

**BILLING CODE 5001–03–C****§ 516.11 Witnesses before foreign tribunals.**

(a) *Referral to the SJA.* Requests or subpoenas from a foreign government or tribunal for present DA personnel stationed or employed within that country to be interviewed or to appear as witnesses will be forwarded to the SJA of the command exercising general court-martial jurisdiction over the unit to which the individual is assigned, attached, or employed. The SJA will determine the following:

- (1) Whether a consideration listed in §§ 516.3 (a)(1)–(7) above applies.
- (2) Whether the information requested is releasable under the principles established in this subpart.

(3) Whether the approval of the American Embassy should be obtained because the person is attached to the Embassy staff or a question of diplomatic immunity may be involved.

(4) Whether coordination with OTJAG International Law office is necessary to respond to the request.

(b) *United States has an interest in the litigation.* If the SJA determines that the United States has an interest in the litigation, the commander may authorize the interview or order the individual's attendance in a temporary duty status. The United States will be deemed to have an interest in the litigation if it is bound by treaty or other international agreement to ensure the attendance of such personnel.

(c) *United States has no interest in the litigation.* If the SJA determines that the United States does not have an interest in the litigation, the commander may authorize the interview or the appearance of the witness under the principles established in § 516.8.

(d) *Witnesses located outside the requestor's country.* If the requested witness is stationed in a country other than the requestor's, the matter will be referred to the General Litigation Branch, Litigation Division.

**§ 516.12 Fees and expenses.**

(a) *Fees and charges.* DA personnel who respond to requests for official information may collect fees from the requestor for the direct costs of the search, duplication, and review of responsive information pursuant to the authority granted in 31 U.S.C. 9701 and according to the fee schedule and processing guidance outlined in DOD Instruction 7000.14, *DOD Financial Management Policy and Procedures*, Volume 11, Chapter 4 of DOD 7000.14-R, Financial Management Regulation, OMB Circular A-25 "User Charges", and 32 CFR 204 "User Fees."

(b) *Fee estimate.* When a requestor is assessed fees for processing a request, the responding office must provide an estimate of assessable fees if requested.

(c) *Requestor.* Requestors should indicate a willingness to pay fees associated with the processing of their request before the responding office begins processing the request for official information. No work on a request for official information should begin if: A requestor is unwilling to pay fees associated with a request; the requestor is past due in the payment of fees from a previous request for official information; or the requestor disagrees with the fee estimate. If fees are assessed, responding offices should receive payment before releasing the documents.

(d) *Computation of fees.* The Schedule of Fees and Rates in 32 CFR 204.9 will be used to compute the direct costs of the search, review, and duplication associated with processing a given request for official information. Fees should reflect direct costs (*i.e.*, expenditures actually incurred) for search, review, and duplication of responsive documents. DA Personnel will ensure that no fee is assessed for the benefits listed in 32 CFR 204.8 or where otherwise prohibited.

(e) *Search.* The term "search" includes all time spent looking, both manually and electronically, for material that is responsive to a request. Search also includes a page-by-page or line-by-line identification (if necessary) of material in the record to determine if it, or portions *thereof* are responsive to the request. Responding offices should ensure that searches are done in the most efficient and least expensive manner so as to minimize costs for both the responding office and the requestor.

(f) *Review.* The term "review" refers to the process of examining documents located in response to a request for official information to determine whether release is appropriate under this subpart. It also includes processing the documents for disclosure, such as redaction prior to release. Review does not include the time spent resolving general legal or policy issues regarding the release determination.

(g) *Duplication.* The term "duplication" refers to the process of making a copy of a document in response to a request for official information. For duplication of electronic information for delivery in an electronic format, the actual cost, including the operator's time, will be charged, but not a "per page" charge unless hardcopy documents were duplicated and handled in order to

reduce them to an electronic format for delivery.

(h) *Release of records of other agencies.* An individual requesting records originating in agencies outside DA (*e.g.*, FBI reports, local police reports, civilian hospital records) that are also included in Army records should be advised to direct his or her inquiry to the originating agency. Nevertheless, referring requesters to other agencies does not absolve DA personnel of the requirements to court orders or subpoenas.

**§ 516.13 News media and other inquiries.**

News media inquiries regarding litigation or potential litigation will be referred to the appropriate public affairs office. DA personnel will not comment on any matter currently or potentially in litigation without proper clearance. Local public affairs officers will refer press inquiries to HQDA (SAPA–OSR), WASHINGTON, DC 20310–1500, with appropriate recommendations for review and approval by the Office of the Chief of Public Affairs. All releases of information regarding actual or potential litigation will be coordinated with Litigation Division prior to release. Normally, DOJ is responsible for responding to media inquiries regarding cases in federal litigation.

For the Judge Advocate General.

**Francis P. King,**

*Colonel, Judge Advocate, Executive Officer.*

[FR Doc. 2016–29835 Filed 12–13–16; 8:45 am]

**BILLING CODE 5001–03–P**

**DEPARTMENT OF DEFENSE****Department of the Army, Corps of Engineers****33 CFR Part 334****East Pearl River, Within the Acoustic Buffer Area of the John C. Stennis Space Center, and Adjacent to Lands, in Hancock County, Mississippi; Danger Zone**

**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 revise the existing regulations for a danger zone at the Naval Special Warfare Center (NSWC) N31 Branch within the acoustic buffer of the John C. Stennis Space Center on the East Pearl River, in Hancock County, Mississippi. The Navy requested establishment of a danger zone on waterways and tributaries of the

East Pearl that are used by Naval Special Warfare units to conduct riverine training. The purpose of the proposed danger zone is to ensure public safety by restricting access within the danger zone during training events. This amendment to the existing regulation is necessary to minimizing potential conflicts between local populace activities and ongoing military training in the subject area.

**DATES:** Written comments must be submitted on or before January 13, 2017.

**ADDRESSES:** You may submit comments, identified by docket number COE-2016-0014, by any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Email:* [david.b.olson@usace.army.mil](mailto:david.b.olson@usace.army.mil). Include the docket number, COE-2016-0014, 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-2016-0014. 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 or email. The 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 email directly to the Corps without going through regulations.gov, your email 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](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 Ms. Kristi Hall, U.S. Army Corps of Engineers, Vicksburg District, Regulatory Branch at 601-631-7528.

#### SUPPLEMENTARY INFORMATION:

##### 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 proposing to revise the regulations at 33 CFR part 334 by establishing a danger zone along the East Pearl River. The amendment to this regulation will allow the Commanding Officer of the Naval Construction Battalion Center, Gulfport, MS to restrict passage of persons, watercraft, and vessels in the waters within the danger zone during Department of Defense training for conducting coastal and riverine special operations in support of global military missions. This area is referred to as a danger zone due to the use of short-range tactical ammunition within riverine areas.

##### Procedural Requirements

*a. Review Under Executive Order 12866.* The proposed 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. Review Under the Regulatory Flexibility Act.* This proposed rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96-354). The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial

number of small entities (*i.e.*, small businesses and small governments). The danger zone is necessary to protect public safety during training exercises. Small entities can utilize navigable waters outside of the danger zone when the danger zone is activated. Unless information is obtained to the contrary during the comment period, the Corps certifies that the proposed rule would have no significant economic impact on the public. After considering the economic impacts of this proposed danger zone regulation on small entities, I certify that this action will not have a significant impact on a substantial number of 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 on 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.

*d. Unfunded Mandates Act.* This proposed rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Therefore, this proposed rule is not subject to the requirements of Sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA). The proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, the proposed rule is not subject to the requirements of Section 203 of UMRA.

#### 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. Add § 334.784 to read as follows:

**§ 334.784 East Pearl River, within the acoustic buffer area of the John C. Stennis Space Center, and adjacent to lands, in Hancock County, Mississippi; danger zone.**

(a) *The area.* A danger zone is established in and to the extent of waters of the United States, as defined in 33 CFR part 329, in the following reaches of the East Pearl River south of a point, on the left descending bank, located at latitude 30.4030° N., longitude –89.6815° W., to a point below the confluence of Mikes River, located at latitude 30.3561° N., longitude –89.6514° W. The datum is NAD83.

(b) *The regulation.* (1) No person, vessel, or other watercraft, other than a vessel owned and operated by the United States, shall enter or remain in the danger zone, or within a portion or portions thereof, when closed to public access, as provided in paragraph (b)(2) of this section, below, except by permission of Commander, Naval Construction Battalion Center, Gulfport or such other person(s) as he or she may designate.

(2) The danger zone, or a portion or portions thereof, will be closed, for riverine, weapons, or other dangerous naval training, by placement of Government picket boats at the northern and southern boundaries in the East Pearl River, or at such other location(s) within the danger zone as may be determined to be sufficient to protect the public. Prior to closure, picket boats will transit the area(s) to be closed, to ensure that no persons, vessels, or other watercraft are present. Once the danger zone, or location(s) within the zone, has been cleared, picket boats will remain in position, upstream and downstream, until it is safe to re-open the area(s) to public access.

(3) Riverine, weapons, and other dangerous naval training may occur on any day of the week, typically, but not exclusively, in periods of two to eight hours, between 6 a.m. and 6 p.m. Training may occur at night, in darkness.

(c) *Enforcement.* The restrictions on public access in this section shall be enforced by Commander, Naval Construction Battalion Center, Gulfport or by such other person(s) as he or she may designate.

Dated: December 1, 2016.

**Susan S. Whittington,**  
Chief, Operations and Regulatory Division,  
Directorate of Civil Works.

[FR Doc. 2016-30013 Filed 12-13-16; 8:45 am]

**BILLING CODE 3720-58-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 79 and 80**

**[EPA-HQ-OAR-2016-0041; FRL-9956-44-OAR]**

**RIN 2060-AS66**

**Notice of Data Availability Concerning the Renewables Enhancement and Growth Support Rule**

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

**ACTION:** Notice of data availability.

**SUMMARY:** This Notice provides an opportunity to comment on new information that pertains to the proposed provisions for ethanol flex fuel contained in the Renewables Enhancement and Growth Support (REGS) rule which was published in the **Federal Register** on November 16, 2016. The new information is contained in the report titled “Property Analysis of Ethanol—Natural Gasoline—BOB Blends to Make Flex Fuel” that has been placed in the public docket for this action. In the proposed REGS rule, the EPA proposed volatility standards for ethanol flex fuel (EFF) to prevent excessive evaporative emissions that could adversely affect the emissions control systems of flexible fuel vehicles (FFVs) and human health. The EPA proposed a fuel volatility compliance tool for use by regulated entities to demonstrate compliance with the proposed volatility standards for EFF. The new information being made available by this notice indicates that the proposed compliance tool may need to be modified to adequately estimate the volatility of EFF when natural gasoline is used as a blendstock.

**DATES: Comments.** Comments must be received on or before January 17, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2016-0041, to the *Federal*

*eRulemaking Portal: <http://www.regulations.gov>.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Julia MacAllister, Assessment and Standards Division, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214-4131; email address: [macallister.julia@epa.gov](mailto:macallister.julia@epa.gov).

**Outline of This Preamble**

**I. General Information**

- A. Does this action apply to me?
- B. What is the Agency's authority for taking this action?

**II. Request for Comment**

- A. Background
- B. Potential Changes to the Proposed Ethanol Flex Fuel Volatility Compliance Tool

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

This action relates to provisions in a previously promulgated Proposed Rule that would potentially affect companies involved with the production, distribution, and sale of blends of ethanol and gasoline. Potentially regulated categories include:

Category	NAICS <sup>1</sup> code	Examples of potentially affected entities
Industry .....	211112 .....	Natural gas liquids extraction and fractionation.
Industry .....	211112, 324110 .....	Ethanol denaturant manufacturers.
Industry .....	324110 .....	Petroleum refineries (including importers).
Industry .....	325110 .....	Butane and pentane manufacturers.
Industry .....	325193 .....	Ethyl alcohol manufacturing.
Industry .....	424710, 424720 .....	Petroleum Bulk Stations and Terminals; Petroleum and Petroleum Products Wholesalers.