

power and responsibilities among the various levels of government. Section 514 of ERISA provides, with certain exceptions specifically enumerated, that the provisions of Titles I and IV of ERISA supersede any and all laws of the States as they relate to any employee benefit plan covered under ERISA. The requirements implemented in the final rule do not alter the fundamental provisions of the statute with respect to employee benefit plans, and as such would have no implications for the States or the relationship or distribution of power between the national government and the States.

**List of Subjects in 29 CFR Part 2560**

Employee benefit plans, Employee Retirement Income Security Act, Law enforcement, Pensions.

■ For the reasons set forth in the preamble, the Department amends 29 CFR part 2560 as follows:

**PART 2560—RULES AND REGULATIONS FOR ADMINISTRATION AND ENFORCEMENT**

■ 1. The authority citation for part 2560 is revised to read as follows:

**Authority:** 29 U.S.C. 1132, 1135, and Secretary of Labor's Order 1-2003, 68 FR 5374 (Feb. 3, 2003). Sec. 2560.503-1 also issued under 29 U.S.C. 1133. Sec. 2560.502(c)(7) also issued under sec. 507(b) of Pub. L. 109-280, 120 Stat. 780.

■ 2. Amend § 2560.502c-7 by revising paragraphs (a), (b), (d) and (j)(1) to read as follows:

**§ 2560.502c-7 Civil penalties under section 502(c)(7).**

(a) *In general.* (1) Pursuant to the authority granted the Secretary under section 502(c)(7) of the Employee Retirement Income Security Act of 1974, as amended (the Act), the administrator (within the meaning of section 3(16)(A) of the Act) of an individual account plan (within the meaning of section 101(i)(8) of the Act and § 2520.101-3(d)(2) of this chapter), who fails or refuses to provide notice of a blackout period to affected participants and beneficiaries in accordance with section 101(i) of the Act and § 2520.101-3 of this chapter, or the administrator (within the meaning of section 3(16)(A) of the Act) of an applicable individual account plan (within the meaning of section 101(m) of the Act), who fails or refuses to provide notice of diversification rights to applicable individuals in accordance with section 101(m) of the Act, shall be liable for civil penalties assessed by the Secretary under section 502(c)(7) of the Act.

(2) For purposes of this section, a failure or refusal to provide a notice of blackout period shall mean a failure or refusal, in whole or in part, to provide notice of a blackout period to an affected plan participant or beneficiary at the time and in the manner prescribed by section 101(i) of the Act and § 2520.101-3 of this chapter, and a failure or refusal to provide a notice of diversification rights shall mean a failure or refusal, in whole or in part, to provide notice of diversification rights to an applicable individual at the time and in the manner prescribed by section 101(m) of the Act.

(b) *Amount assessed.* (1) The amount assessed under section 502(c)(7) of the Act for each separate violation shall be determined by the Department of Labor, taking into consideration the degree and/or willfulness of the failure or refusal to provide a notice of blackout period or notice of diversification rights. However, the amount assessed for each violation under section 502(c)(7) of the Act shall not exceed \$100 a day (or such other maximum amount as may be established by regulation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended), computed from, in the case of a notice of blackout period under section 101(i) of the Act, the date of the administrator's failure or refusal to provide a notice of blackout period up to and including the date that is the final day of the blackout period for which the notice was required, or in the case of a notice of diversification rights under section 101(m) of the Act, computed from the date that is 30 days before the first date on which rights are exercisable under section 204(j) of the Act up to the date such a notice is furnished.

(2) For purposes of calculating the amount to be assessed under this section, a failure or refusal to provide a notice of blackout period or a notice of diversification rights with respect to any single participant or beneficiary shall be treated as a separate violation under section 101(i) of the Act and § 2520.101-3 of this chapter or section 101(m) of the Act.

(d) *Reconsideration or waiver of penalty to be assessed.* The Department may determine that all or part of the penalty amount in the notice of intent to assess a penalty shall not be assessed on a showing that the administrator complied with the applicable requirements of section 101(i) or section 101(m) of the Act or on a showing by the administrator of mitigating

circumstances regarding the degree or willfulness of the noncompliance.

\* \* \* \* \*  
(j) *Liability.* (1) If more than one person is responsible as administrator for the failure to provide a notice of blackout period under section 101(i) of the Act and its implementing regulations (§ 2520.101-3 of this chapter), or the failure to provide a notice of diversification rights under section 101(m) of the Act, all such persons shall be jointly and severally liable for such failure.

\* \* \* \* \*  
Signed at Washington, DC, this 3rd day of August, 2007.

**Bradford P. Campbell,**  
*Acting Assistant Secretary, Employee Benefits Security Administration, Department of Labor.*

[FR Doc. E7-15567 Filed 8-9-07; 8:45 am]

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**DEPARTMENT OF DEFENSE**

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

**33 CFR Part 334**

**United States Navy Restricted Area, Key West Harbor, at U.S. Naval Base, Key West, Florida**

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers (Corps) is amending the existing regulations for a restricted area at Naval Air Station Key West (NASKW). Naval Air Station Key West maintains ammunition magazines on Fleming Island that have explosive safety quality-distance (ESQD) requirements in place to ensure reasonable safety from serious injury should there be a magazine fire or explosion. The previous restricted area regulations did not adequately cover the ESQD requirements. This amendment to the existing regulation is necessary to protect the public from potentially hazardous conditions that may exist as a result of military use of the area.

**DATES:** *Effective Date:* September 10, 2007.

**ADDRESSES:** U.S. Army Corps of Engineers, ATTN: CECW-CO, 441 G Street, NW., Washington, DC 20314-1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202-761-4922 or Mr.

Jon M. Griffin, U.S. Army Corps of Engineers, Jacksonville District, Regulatory Division, at 904-232-1680.

**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 regulations in 33 CFR part 334 by modifying the restricted area at § 334.610. The modification to the existing restricted area is described below. The proposed rule was published in the February 21, 2007, issue of the **Federal Register** (72 FR 7841). One comment was received in response to the proposed rule. That commenter had no objection to the proposed amendment.

The Ammunition and Hazardous Materials Handling Review Board has cited NASKW for allowing anchored pleasure craft to be within the inhabited building distance of the Fleming Island Magazine area. The amendment to the regulations will allow the Commanding Office NASKW to restrict passage of persons, watercraft, and vessels to ensure that ESQD requirements related to the Fleming Island Magazine area are met.

#### 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 Corps has concluded that modifying this restricted area would have practically no economic impact on the public, and would create no anticipated navigational hazard or interference with existing waterway traffic. Accordingly, it is certified that this rule will not have a significant economic impact on small entities.

c. *Review Under the National Environmental Policy Act.* The Corps has concluded, based on the minor nature of this action, that the amendment to the restricted area will not be a major Federal action having significant impact on the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment has been prepared and it is available by

contacting the district office listed at the end of the **FOR FURTHER INFORMATION CONTACT** section, 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 Reform Act (Pub. L. 104-4, 109 Stat. 48, 2 U.S.C. 1501 *et seq.*). We have also found under Section 203 of the Act that small governments will not be significantly or uniquely affected by this rule.

#### List of Subjects in 33 CFR Part 334

Danger zones, 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 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 § 334.610 by revising paragraph (a)(4) to read as follows:

#### § 334.610 Key West Harbor, at U.S. Naval Base, Key West, Fla.; naval restricted areas and danger zone.

(a) *The areas.* \* \* \*

(4) Beginning at the last point designated in area 3 at Latitude 24°34.0550' N., Longitude 81°47.9166' W.; proceed in a northwesterly direction to a point at Latitude 24°34.2725' N., Longitude 81°48.1304' W.; thence proceed in a northeasterly direction to a point at Latitude 24°34.3562' N., Longitude 81°48.0192' W.; thence proceed in a northwesterly direction to a point at Latitude 24°34.4506' N., Longitude 81°48.1444' W.; thence proceed in a northwesterly direction to a point at Latitude 24°34.5619' N., Longitude 81°48.1873' W.; thence proceed in a northeasterly direction to a point at Latitude 24°34.9084' N., Longitude 81°48.0945' W.; thence proceed in a northeasterly direction to a point at Latitude 24°34.9809' N., Longitude 81°47.9400' W.; proceed in a general northerly direction maintaining a distance of 100 yards from the shoreline of Fleming Key, continue around Fleming Key to a point easterly of the southeast corner of Fleming Key at Latitude 24°34.0133' N., Longitude 81°47.6250' W.; thence easterly to Latitude 24°33.9600' N., Longitude 81°47.3333' W.; thence southerly to a point on the shore at Latitude 24°33.9117' N., Longitude 81°47.3450'

W. The Department of the Navy plans to install buoys along that portion of the restricted area boundary which marks the outer edge of the explosive hazard safety distance requirements.

\* \* \* \* \*

Dated: August 6, 2007.

**Lawrence A. Lang,**

*Acting Chief, Operations Directorate of Civil Works.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[EPA-R04-RCRA-2007-0016; FRL-8451-8]

### Florida: Final Authorization of State Hazardous Waste Management Program Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediate final rule.

**SUMMARY:** Florida has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA is granting Final authorization to Florida. EPA is authorizing the changes by this immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble of this immediate final rule. Unless we get written comments which oppose this authorization during the comment period, this immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw this immediate final rule and it will not take effect. We will respond to public comments in a later final rule based on this immediate final rule. You may not have another opportunity for comment.

**DATES:** This Final authorization is effective on October 9, 2007 unless EPA receives adverse written comment on or before September 10, 2007. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-