

until 10 p.m. on July 2, 2011, with a rain date of 9 p.m. until 10 p.m. on July 3, 2011.

Dated: May 12, 2011.

**Mark S. Ogle,**

*Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.*

[FR Doc. 2011-12677 Filed 5-23-11; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF DEFENSE

### Corps of Engineers, Department of the Army

#### 33 CFR Part 334

#### Pamlico Sound and Adjacent Waters, NC; Danger Zones for Marine Corps Operations

**AGENCY:** United States Army Corps of Engineers, DoD.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers is amending its regulations to establish a new danger zone. This danger zone will enable the Marine Corps to control access and movement of persons, vessels and objects within the danger zone during live fire training exercises. The amendment is necessary to protect the public from potentially hazardous conditions which may exist as a result of use of the area by the United States Marine Corps.

**DATES:** *Effective date:* June 23, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202-761-4922, or Mr. Richard Spencer, Wilmington District, Corps of Engineers, Regulatory Division, at (910) 251-4172 or by e-mail at [richard.k.spencer@usace.army.mil](mailto:richard.k.spencer@usace.army.mil).

**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 danger zone regulations at 33 CFR part 334 by adding 334.420 (b)(1)(v) which establishes an Intermittent Danger Zone abutting the existing 1.8 mile Danger Zone [§ 334.420(b)(1)(i)] in the Pamlico Sound and adjacent waters, Carteret County, North Carolina. The public is currently restricted from access to the existing 1.8 mile radius circular area and has limited access to three additional 0.5 mile radius circular danger zones [§ 334.420(b)(1)(ii)(iv)] but has unrestricted access to the remaining surrounding waters. The current

military training mission requires enhanced public safety and protection of vessels that operate in the vicinity of the Bombing Target-11 range. This danger zone in the Pamlico Sound abuts the existing 1.8 mile radius danger zone and extends out to 2.5 miles from the common center point. Establishment of this additional danger zone will allow the Marine Corps to minimize the public safety hazard resulting from the increased use of .50 Caliber weapons firing from rotary-wing aircraft and small boats during training exercises at Bombing Target-11 Range.

The proposed rule was published in the October 22, 2010, issue of the **Federal Register** (75 FR 65278) with the docket number COE-2010-0037 and one comment was received. The commenter expressed concerns over the loss of access to fishing areas as a result of the intermittent danger zone. The Marine Corps changed the number of consecutive days of operations per month from seven to five as a result of comments received during their National Environmental Policy Act process and public outreach. This modification was designed to minimize the impact on the public while allowing the Marine Corps to provide appropriate training for our service personnel as is required by law. The intermittent expansion of the prohibited area would be implemented between 4 p.m. to 11 p.m., for a maximum of five consecutive weekdays (no weekends) per month, from February through November. The additional 3,360-acre water area would be temporarily removed from public use a maximum of 50 seven-hour periods per year.

#### Procedural Requirements

##### A. Review Under Executive Order 12866

This final 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 final 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 economic impact of the amendment to this danger zone does not have an effect on the public, does not result in a navigational hazard, or interfere with existing waterway traffic. Therefore, this final rule does not have

a 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 determined the amendment does not have a significant impact on the quality of the human environment and, therefore, preparation of an environmental impact statement is not required. An environmental assessment was prepared after the public notice period closed. The environmental assessment may be reviewed at the District office listed at the end of the **FOR FURTHER INFORMATION CONTACT** section, above.

##### D. Unfunded Mandates Act

This final rule does not impose an enforceable duty among the private sector and, therefore, it is not a Federal private sector mandate and it is not subject to the requirements of either Section 202 or Section 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.

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

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons stated in the preamble, the Corps is amending 33 CFR part 334 to read 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. In § 334.420 add paragraphs (b)(1)(v) and (b)(2)(iii) to read as follows:

#### § 334.420 Pamlico Sound and adjacent waters, N.C.; danger zones for Marine Corps operations.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(v) The waters within a circular band with an inner radius of 1.8 statute miles and an outer radius of 2.5 statute miles having its center at latitude 35°02'12", longitude -76°28'00".

(2) \* \* \*

(iii) The areas described in paragraph (b)(1)(v) of this section shall be used as a strafing area. Practice and dummy ammunition will be used. Operations will be conducted on five consecutive

days (Monday through Friday) per month during the months of February through November between the hours of 4 p.m. to 11 p.m. The block training dates will be scheduled two weeks in advance of the actual training start date. Marine Corps Air Station Cherry Point will have a call-in number for public use to provide information on the current use of the training area. The Notification to Mariners System will also be utilized to inform the public on the status of the training area. No vessel or person shall enter the area during the scheduled block training session except for such vessels as may be directed by the enforcing agency to enter on assigned duties. The area will be patrolled and vessels "buzzed" by the patrol plane prior to the conduct of operations in the area. Vessels or personnel which have inadvertently entered the danger zone shall leave the area immediately upon being so warned.

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Dated: May 17, 2011.

**Michael G. Ensich,**

Chief, Operations and Regulatory Directorate of Civil Works.

[FR Doc. 2011-12815 Filed 5-23-11; 8:45 am]

BILLING CODE 3720-58-P

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### 33 CFR Part 334

#### United States Navy Restricted Area, Menominee River, Marinette Marine Corporation Shipyard, Marinette, WI

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers is amending its regulations to establish a restricted area in the waters of the Menominee River at the Marinette Marine Corporation Shipyard in Marinette, Wisconsin. The restricted area is necessary to provide adequate protection of U.S. Navy combat vessels, their materials, equipment to be installed therein, and crew, while located at the property of Marinette Marine Corporation.

**DATES:** *Effective date:* June 23, 2011.

**ADDRESSES:** Headquarters, U.S. Army Corps of Engineers, Operations and Regulatory Community of Practice, 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 by e-mail at [david.b.olson@usace.army.mil](mailto:david.b.olson@usace.army.mil) or Mr. Todd Vesperman, U.S. Army Corps of Engineers, St. Paul District, Regulatory Branch, at 202-761-4614 or by e-mail at [todd.m.vesperman@usace.army.mil](mailto:todd.m.vesperman@usace.army.mil).

**SUPPLEMENTARY INFORMATION:** Pursuant to its authorities under 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 restricted area regulations at 33 CFR part 334 by adding § 334.815 to establish a restricted area in the waters of the Menominee River at the Marinette Marine Corporation Shipyard in Marinette, Wisconsin. Marinette Marine Corporation, as shipbuilder of Littoral Combat Ships, has requested on behalf of the Department of Navy, that the restricted area be established to provide adequate protection of U.S. Navy combat vessels, their materials, equipment to be installed therein, and crew, while located at the property of Marinette Marine Corporation.

The proposed rule was published in the November 10, 2010, edition of the **Federal Register** (75 FR 69034) with the docket number COE-2010-0041. No comments were received. On November 12, 2010, the Corps St. Paul District issued a local public notice soliciting comments on the proposed rule from all known interested parties and no comments were received. After the proposed rule was published to solicit comments, the Department of the Navy requested that the rule text be changed so that the restricted area could be marked with a signed floating buoy line instead of a signed floating barrier. That change has been made to the final rule.

#### Procedural Requirements

a. *Review Under Executive Order 12866.* This rule is issued with respect to a military function of the Department of Defense and the provisions of Executive Order 12866 do not apply.

b. *Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 et seq.* 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 determined that the establishment of the new restricted area would not have a

significant economic impact on a substantial number of small entities.

c. *Review Under the National Environmental Policy Act.* An environmental assessment (EA) has been prepared. We have concluded that the establishment of the restricted area will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement is not required. The final EA and Finding of No Significant Impact may be reviewed at the District Office listed at the end of the **FOR FURTHER INFORMATION CONTACT** section, above.

d. *Unfunded Mandates Reform 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, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons stated in the preamble, the Corps is amending 33 CFR Part 334 to read 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 § 334.815 to read as follows:

#### § 334.815 Menominee River, at the Marinette Marine Corporation Shipyard, Marinette, Wisconsin; Naval Restricted Area.

(a) *The area.* The waters 100 feet from Marinette Marine Corporation's pier defined by a rectangular shaped area on the south side of the river beginning on shore at the eastern property line of Marinette Marine Corporation at latitude 45°5'58.8" N, longitude 087°36'56.0" W; thence northerly to latitude 45°5'59.7" N, longitude 087°36'55.6" W; thence westerly to latitude 45°6'3.2" N, longitude 087°37'9.6" W; thence southerly to latitude 45°6'2.2" N, longitude 087°37'10.0" W; thence easterly along the Marinette Marine Corporation pier to the point of origin. The restricted area will be marked by a lighted and signed floating buoy line.