

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Meloy Channel, U.S. Coast Guard Base Miami Beach, FL; Restricted Area

AGENCY: United States Army Corps of Engineers, Department of Defense.

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is amending the regulations at 33 CFR part 334 to establish a new restricted area in the waters surrounding the U.S. Coast Guard Base Miami Beach, Florida (Base Miami Beach). Base Miami Beach is composed of multiple U.S. Coast Guard (USCG) units, both land and waterside. The facility has one of the highest operational tempos in the USCG for both routine and emergency operations. The amendment to the regulations is necessary to enhance the USCG's ability to secure their shoreline to counter postulated threats against their personnel, equipment, cutters, and facilities by providing stand-off corridors encompassing the waters immediately contiguous to Base Miami Beach. The amendment will also serve to protect the general public from injury or property damage during routine and emergency USCG operations and provide an explosive safety arc buffer during periodic transfer of armaments between units, including cutters.

DATES: *Effective date:* August 20, 2012.

ADDRESSES: U.S. Army Corps of Engineers, Attn: CECW-CO (David B. Olson), 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 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 amending the regulation at 33 CFR part 334 by establishing a new restricted area in the waters near Meloy Channel, Government Cut Channel, and Miami Main Channel surrounding Base Miami Beach. The amendment to the regulation is described below.

The proposed rule was published in the May 3, 2012, issue of the **Federal Register** (77 FR 26229), and its

regulations.gov docket number is COE-2012-0009. No comments were received in response to the proposed rule.

The amendment to this regulation will allow the Commander, U.S. Coast Guard Base Miami Beach to restrict passage of persons, watercraft, and vessels in waters contiguous to this Command, thereby increasing the ability to protect the facilities and personnel at Base Miami Beach from potential threats. The amendment will also provide a measure of protection to the public by reducing the potential for injury or property damage during routine and emergency USCG operations at the facilities and by providing a permanent explosive safety arc during the transfer of ammunition between cutters.

Procedural Requirements

a. *Review Under Executive Order 12866.* This regulation 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 regulation 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 this regulation would have practically no economic impact on the public nor would it result in any anticipated navigational hazard or interference with existing waterway traffic. This regulation will have no significant economic impact on small entities.

c. *Review Under the National Environmental Policy Act.* This regulation will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement is not required. An environmental assessment has been prepared. It may be reviewed at the district office listed at the end of the **FOR FURTHER INFORMATION CONTACT** section, above.

d. *Unfunded Mandates Act.* This regulation 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 regulation.

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 is amending 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 § 334.605 to read as follows:

§ 334.605 Meloy Channel, U.S. Coast Guard Base Miami Beach, Florida; restricted area.

(a) *The area.* The restricted area shall encompass all navigable waters of the United States as defined at 33 CFR part 329, within the area bounded by a line connecting the following coordinates: Commencing from the shoreline at latitude 25°46'20.07" N, longitude 080°08'50.94" W; thence to latitude 25°46'22.69" N, longitude 080°08'44.01" W; thence to latitude 25°46'22.02" N, longitude 080°08'42.14" W; thence to latitude 25°46'12.23" N, longitude 080°08'35.33" W; thence to latitude 25°46'09.13" N, longitude 080°08'40.74" W; thence to latitude 25°46'11.63" N, longitude 080°08'43.36" W; thence to latitude 25°46'17.22" N, longitude 080°08'47.17" W; thence to latitude 25°46'17.15" N, longitude 080°08'47.62" W; thence to latitude 25°46'17.63" N, longitude 080°08'49.33" W; thence to latitude 25°46'18.91" N, longitude 080°08'50.24" W; thence proceed directly to a point on the shoreline at latitude 25°46'18.76" N, longitude 080°08'50.71" W thence following the mean high water line to the point of beginning.

(b) *The regulations.* (1) The restricted area described in paragraph (a) of this section is only open to U.S. Government vessels. U.S. Government vessels include, but are not limited to, U.S. Coast Guard and Coast Guard Auxiliary vessels, Department of Defense vessels, state and local law enforcement and emergency services vessels, and vessels under contract with the U.S. Government. Warning signs notifying individuals of the restricted area boundary and prohibiting all unauthorized entry into the area will be posted along the property boundary and, as appropriate, on the piers of the MacArthur Causeway Bridge adjacent to the restricted area.

(2) All persons, vessels, and other craft are prohibited from entering, transiting, drifting, dredging, or anchoring within the restricted area described in paragraph (a) of this section without prior approval from the Base Commander, U.S. Coast Guard Base Miami Beach or his/her designated representative.

(3) Fishing, trawling, net-fishing, and other aquatic activities are prohibited in the restricted area without prior approval from the Base Commander, U.S. Coast Guard Base Miami Beach or his/her designated representative.

(4) The restrictions described in paragraph (b) of this section are in effect 24 hours a day, 7 days a week.

(c) *Enforcement.* The regulations in this section shall be enforced by the Base Commander, U.S. Coast Guard Base Miami Beach and/or such persons or agencies as he/she may designate.

Dated: July 16, 2012.

Richard C. Lockwood,

Chief, Operations and Regulatory, Directorate of Civil Works.

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DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, SUPSHIP Gulf Coast Detachment Mobile at AUSTAL, USA, Mobile, AL; Restricted Area

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

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is amending an existing restricted area to reflect changes in responsible parties for the restricted area established around the AUSTAL, USA shipbuilding facility located in Mobile, Alabama. The Supervisor of Shipbuilding, Conversion and Repair, United States Navy (USN), Gulf Coast (SUPSHIP Gulf Coast) assumed the duties of administering new construction contracts at AUSTAL USA in Mobile, AL, on October 9, 2011, replacing the Supervisor of Shipbuilding, Conversion, and Repair, USN, Bath (SUPSHIP Bath). The Department of the Navy requested an amendment to the regulation to reflect the change in responsible parties. There are no other changes for this restricted area regulation.

DATES: *Effective date:* August 20, 2012.

ADDRESSES: U.S. Army Corps of Engineers, Attn: CECW-CO (David Olson), 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 Mr. Donald E. Mroczo, U.S. Army Corps of Engineers, Mobile District, at 251-690-3185.

SUPPLEMENTARY INFORMATION: The Supervisor of Shipbuilding, Conversion and Repair (SUPERVISOR), USN, Gulf Coast (SUPSHIP Gulf Coast) assumed the duties of administering new construction contracts at AUSTAL USA in Mobile, AL, on October 9, 2011, replacing the Supervisor of Shipbuilding, Conversion, and Repair, USN, Bath (SUPSHIP Bath). The SUPERVISOR is responsible for United States Navy shipbuilding activities at AUSTAL, USA located in Mobile, Alabama. In accordance with Department of Defense and Department of the Navy guidance, the SUPERVISOR is responsible for the antiterrorism efforts and force protection of Department of the Navy assets under his or her charge. As such, the restricted area was established on September 22, 2009 (see 74 FR 48151). There are no changes to the limits of the restricted area.

The proposed rule was published in the December 2, 2011, edition of the **Federal Register** (76 FR 75508) and the regulations.gov docket number was COE-2011-0034. In response to the proposal, one comment was received. The commenter stated that the proposed rule will have no effect on historic properties.

In response to a request by the United States Navy, and 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 33 CFR 334.782 by changing the responsible party from SUPSHIP Bath to SUPSHIP Gulf Coast.

Administrative 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.* The 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 restricted area amendment will have practically no economic impact on the public, no anticipated navigational hazard, and no interference with existing waterway traffic. This rule will have no significant economic impact on small entities.

c. *Review Under the National Environmental Policy Act.* This rule will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement is not required. An environmental assessment has been prepared. It may be reviewed at the District office listed at the end of the **FOR FURTHER INFORMATION CONTACT** section, above.

d. *Unfunded Mandates Act.* This rule does not impose an enforceable duty among the private sector and, therefore, 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, Navigation (water), Restricted areas, Waterways.

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. 226 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Revise the section heading and paragraphs (b) and (c) of § 334.782 to read as follows:

§ 334.782 SUPSHIP Gulf Coast, Pascagoula, Mississippi, Detachment Mobile, Alabama at AUSTAL, USA, Mobile, Alabama; restricted area.

* * * * *

(b) *The regulations.* (1) All persons, swimmers, vessels and other craft, except those vessels under the supervision or contract to local military or Naval authority, vessels of the U.S. Coast Guard and local or State law enforcement vessels are prohibited from entering the restricted area without permission from the Supervisor of Shipbuilding, Conversion and Repair, USN, Gulf Coast, Pascagoula, Mississippi or his/her authorized representative.