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#### Authority and Signature

This document was prepared under the direction of David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), 29 CFR part 1911, and Secretary's Order 5-2007 (72 FR 31160).

Signed at Washington, DC, on January 19, 2010.

**David Michaels,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

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## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### 33 CFR Part 334

#### Restricted Areas and Danger Zone at Naval Station Mayport, 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 revise the existing regulations for a restricted area and establish a danger zone in the waters adjacent to and within the boundaries of Naval Station (NAVSTA) Mayport in Florida. The NAVSTA is the third largest naval facility in the continental United States and is unique in that it is home to a busy seaport as well as an air facility which conducts more than 135,000 flight operations each year. This amendment to the existing regulation is necessary to enhance the safety of the local community by ensuring safe navigation of the adjacent waterways, to preserve military security force protection measures, and adhere to military munitions regulations.

**DATES:** Written comments must be submitted on or before February 24, 2010.

**ADDRESSES:** You may submit comments, identified by docket number COE-2009-0063 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](mailto:david.b.olson@usace.army.mil). Include the docket number, COE-2009-0063 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-2009-0063. 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 at 33 CFR part 334 by expanding the existing restricted area as well as establishing two new restricted areas and a new danger zone in Florida within the NAVSTA Mayport facilities and along the facility shoreline. The amendment to the existing regulation will allow the Commanding Officer, NAVSTA Mayport to restrict passage of persons, watercraft, and vessels in waters contiguous to his Command to meet Department of Defense directive O-2000.12-H Chapter C22.14 and United States Fleet Forces Antiterrorism Operation Order 3300-09 requirements for Waterside Security and Naval Vessel Protection Zones. The amendment is also intended to address public safety concerns associated with increased vessel traffic in the waterways adjacent to the NAVSTA Mayport facility, especially during munitions movement in and around the munitions wharves.

#### 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.* 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 proposed rule would have practically no economic 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 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. Revise § 334.500 to read as follows:

##### § 334.500 St. Johns River, Atlantic Ocean, Sherman Creek; restricted areas and danger zone, Naval Station Mayport, Florida.

(a) *The areas.* (1) The St. Johns River restricted area and the Atlantic Ocean restricted area described in paragraphs (a)(2) and (a)(3) of this section, respectively, are contiguous but each area is described separately for clarification.

(2) *St. Johns River restricted area.* This restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR 329, within the area bounded by a line connecting the following coordinates: Commencing from the shoreline at latitude

30°23'52.97" N, longitude 081°25'36.51" W; thence to latitude 30°23'56.71" N, longitude 081°25'36.51" W; then the line meanders irregularly, following the shoreline at a distance of 380 feet seaward from the mean high water line to a point at latitude 30°23'54.20" N, longitude 081°24'14.11" W, thence proceed directly to latitude 30°23'46.33" N, longitude 081°24'03.73" W, then the line meanders irregularly, following the shoreline at a distance of 380 feet seaward from the mean high water line to a point at latitude 30°23'53.08" N, longitude 081°23'34.00" W, thence following the arc of a circle with a radius of 466 feet, centered at latitude 30°23'48.52" N, longitude 081°23'33.30" W, to a point on the jetty at latitude 30°23'50.06" N, longitude 081°23'28.26" W.

(3) *Atlantic Ocean restricted area.* From the last point identified in paragraph (a)(2) of this section, latitude 30°23'50.06" N, longitude 081°23'28.26" W, proceed to a point at latitude 30°23'49.12" N, longitude 81°23'28.10" W, then the line meanders irregularly, following the shoreline at a distance of 380 feet seaward from the mean high water line to a point at latitude 30°22'54.37" N, longitude 081°23'44.09" W, thence proceed directly to shore to terminate at latitude 30°22'54.46" N, longitude 081°23'48.44" W.

(4) *Sherman Creek restricted area.* This restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR 329, to include Sherman Creek, its tributaries and associated tidal marshes located within the NAVSTA Mayport area boundaries described in this section. The restricted area is completely encircled by roadways and is bordered on the south by Wonderwood Expressway, on the west by SR A1A, on the north by Perimeter Road, and on the east by Mayport Road.

(5) *Danger zone.* The danger zone shall encompass all navigable waters of the United States, as defined at 33 CFR 329, within the area bounded by a line connecting the following coordinates: Commencing from the shoreline at latitude 30°24'00.31" N, longitude 081°25'06.02" W; thence to latitude 30°24'11.16" N, longitude 081°25'03.90" W; thence to latitude 30°24'00.62" N, longitude 081°24'10.13" W; thence to a point on the shoreline riprap at latitude 30°23'41.26" N, longitude 081°24'08.82" W.

(b) *The regulations.* (1) *St. Johns River restricted area.* All persons, vessels, or other craft are prohibited from entering, transiting, drifting, dredging or anchoring within the area described in paragraph (a)(2) of this section without

the permission of the Commanding Officer, NAVSTA Mayport, Florida, or his/her authorized representative. This restriction will be in place 24 hours a day, seven days a week. Warning signs notifying individuals of the restricted area boundary and prohibiting entry into the area will be posted at 500-foot intervals along the property boundary.

(2) *Atlantic Ocean restricted area.* All persons, vessels, or other craft are prohibited from entering, transiting, drifting, dredging or anchoring within the area described in paragraph (a)(3) of this section without the permission of the Commanding Officer, NAVSTA Mayport, Florida, or his/her authorized representative. This restriction will be in place 24 hours a day, seven days a week. Warning signs notifying individuals of the restricted area boundary and prohibiting entry into the area will be posted at 500-foot intervals along the property boundary.

(3) *Sherman Creek restricted area.* All persons, vessels, or other craft are prohibited from entering, transiting, drifting, dredging or anchoring within the area described in paragraph (a)(4) of this section without the permission of the Commanding Officer, NAVSTA Mayport, Florida, or his/her authorized representative. This restriction will be in place 24 hours a day, seven days a week. Warning signs notifying individuals of the restricted area boundary and prohibiting entry into the area will be posted at 500-foot intervals along the property boundary where practicable (i.e., not in the wetlands). Additionally, a floating Small Craft Intrusion Barrier will be placed across Sherman Creek just east of the A1A bridge and another will be placed across tributaries to Sherman Creek just north of the Wonderwood Expressway.

(4) *Danger zone.* During periods of munitions movement at wharves Bravo and Charlie, no person or vessel shall be allowed to remain within the 1,250-foot Explosive Safety Quantity-Distance arcs generated by the activity. NAVSTA Mayport will not announce or publish notification prior to enforcing this regulation due to the unacceptable security threat posed by advance public notice of military munitions movements.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commanding Officer, NAVSTA Mayport, Florida and/or such persons or agencies as he/she may designate. Military vessels will patrol the areas identified in this section 24 hours a day, 7 days a week. Any person or vessel encroaching within the areas identified in this section will be asked to immediately leave the area. Failure to

do so will result in the forceful removal of the person or vessel from the area in question.

Dated: January 19, 2010.

**Jonathan A. Davis,**

*Deputy Chief, Operations, Directorate of Civil Works.*

[FR Doc. 2010-1295 Filed 1-22-10; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 67**

**[Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-B-1072]**

**Proposed Flood Elevation Determinations**

*Correction*

In proposed rule document E9-21472 beginning on page 46074 in the issue of

Tuesday, September 8, 2009, make the following correction:

**§67.4 [Corrected]**

On page 46075, in §67.4, the table is reprinted to read as follows:

Flooding source(s)	Location of referenced elevation**	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
<b>Napa County, California, and Incorporated Areas</b>				
Napa Creek .....	At the confluence with Napa River .....	+22	+18	City of Napa.
	Approximately 100 feet upstream of Jefferson Street	+35	+34	
Napa River (With Levee) .....	Approximately 715 feet west of intersection of State Route 121 and East Avenue.	+28	+27	City of Napa, Unincorporated Areas of Napa County.
	Approximately 1,530 feet southwest of intersection of State Route 121 and Woodland Drive.	+32	+29	
Napa River (Without Levee)	Approximately 0.5 mile downstream of Imola Avenue	+13	+12	City of Napa, Unincorporated Areas of Napa County.
	Approximately 1,230 feet downstream of confluence of Soda Creek.	+47	+46	
Napa River Oxbow Overflow	At the confluence with Tulucay Creek .....	+18	+16	City of Napa, Unincorporated Areas of Napa County.
	Approximately 0.39 mile upstream of Soscol Avenue	+22	+19	
Ponding Areas with elevations determined (AH Zones).	Extensive ponding areas, in roadways south of Salvador creek (lowest elevation).	None	+39	City of Napa, Unincorporated Areas of Napa County.
	Extensive ponding areas, in roadways south of Salvador creek (highest elevation).	None	+76	
Salvador Creek .....	At the confluence with Napa River .....	+33	+31	City of Napa, Unincorporated Areas of Napa County.
	Approximately 100 feet upstream of State Highway 29	None	+75	
Salvador Creek North Branch	At the confluence with Salvador Creek .....	None	+75	City of Napa, Unincorporated Areas of Napa County.
	Approximately 0.8 mile upstream of confluence with Salvador Creek.	None	+93	
Salvador Creek South Branch.	At the confluence with Salvador Creek .....	None	+75	City of Napa.
	Approximately 1,365 feet upstream of Salvador Creek	None	+76	
Shallow Flooding (AO Zone)	Shallow flooding area, approximately 425 feet northeast of intersection of Imola Avenue and Gasser Drive.	+15	#1	City of Napa.
	Shallow flooding area, approximately 1,400 feet northeast of intersection of Imola Avenue and Gasser Drive.	+17	#2	
Tulucay Creek .....	At the confluence with Napa River .....	+18	+15	City of Napa.
	Approximately 560 feet upstream of Shurtleff Avenue	+37	+38	Unincorporated Areas of Napa County.

\* National Geodetic Vertical Datum.

+ North American Certical Datum.

# Depth in feet above ground.

^ Mean Sea Level, rounded to the nearest 0.1 meter.