

Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/1, No. MSBD4-046/1, dated April 25, 2007, or Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/3, No. MSBD4-046/3, dated November 17, 2008.

(2) If any cracks are found during the inspection required in paragraph (f)(1) of the AD or during any inspection required in paragraph (f)(2)(ii) or (f)(3) of this AD, replace the NLG leg before further flight. Do the replacement following Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/1, No. MSBD4-046/1, dated April 25, 2007; or Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/3, No. MSBD4-046/3, dated November 17, 2008.

(i) Replacing a NLG leg with a part number (P/N) D41-3223-10-00_1 or higher (_2, _3, etc.) terminates the repetitive inspections required in this AD.

(ii) Replacing a NLG leg with a P/N D41-3223-10-00 requires repetitive inspections as specified in paragraph (f)(3) of this AD until a P/N D41-3223-10-00_1 or higher (_2, _3, etc.) is installed.

(3) If no cracks are found during the inspection required in paragraph (f)(1) of this AD or cracked NLG leg is replaced with a P/N D41-3223-10-00 NLG leg, repetitively inspect thereafter at intervals not to exceed 12 months or 200 hours TIS, whichever occurs later, until a P/N D41-3223-10-00_1 or higher (_2, _3, etc.) is installed. Do these repetitive inspections following Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/3, No. MSBD4-046/3, dated November 17, 2008.

(i) If a repetitive inspection occurs before the effective date of this AD, then you may use Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/1, No. MSBD4-046/1, dated April 25, 2007.

(ii) All inspections that occur after the effective date of this AD must be done following Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/3, No. MSBD4-046/3, dated November 17, 2008.

(4) After installing a P/N D41-3223-10-00_1 or higher (_2, _3, etc.) as a replacement part, installing a NLG leg P/N D41-3223-10-00 is no longer allowed.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4145; fax: (816) 329-4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector

(PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2009-0016, dated January 22, 2009; Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/1, No. MSBD4-046/1, dated April 25, 2007; and Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB40-046/3, No. MSBD4-046/3, dated November 17, 2008, for related information.

Issued in Kansas City, Missouri, on March 11, 2009.

John R. Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-5764 Filed 3-17-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Restricted Areas at Cape Canaveral Air Force Station, Patrick AFB, FL

AGENCY: United States Army Corps of Engineers, Department of Defense.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is proposing to amend the existing regulations at 33 U.S.C. 334 to enlarge an existing restricted area in the Banana River and to establish a new restricted area in the Atlantic Ocean for the Cape Canaveral Air Force Station (CCAFS), located on Patrick AFB, Florida. We are also proposing to remove an existing restricted area in the Banana River at CCAFS. CCAFS Command, located at Patrick AFB, Florida, is responding to Department of Defense (DoD) security assessments which have identified a need for CCAFS to have the capability to secure their shoreline. The proposed enhancement

of these capabilities is necessary to counter postulated threats to CCAFS.

DATES: Written comments must be submitted on or before April 17, 2009.

ADDRESSES: You may submit comments, identified by docket number COE-2009-0001, 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-2009-0001, 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-2009-0001. 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 <http://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.

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 proposing to amend the regulations in 33 CFR part 334 by modifying § 334.540, removing § 334.550, and adding § 334.595. The proposal includes the removal of § 334.550 since it would now be completely encompassed by the expanded area of § 334.540.

The proposed amendments will allow the Commanding Officer, CCAFS to restrict passage of persons, watercraft, and vessels in waters contiguous to this Command, thereby ensuring that DoD identified security enhancements can be met.

Procedural Requirements

a. *Review Under Executive Order 12866.* The proposed 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.* The proposed 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). Unless information is obtained to the contrary during the comment period, the Corps expects that the economic impact of the amendment of this restricted area would have practically no impact on the public, or result in no anticipated navigational hazard or interference with existing waterway traffic. This proposed rule, if adopted, will have no significant economic impact on small entities.

c. *Review Under the National Environmental Policy Act.* Due to the administrative nature of this action and because there is no intended change in the use of the area, the Corps expects that this regulation, if adopted, 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 will be prepared after the public notice period is closed and all comments have been received and considered. It may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. *Unfunded Mandates Act.* This 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, 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 proposes to amend 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. Revise § 334.540 to read as follows:

§ 334.540 Banana River at the Eastern Range, 45th Space Wing, Cape Canaveral Air Force Station, FL.; Restricted Area.

(a) *The area.* The restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, within the Banana River contiguous to the area offshore of Cape Canaveral Air Force Station, Florida. The area is bounded by a line connecting the following coordinates: Commencing from the shoreline at the southeast portion of the area, at approximately latitude 28°25.17' N, longitude 80°36.24' W, thence directly to latitude 28°25.18' N, longitude 80°36.65' W, thence directly to latitude 28°25.25' N, longitude 80°36.66' W, thence directly to latitude 28°25.22' N, longitude 80°38.36' W, thence directly to latitude 28°26.23' N, longitude 80°38.25' W, thence directly to latitude 28°26.23' N, longitude 80°38.47' W, thence to reach the south side of the Kennedy Space Center NASA Causeway East Roadway at approximately latitude 28°30.74' N, longitude 80°36.63' W.

(b) *The regulation.* (1) The area described in paragraph (a) of this section will be closed when it is deemed necessary by the Commander, 45th Space Wing or his/her designee to address any perceived threat to the local area. With the exception of local, State and federal law enforcement entities, all persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the restricted area when it is closed without the permission of the Commander, 45th Space Wing or his/her designee.

(2) Due to the nature of this restricted area, closures may occur with very little advance notice. Closure of the area shall be noticed by the display of a red beacon located at the southern entrance to Cape Canaveral Air Force Station. Information will be provided via Marine Radio broadcast during the duration of the area closure.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commander, 45th Space Wing, Patrick Air Force Base, Florida and/or such persons or agencies as he/she may designate.

§ 334.550 [Removed]

3. Remove § 334.550.

4. Add § 334.595 to read as follows:

§ 334.595 Atlantic Ocean off Cape Canaveral; 45th Space Wing, Cape Canaveral Air Force Station, FL.; Restricted Area.

(a) *The area.* The restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, contiguous to the area offshore of Cape Canaveral Air Force Station, Florida. The area is bounded by a line connecting the following coordinates: Commencing from the shoreline at the northwest portion of the area, at latitude 28°35.008' N, longitude 80°34.448' W, thence directly to latitude 28°35.617' N, longitude 80°33.140' W, thence following the mean high water line southerly at a distance of 1.5 miles to a point at latitude 28°24.253' N longitude 80°33.658' W, thence proceeding westerly to terminate at a point on the shoreline at latitude 28°24.69' N, longitude 80°35.05' W.

(b) *The regulation.* (1) The area described in paragraph (a) of this section will be closed when it is deemed necessary by the Commander, 45th Space Wing or his/her designee to address any perceived threat to the local area. With the exception of local, State and federal law enforcement entities, all persons, vessels, and other craft are prohibited from entering, transiting, anchoring, or drifting within the restricted area when it is closed without

the permission of the Commander, 45th Space Wing or his/her designee.

(2) Due to the nature of this restricted area, closures may occur with very little advance notice. Closure of the area shall be noticed by the display of a red ball and red beacon from a 90-foot pole near the shoreline at approximately latitude 28°35.0' N, longitude 80°34.8' W and from a 90-foot pole near the shoreline at approximately latitude 28°25.3' N, longitude 80°35.0' W. Information will be provided via Marine Radio broadcast and a warning statement displayed on an electronic marquee sign located on the north side of the Port Canaveral ship channel between the Trident and Poseidon Wharf during the duration of the area closure.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commander, 45th Space Wing, Patrick Air Force Base, Florida and/or such persons or agencies as he/she may designate.

Dated: March 9, 2009.

Michael Ensich,

Chief, Operations, Directorate of Civil Works.
[FR Doc. E9-5746 Filed 3-17-09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[EPA-HQ-OAR-2003-0064; FRL-8783-4]

RIN 2060-AP49

Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA is proposing to delay the effective date for the Environmental Protection Agency ("EPA") rule addressing "aggregation" under the Prevention of Significant Deterioration ("PSD") and the nonattainment New Source Review ("nonattainment NSR") programs (collectively, "NSR") published in the **Federal Register** on January 15, 2009. This rule (the "NSR Aggregation Amendments") described when a source must combine ("aggregate") nominally-separate physical changes and changes in the method of operation for the purpose of determining whether they are a single change resulting in a significant emissions increase.

On January 30, 2009, the Natural Resources Defense Council ("NRDC")

submitted a petition for reconsideration (the "NRDC Petition") of the NSR Aggregation Amendments. In response to the NRDC Petition, EPA announced on February 13, 2009, that it would convene a reconsideration proceeding for the NSR Aggregation Amendments and would delay the effective date of the rule from February 17, 2009 until May 18, 2009. In this action, EPA is proposing an additional delay of the effective date of the NSR Aggregation Amendments and soliciting comment on the duration of this additional delay in order to allow for sufficient time to conduct the reconsideration proceeding.

DATES: *Comments.* Comments must be received on or before April 17, 2009.

Public Hearing. If anyone contacts EPA requesting a public hearing by March 30, 2009, we will hold a public hearing on April 2, 2009. If a hearing is held, the record for the hearing will remain open until May 4, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2003-0064, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* a-and-r-docket@epa.gov.

- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

- *Hand Delivery:* Environmental Protection Agency, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2003-0064. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless 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 <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [http://](http://www.regulations.gov)

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, EPA recommends 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 EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: The final rule, the petition for reconsideration, and all other documents in the record for the rulemaking are in Docket ID. No. EPA-HQ-OAR-2003-0064. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566-1742.

Public Hearing: If a hearing is held, it will be held at the U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Svendsgaard, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504-03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541-2380; fax number: (919) 541-5509; e-mail address svendsgaard.dave@epa.gov.

To request a public hearing, please contact Mrs. Pam Long, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504-03), U.S. Environmental Protection Agency,