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 proposing to amend the restricted area regulations in 33 CFR part 334 by modifying the area at § 334.1270. The proposed modification to this existing restricted area is described below. This request has been made to increase safety and security of naval operations at Naval Magazine, Indian Island.

In addition to the publication of the proposed rule, the Seattle District Engineer is concurrently soliciting public comment on the proposed rule by distribution of a public notice to all known interested parties.

Procedural Requirements

a. *Review Under Executive Order 12866.* This proposed rule is issued with respect to a military function of the United States 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, 5 U.S.C. 601) 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 proposed modification to the existing restricted area would have practically no economic impact on the public, and would create no anticipated navigational hazard or interference with existing waterway traffic.

c. *Review Under the National Environmental Policy Act.* The Corps has concluded, based on the minor nature of the proposed rule, that the addition of and amendment to a restricted area, if adopted, will not be a major federal action having a significant impact on the quality of the human environment, and preparation of an environmental impact statement is not required. An environmental assessment will be prepared after all comments have been received and considered. After it is prepared, the environmental assessment 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). We have also found under Section 203 of the Act, that small governments will not be significantly or 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 set out in the preamble, the Corps proposes to amend a portion of 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. Amend § 334.1270 by revising paragraphs (a) and (b) and adding paragraph (c) to read as follows:

§ 334.1270 Port Townsend, Indian Island, Walan Point; naval restricted area.

(a) *The area.* The waters of Port Townsend Bay bounded by a line commencing on the north shore of Walan Point at latitude 48°04'42" North, longitude 122°44'30" West (Point A); thence to latitude 48°04'50" North, longitude 122°44'38" West (Point B); thence to latitude 48°04'52" North, longitude 122°44'57" West (Point C); thence to latitude 48°04'44" North, longitude 122°45'12" West (Point D); thence to latitude 48°04'26" North, longitude 122°45'21" West (Point E); thence to latitude 48°04'10" North, longitude 122°45'15" West (Point F); thence to latitude 48°04'07" North, longitude 122°44'49" West (Point G); thence to a point on the Walan Point shoreline at latitude 48°04'16" North, longitude 122°44'37" West (Point H).

(b) *The regulations.* This area is for the exclusive use of the U.S. Navy. No person, vessel, craft, article or thing shall enter the area without permission from the enforcing agency. The restriction shall apply during periods when ship loading and/or pier operations preclude safe entry. The periods will be identified by flying a red flag from the ship and/or pier.

(c) *Enforcement.* The regulation in this section shall be enforced by Commander, Navy Region Northwest and such agencies and persons as he/she shall designate.

Dated: July 25, 2007.

Mark Sudol,

Acting Chief, Operations, Directorate of Civil Works.

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DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

33 CFR Part 334

Naval Restricted Area, Manchester Fuel Depot, WA; and Naval Restricted Areas, Sinclair Inlet, WA

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 a restricted area in the waters of Puget Sound adjacent to the Manchester Fuel Depot near Manchester, Kitsap County, Washington. The Corps is also proposing to amend the existing regulations that established the restricted areas in the waters of Sinclair Inlet, Puget Sound adjacent to Naval Base Kitsap Bremerton, Kitsap County, Washington. The proposed amendments will enable the affected units of the United States military to enhance safety and security around active military establishments. The regulations are necessary to safeguard military vessels and United States government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. The regulations are also necessary to protect the public from potentially hazardous conditions that may exist as a result of military use of the area.

DATES: Written comments must be submitted on or before August 30, 2007.

ADDRESSES: You may submit comments, identified by docket number COE–2007–0019, 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–2007–0019 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.

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Instructions: Direct your comments to docket number COE–2007–0019. 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,