

Dated: August 31, 2008.

Gary Kasso,

Bridge Program Manager, First Coast Guard District.

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DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Naval Support Activity, Panama City, FL

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

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is establishing ten restricted areas at Naval Support Activity (NSA), Panama City (PC), Florida. NSA, Panama City, and its major tenant command, the Naval Surface Warfare Center (NSWC), have been recognized as one of the lead research, development, test and evaluation laboratories of the U.S. Navy. In addition, the Naval Diving and Salvage Training Center (NDSTC) was relocated from the Washington Navy Yard to NSA PC and now hosts a consolidated training for the U.S. Army Corps of Engineers, U.S. Coast Guard, the Navy's satellite dive schools, the U.S. Marine Corps and the U.S. Air Force. As such, a large majority of military dive training is now concentrated at NSA, PC. The restricted areas in Panama City waters meet strict military training parameters that cannot be duplicated elsewhere. Military training in and around St. Andrews Bay has existed in harmony with local boat traffic and development since 1945. NSA, PC is formalizing these ongoing activities within the waters of St. Andrews Bay in an effort to maximize public safety and to preserve current military training vital to the Global War on Terror and to all service military readiness.

DATES: *Effective Date:* October 14, 2008.

ADDRESSES: U.S. Army Corps of Engineers, Attn: CECW-CO (David B. Olson), 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 Griffin, U.S. Army Corps of Engineers, Jacksonville District, Regulatory Division at 904-232-1680.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. General Comments and Responses
- III. Changes to Proposal

I. Background

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 establishing ten separate restricted areas as described in the **SUMMARY** paragraph above. The proposed regulations were published in the U.S. Army Corps of Engineers published a proposed rule in July 18, 2007, issue of the **Federal Register** (72 FR 39355) with a 30-day comment period.

II. General Comments and Responses

In response to the proposed rule, six comments were received. Comments were provided by an energy company, a non-governmental environmental organization, a state government department and other members of the public. The majority of the comments resulted from a misunderstanding of the actual utilization of the proposed restricted areas. Generally, the commenters presumed that anytime any of the proposed restricted areas were in use the entire area encompassed by the restricted area would be closed to public utilization. This is not the case since the military intends to utilize safety vessels accompanying each training session to define the area within a restricted area which is temporarily unavailable to the public. The definition of the term "military security zones" was redefined to make this distinction more apparent. The non-governmental environmental organization was concerned about the potential impacts of the military training operation on the manatee. The Corps contacted the organization to discuss the concerns. During these discussions, it was noted that the proposed restricted areas are not an indication of an increase in military training; rather it was an effort to provide better protection to the military and the public during the training sessions. The military use of these areas has been ongoing for many years and the proposed establishment of the restricted areas is not anticipated to increase the potential for impacts to the manatee. Additionally, the military noted the possibility that they would be able to provide additional data on the manatee since they will have spotters on each of the safety vessels accompanying the training operation. These spotters would be able to provide the

organization with information on any manatee they sighted during the training operations. The organization provided a response of concurrence with the findings of the Corps and a removal of any objections to the establishment of the restricted areas.

III. Changes to Proposal

All of the paragraphs containing descriptions of the proposed restricted areas were modified to simplify and clarify the geographic boundaries of each. All of the restriction related paragraphs were revised to better define the term "military security zones" and to provide information on how activation of the restricted areas is to be noticed. The term "military security zones" is now more clearly identified as specific portion/s within any of the restricted areas which are defined by the safety vessels accompanying each training exercise. A new subparagraph added to each of the restriction paragraphs provided information regarding the notification of activation of any of the proposed restricted areas by way of General Local Notice to Mariners for normal/routine activations and by Notice to Mariners and Broadcast Notice to Mariners for significant exercise and training events.

Procedural Requirements

a. *Review Under Executive Order 12866.* These rules are 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.* These rules have 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 determined that these restricted areas would have practically no economic impact on the public, and would not create any anticipated navigational hazard or interference with existing waterway traffic. These rules will have no significant economic impact on small entities.

c. *Review Under the National Environmental Policy Act.* These regulations will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment has been prepared. It may be reviewed at the district office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. *Unfunded Mandates Act*. These rules do not impose an enforceable duty among the private sector and, therefore, are not a Federal private sector mandate and are 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 these rules.

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. Add § 334.761 to read as follows:

§ 334.761 Naval Support Activity Panama City; St. Andrews Bay; restricted areas.

(a) *The areas*. (1) *Area AP-1*. The area is bounded by a line connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°10'00" N, 085°44'37" W; Northeast point—30°10'00" N, 085°43'17" W; Southeast point—30°09'51" N, 085°43'17" W; Southwest point—30°09'50" N, 085°44'32" W; following mean high waterline to 30°09'57.5" N, 085°44'37" W; then northerly to point of origin.

(2) *Area BA-1*. The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°11'14" N, 085°44'59" W; Northeast point—30°11'13" N, 085°44'32" W; Southeast point—30°10'31" N, 085°44'32" W; Southwest point—30°10'32" N, 085°44'59" W, then northerly to point of origin.

(3) *Area BA-2*. The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°11'13" N, 085°44'32" W; Northeast point—30°11'07" N, 085°44'01" W; Southeast point—30°10'32" N, 085°44'00" W; Southwest point—30°10'31" N, 085°44'32" W, then northerly to point of origin.

(4) *Area BA-3*. The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°10'32" N, 085°44'59" W; Northeast

point—30°10'32" N, 085°44'09" W; Southeast point—30°10'00" N, 085°44'09" W; Southwest point—30°10'01" N, 085°44'41" W, then northerly to point of origin.

(5) *Area BA-4*. The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°10'32" N, 085°44'09" W; Northeast point—30°10'32" N, 085°42'35" W; Southeast point—30°10'00" N, 085°42'35" W; Southwest point—30°10'00" N, 085°44'09" W, then northerly to point of origin.

(6) *Area BA-5*. The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): North point—30°08'41" N, e 085°41'25" W; East point—30°08'08" N, 085°40'48" W; South point—30°07'00" N, 085°42'29" W; West point—30°07'31" N, 085°43'09" W, then northerly to point of origin.

(b) *The restrictions*. (1) For the purposes of this section, "military security zones" are specific portion/s within any of the restricted areas identified in this section that are defined by the safety vessels accompanying each training exercise. The mission of the safety vessels is to maximize safety conditions for both military and civilian personnel during exercises conducted within the restricted area by intercepting any waterbased activity occurring within the active military security zone/s and offering navigational advice to ensure the activity remains clear of the exercise.

(2) All areas identified in this section have the potential to be active at any time. The normal/routine activation of any area will be noticed to the public via a General Local Notice to Mariners. Activation of any area for significant exercises and training events will be noticed, in advance and during the event, to the public via Notice to Mariners and Broadcast Notice to Mariners.

(3) *Area AP-1*. All persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the military security zone/s established in the restricted area during training events.

(4) *Areas BA-1 through BA-5*. All persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the military security zone/s established in the restricted area during training events.

(c) *Enforcement*. The regulations in this section shall be enforced by the Commanding Officer, Naval Support

Activity, Panama City Florida, and such agencies as he/she may designate.

■ 3. Add § 334.762 to read as follows:

§ 334.762 Naval Support Activity Panama City; North Bay and West Bay; restricted areas.

(a) *The areas*. (1) *Area NB-1*. The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°12'16" N, 085°44'14" W; Northeast point—30°12'16" N, 085°43'01" W; Southeast point—30°11'16" N, 085°44'14" W; Southwest point—30°11'17" N, 085°44'49" W, then northerly to point of origin.

(2) *Area NB-2*. The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): Northwest point—30°14'00" N, 085°44'14" W; Northeast point—30°14'00" N, 085°41'51" W; Southeast point—30°12'16" N, 085°43'01" W; Southwest point—30°12'16" N, 085°44'14" W, then northerly to point of origin.

(3) *Area NB-3*. The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): North point—30°17'02" N, 085°45'34" W; East point—30°14'56" N, 085°43'45" W; South point—30°14'01" N, 085°44'59" W; West point—30°16'10" N, 085°46'52" W, then northerly to point of origin.

(b) *The restrictions*. (1) For the purposes of this section, "military security zones" are specific portion/s within any of the restricted areas identified in this section that are defined by the safety vessels accompanying each training exercise. The mission of the safety vessels is to maximize safety conditions for both military and civilian personnel during exercises conducted within the restricted area by intercepting any waterbased activity occurring within the active military security zone/s and offering navigational advice to ensure the activity remains clear of the exercise.

(2) All areas identified in this section have the potential to be active at any time. The normal/routine activation of any area will be noticed to the public via a General Local Notice to Mariners. Activation of any area for significant exercises and training events will be noticed, in advance and during the event, to the public via Notice to Mariners and Broadcast Notice to Mariners.

(c) *Enforcement*. The regulations in this section shall be enforced by the Commanding Officer, Naval Support Activity, Panama City Florida, and such agencies as he/she may designate.

■ 4. Add § 334.763 to read as follows:

§ 334.763 Naval Support Activity Panama City; Gulf of Mexico; restricted area.

(a) *The area.* The area is bounded by a line directly connecting the following coordinates (listed by latitude, then longitude): North point—30°10'29" N, 085°48'20" W; East point—30°07'58" N, 085°44'44" W; South point—30°05'24" N, 085°47'29" W; West point—30°07'55" N, 085°51'05" W, then northerly to point of origin.

(b) *The restrictions.* (1) For the purposes of this section, "military security zones" are specific portion/s within any of the restricted areas identified in this section that are defined by the safety vessels accompanying each training exercise. The mission of the safety vessels is to maximize safety conditions for both military and civilian personnel during exercises conducted within the restricted area by intercepting any waterbased activity occurring within the active military security zone/s and offering navigational advice to ensure the activity remains clear of the exercise.

(2) All areas identified in this section have the potential to be active at any time. The normal/routine activation of any area will be noticed to the public via a General Local Notice to Mariners. Activation of any area for significant exercises and training events will be noticed, in advance and during the event, to the public via Notice to Mariners and Broadcast Notice to Mariners.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commanding Officer, Naval Support Activity, Panama City Florida, and such agencies as he/she may designate.

Dated: September 5, 2008.

James R. Hannon, Jr.,

Acting Chief, Operations, Directorate of Civil Works.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 130

[EPA-R07-OW-2008-0613; FRL-8713-5]

Public Notice on the Internet of Region 7 Disapprovals of Clean Water Act Impaired Waters Lists

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of change in procedures.

SUMMARY: EPA Region 7 is announcing a change to its procedures for issuing a public notice seeking comment on the Region's disapproval of a submittal by a state of an impaired waters list under Clean Water Act Section 303(d). We intend to provide this public notice on the Internet at <http://www.epa.gov/region7> rather than by publication in newspapers of general circulation throughout the state.

DATES: This change in procedures will be effective on September 12, 2008.

FOR FURTHER INFORMATION CONTACT: Jeannette Schafer at (913) 551-7297 or by e-mail at schafer.jeannette@epa.gov.

SUPPLEMENTARY INFORMATION: This notice announces a change to the manner in which EPA Region 7 issues a public notice seeking comment under 40 CFR 130.7(d)(2) on the Region's disapproval of a submittal by a state of a Clean Water Act ("CWA") Section 303(d) List.

Under Section 303(d)(1)(A) of the CWA, each state is required to identify and prioritize those waters within its boundaries for which technology-based effluent limitations and other required controls are not stringent enough to achieve the applicable water quality standards. See CWA 303(d)(1); 40 CFR 130.7(b)(1). After a state develops its CWA Section 303(d) List, the state must then submit the list to EPA for review and approval. See 40 CFR 130.7(d)(1). Within 30 days of a state's submission, EPA must approve or disapprove the state's list. If EPA disapproves the state's CWA Section 303(d) List, it must identify the impaired waters that should be listed within 30 days from the date of disapproval. EPA regulations provide that the Regional Administrator must promptly issue a public notice seeking comment on EPA's listing decision. After considering public comment and making appropriate revisions, the Region transmits the list to the state. See 40 CFR 130.7(d)(2).

The CWA and applicable regulations do not specify the type of public notice to be issued for EPA listing actions. In the past, EPA Region 7 has issued public notices through publication in newspapers of general circulation.

In light of the continuing improvements in public access to the Internet and EPA's ability to disseminate materials on the Internet, EPA Region 7 intends to notify the public of listing actions under 40 CFR 130.7(d)(2) by placing notices on the Internet rather than using publication in newspapers of general circulation. The Internet provides a more effective and efficient means to provide notice. Using the Internet makes the notice available

to the public during the entirety of the comment period, rather than only on the day the notice is published in the local newspaper. The Region believes the Internet notice is likely to reach a larger audience, since the Internet is generally available through schools, work, and libraries. Internet notice also enables the Region to reach beyond the finite distribution areas of local newspapers to make interested persons aware of the Region's listing decision. We plan to place the notices on the EPA Region 7 Web site at <http://www.epa.gov/region7>. The Region also plans to issue news releases notifying media outlets about our listing decisions, as well as notifications to elected officials and interested parties. The letter transmitting the final list to the state will be accessible from <http://www.epa.gov/region7>.

To the extent that this announcement may be considered a rule, EPA considers it to be a procedural rule which is exempt from notice and comment rulemaking requirements under 5 U.S.C. 553(b)(3)(A).

Authority: 33 U.S.C. 1313(d); 40 CFR 130.7.

Dated: August 28, 2008.

William A. Spratlin,

Director, Water, Wetlands and Pesticides Division, Region 7.

[FR Doc. E8-21233 Filed 9-11-08; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 412

[CMS-1554-F]

RIN 0938-AP19

Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2009

Correction

In rule document Z8-17797 beginning on page 46370 in the issue of Friday, August 8, 2008, make the following correction:

On page 46375, in Table 1, in the third column, in the ninth entry, ".0347" should read "3.0347".

[FR Doc. Z8-17797 Filed 9-11-08; 8:45 am]

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