

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Naval Restricted Area, Naval Station Annapolis, Maryland

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

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers is establishing a new restricted area in the waters of the small boat basin off the Severn River, in Annapolis, Maryland to prohibit public entry into the area. The restricted area is needed for the security of U.S. Navy facilities and watercraft and navigational safety for U.S. Naval Academy training vessels in that area. The water area in the small boat basin has always been closed to the public, however, as a result of the closure of the adjacent Naval Surface Warfare Center and the planned future public ownership of that facility, the water area may become accessible by the public.

EFFECTIVE DATE: January 8, 1999.

ADDRESSES: HQUSACE, CECW-OR, Washington, D.C. 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, at (202) 761-1787, or Mr. Steve Elinsky, Corps Baltimore District, at (410) 962-4503.

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 adding a new § 334.155 which establishes a naval restricted area at the Naval Station Annapolis small boat basin, off the Severn River at Annapolis, Maryland. The Commanding Officer of the Naval Station Annapolis, has requested that the Corps establish the restricted area for reasons of security and navigational safety. The small boat basin plays an integral role in the training of midshipmen of the U.S. Naval Academy. The basin is used continuously by the Naval Academy as a training area for maneuvering and seamanship exercises. Over the past 40 years, the small boat basin has been surrounded by restricted U.S. Navy property of the Naval Station Annapolis and the Naval Surface Warfare Center (NSWC), and accordingly, access to the basin was limited to Naval personnel. In 1995, the Congress approved the Department of Defense Base

Realignment and Closure Commission's recommendation to close the NSWC at that location. The NSWC property is slated to become the property of Anne Arundel County and presumably that area and the shoreline of the basin could become accessible to the public. Public access to the basin from the NSWC property by non-U.S. Navy/Department of Defense personnel would pose an unacceptable security risk to the Naval Station. Navigational safety would also be a problem if non-Naval vessels are allowed to operate in the basin and because 260 feet of the NSWC seawall is located at the entrance to the basin, which is only 170 feet wide, any mooring by vessels along the seawall would further restrict the entrance and present a hazard to boats entering and leaving the basin.

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

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 expects that the economic impact of the establishment of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal if adopted, will have no significant economic impact on small entities.

C. Review Under the National Environmental Policy Act

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action will not have a significant impact to the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District Office listed at the end of **FOR FURTHER INFORMATION CONTACT**, 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 Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

E. Submission to Congress and the GAO

Pursuant to Section 801(a)(1)(A) of the Administrative Procedure Act as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this rule to the U.S. Senate, House of Representatives, and the Comptroller General of the General Accounting Office. This rule is not a major rule within the meaning of Section 804(2) of the Administrative Procedure Act, as amended.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones.

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 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 new § 334.155, to read as follows:

§ 334.155 Severn River, Naval Station Annapolis, Small Boat Basin, Annapolis, MD; naval restricted area.

(a) *The area.* The waters within the Naval Station Annapolis small boat basin and adjacent waters of the Severn River enclosed by a line beginning at the southeast corner of the U.S. Navy Marine Engineering Laboratory; thence to latitude 38°58'56.5", longitude 76°28'11.5"; thence to latitude 38°58'50.5", longitude 76°27'52"; thence to the southeast corner of the Naval Station's seawall.

(b) *The regulations.* No person, vessel or other craft shall enter or remain in the restricted area at any time except as authorized by the enforcing agency.

(c) *Enforcement.* The regulations in this section shall be enforced by the Superintendent, U.S. Naval Academy, in Annapolis, Maryland, and such agencies as he/she may designate.

Dated: October 13, 1998.

Approved:

Eric R. Potts,

Colonel, Corps of Engineers Executive

Director of Civil Works.

[FR Doc. 98-32720 Filed 12-8-98; 8:45 am]

BILLING CODE 3710-92-P