

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Naval Base Ventura County, Point Mugu, CA

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers is proposing to amend its regulations to establish a restricted area in waters adjacent to Naval Base Ventura County, Point Mugu, California. This amendment would prohibit vessels from entering a six-mile-long by one-quarter-mile-wide section of the Pacific Ocean along the shoreline between the up-coast limit and the down-coast limit of Point Mugu without first obtaining permission from the Commanding Officer of Naval Base Ventura County. This amendment is necessary to safeguard U.S. Navy vessels and United States Government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature.

DATES: Written comments must be submitted on or before February 12, 2003.

ADDRESSES: Send comments to U.S. Army Corps of Engineers, ATTN: CECW-OR, 441 G Street, NW., Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761-4618, or Mr. Mark D. Cohen, Corps of Engineers, Los Angeles District, Regulatory Branch, at (213) 452-3413.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbor 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 restricted area regulations in 33 CFR part 334 by establishing a restricted area at 334.1126. The proposed restricted area would permanently establish formal advanced notification procedures for all vessels seeking to enter a six-mile-long by one-quarter-mile-wide section of the Pacific Ocean along the shoreline between the up-coast limit and the down-coast limit of Point Mugu.

Procedural Requirements

a. Review Under Executive Order 12866

This 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

This 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 business and small governments). The Corps of Engineers expects that the economic impact of this modified 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 would have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

The Los Angeles District is in the process of preparing an Environmental Assessment (EA) for this action. Although not expected at this time, based on the minor nature of the proposed additional restricted area regulations, an Environmental Impact Statement (EIS) would be prepared if determined appropriate. When the NEPA documentation is completed, it will be available for review at the Los Angeles District office listed at the end of the **FOR FURTHER INFORMATION CONTACT** paragraph, 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 would 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 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. Section 334.1126 is added to read as follows:

§ 334.1126 Naval Base Ventura County, Point Mugu, California; restricted area.

(a) *The area.* The restricted area at Naval Base Ventura County Point Mugu incorporates its shoreline and connects the following points: latitude 34°7'9.9", longitude 119°9'35.6" (up-coast shoreline point); latitude 34°7'0.0", longitude 119°9'46.7"; latitude 34°6'44.9", longitude 119°9'22.5"; latitude 34°6'30.2", longitude 119°8'59.0"; latitude 34°6'20.5", longitude 119°8'46.7"; latitude 34°6'8.4", longitude 119°8'25.2"; latitude 34°5'53.7", longitude 119°7'59.5"; latitude 34°5'45.9", longitude 119°7'41.5"; latitude 34°5'40.1", longitude 119°7'21.0"; latitude 34°5'33.6", longitude 119°6'58.1"; latitude 34°5'31.2", longitude 119°6'37.9"; latitude 34°5'31.0", longitude 119°6'22.2"; latitude 34°5'32.9", longitude 119°6'14.4"; latitude 34°5'44.7", longitude 119°5'54.0"; latitude 34°5'45.2", longitude 119°5'43.5"; latitude 34°5'41.0", longitude 119°5'21.2"; latitude 34°5'42.2", longitude 119°5'13.3"; latitude 34°5'27.8", longitude 119°4'49.5"; latitude 34°5'17.9", longitude 119°4'27.9"; latitude 34°5'5.7", longitude 119°3'59.90"; latitude 34°5'17.9", longitude 119°3'55.4" (down-coast shoreline point).

(b) *The regulation.* No vessels may enter the restricted area unless permission is obtained in advance from the Commanding Officer of Naval Base Ventura County.

(c) *Enforcement.* The regulation in this section, promulgated by the United States Army Corps of Engineers, shall be enforced by the Commanding Officer of the U.S. Naval Base Ventura County, and such agencies or persons as he/she may designate.

Dated: December 31, 2002.

Lawrence A. Lang,

Acting Chief, Operations Division, Directorate of Civil Works.

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