

DEPARTMENT OF DEFENSE**Department of the Navy****32 CFR Part 770**

RIN 0703-AA63

Rules Limiting Public Access to Particular Installations

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: This rule sets forth amended regulations governing entry upon installations with limited public access under the Department of the Navy jurisdiction. It is intended that this amendment will apprise members of the public of the rules governing access on these installations.

DATES: Effective September 5, 2000.

ADDRESSES: Office of the Judge Advocate General (Code 13), 1322 Patterson Ave SE., Suite 3000, Washington Navy Yard, DC 20374-5066.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James L. Roth, JAGC, USN, Head, Regulations and Legislation, FOIA/PA Branch, Administrative Law Division, Office of the Judge Advocate General (Code 13), 1322 Patterson Ave SE., Suite 3000, Washington Navy Yard, DC 20374-5066. Phone (703) 604-8200.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Department of the Navy amends 32 CFR part 770, subparts A, B, F, and G. This amendment is the result of changes to regulations limiting public access to particular installations under the jurisdiction of the Department of the Navy. This rule is being published by the Department of the Navy for guidance and interest of the public in accordance with 5 U.S.C. 552(a)(1). It has been determined that invitation of public comment on this amendment would be impracticable and unnecessary, and it is therefore not required under the public rulemaking provisions of 32 CFR part 336 or Secretary of the Navy Instruction 5720.45. Interested persons, however, are invited to comment in writing on this amendment. All written comments received will be considered in making subsequent amendments or revisions of 32 CFR part 770, subparts A, B, F, and G, or the instructions on which they are based. Changes may be initiated on the basis of comments received. Written comments should be addressed to Lieutenant Commander James L. Roth, JAGC, USN, Head, Regulations and Legislation, FOIA/PA Branch, Administrative Law Division, Office of

the Judge Advocate General (Code 13), 1322 Patterson Ave SE., Suite 3000, Washington Navy Yard, DC 20374-5066. It has been determined that this final rule is not a "significant regulatory action" as defined in Executive Order 12866.

Executive Order 13132, Federalism

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will have little or no direct effect on States or local governments.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Paperwork Reduction Act

This rule does not impose collection of information requirements for purposes of the Paperwork Reduction Act (44 U.S.C. Chapter 35, 5 CFR Part 1320).

List of Subjects in 32 CFR Part 770

Armed forces, Endangered and threatened species, Federal buildings and facilities, Fish, Government property, Government property management, National defense, Restricted access areas, Security measures, Wildlife.

For the reasons set forth in the preamble, the Department of the Navy amends 32 CFR part 770 as follows:

PART 770—RULES LIMITING PUBLIC ACCESS TO PARTICULAR INSTALLATIONS

1. The authority citation for part 770 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 6011; 32 CFR 700.702; 32 CFR 700.714.

2.–3. In § 770.2, revise paragraphs (b)(1), (c) and (d)(2) to read as follows:

§ 770.2 Licenses.

* * * * *

(b) * * *

(1) The privilege card may be purchased from the Natural Resources and Environmental Affairs Branch, Building 5–9, Marine Corps Base, Quantico, VA.

* * * * *

(c) All hunters must obtain a Base hunting permit, and a parking permit, if applicable, from the Game Check Station, Building 5–9 Station (located at the intersection of Russell Road and MCB–1) for each day of hunting. The

hunting permit must be carried by the hunter and the parking permit must be displayed on the left dashboard of parked vehicles. The hunting and parking permits must be returned within one hour after either sunset or the hour hunting is secured on holidays or during special season.

(d) * * *

(2) Attendance at a safety lecture given daily except Sunday during the hunting season given at the Game Check Station. The lectures commence at the times posted in the Annual Hunting Bulletin and are posted on all base bulletin boards;

* * * * *

4. In § 770.3, revise paragraphs (a), (b), and (c)(1) through (3) and remove paragraphs (c)(4) and (5) to read as follows:

§ 770.3 Fishing regulations.

(a) All persons possessing the proper state license and Base permit are permitted to fish in the areas designated by the Annual Fishing Regulations on Marine Corps Base, Quantico, VA, on any authorized fishing day. A Base Fishing Privilege Card is required for all persons aged 16 to 65.

(b) Fishing is permitted on all waters within the boundaries of Marine Corps Base, Quantico, VA, unless otherwise posted, under the conditions and restrictions and during the periods provided by Marine Corps Base, Quantico, VA. Information regarding specific regulations for each fishing area must be obtained from the Natural Resources and Environmental Affairs Branch, Building 5–9 prior to use of Base fishing facilities.

(c) * * *

(1) No trout lines are permitted in Marine Corps Base waters;

(2) No Large Mouth Bass will be taken, creeled or possessed in a slot limit of 12–15 inches in length. All Large Mouth Bass within this slot will be immediately returned to the water;

(3) No Striped Bass will be taken, creeled or possessed under the size of twenty (20) inches in length. All Striped Bass under this size will be immediately returned to the water.

5. Revise § 770.4 to read as follows:

§ 770.4 Hunting regulations.

All persons possessing the proper State, Federal and Base licenses and permits are permitted to hunt in the areas designated daily by the Annual Hunting Bulletin on Marine Corps Base, Quantico, VA, on any authorized hunting day. In addition, a minimum of fifteen percent of the daily hunting spaces will be reserved to civilians on

a first come, first served basis until 0600 on each hunting day, at which time, the Game Check Station may fill vacancies from any authorized persons waiting to hunt.

6. In § 770.5, revise paragraphs (a), (b), and (c) to read as follows:

§ 770.5 Safety regulations.

(a) Hunting is not permitted within 200 yards of the following: Ammunition dumps, built-up areas, rifle or pistol ranges, dwelling or other occupied structures, and areas designated by the Annual Hunting Bulletin as recreation areas.

(b) From the end of the special archery season until the end of the regular firearms winter hunting season, except for duck hunters in approved blinds, hunters will wear an outer garment with at least two square foot of blaze orange visible both front and back above the waist and a blaze orange cap while hunting, or while in the woods for any reason, during the hours that hunting is authorized. Any person traveling on foot in or adjacent to an area open for hunting will comply with this requirement.

(c) Weapons will be unloaded while being transported in vehicles, and will be left in vehicles by personnel checking in or out at the Game Check Station. Weapons will not be discharged from vehicles, or within 200 yards of hard surfaced roads.

* * * * *

§ 770.6 [Amended]

7. Amend § 770.6, as follows:

a. In paragraph (b), remove the number "16" and add in its place the number "18," and remove the number "18" contained in the parenthesis and add in its place the number "21."

b. In paragraph (c), remove the words "beaver or bald eagles" and add in their place, the word "wildlife," and remove the word "clearance" and add in its place the words "Walking Pass" each time it appears.

c. Revise paragraph (a) and add paragraphs (f) and (g) to read as follows:

§ 770.6 Restrictions.

(a) There will be no hunting on Christmas Eve, Christmas Day, New Years Day, or after 1200 on Thanksgiving Day.

* * * * *

(f) There will be no use of a muzzleloader or slug shotgun after obtaining the daily or yearly game bag limits.

(g) There will be no possession or use of drugs or alcohol while checked out to hunt.

§ 770.7 [Amended]

8. In § 770.7 remove paragraphs (c)(3), (4) and (5) and revise the section title, and paragraphs (a), (b), and (c)(1) and (2) to read as follows:

§ 770.7 Violations and environmental regulations.

* * * * *

(a) The Marine Corps Base Game Wardens are Federal Game Wardens. They have authority to issue summons to appear in Federal court for game violations.

(b) Offenders in violation of a Federal or State hunting or fishing laws will be referred to a Federal court.

(c) * * *

(1) The Base Game Warden shall have the authority to temporarily suspend hunting and fishing privileges.

(2) Suspensions of hunting and fishing privileges will be outlined in the Annual Fish and Wildlife Procedures Manual.

* * * * *

9. In § 770.8, revise the last sentence to read as follows:

§ 770.8 Reports.

* * * All other game, not requiring a tag, killed on the Reservation will be immediately reported to the Game Warden when checking out at the end of a hunt.

10. Revise § 770.9 to read as follows:

§ 770.9 Miscellaneous.

Refer to the Annual Fishing and Hunting Bulletins that will cover any annual miscellaneous changes.

11. The subpart heading is revised to read as follows:

Subpart B—Base Entry Regulations for Naval Submarine Base, Bangor, Silverdale, Washington

12. The authority citation for subpart B is revised to read as follows:

Authority: 50 U.S.C. 797; DoDDir. 5200.8 of April 25, 1991; 5 U.S.C. 301; 10 U.S.C. 6011; 32 CFR 700.702; 32 CFR 700.714.

13. Revise the last sentence of section 770.18 to read as follows:

§ 770.18 Entry restrictions.

* * * See, 18 U.S.C. 1382; the Internal Security Act of 1950, Section 21 (50 U.S.C. 797); Department of Defense Directive 5200.8 of 25 April 1991; Secretary of the Navy Instruction 5511.36A of 21 July 1992.

14. In § 770.19, Revise paragraph (a) to read as follows:

§ 770.19 Entry procedures.

(a) Any person or group of persons desiring the advance consent of the

Commanding Officer, SUBASE Bangor or his authorized representative shall, in writing, submit a request to the Commanding Officer, Naval Submarine Base, Bangor, 1100 Hunley Road, Silverdale, WA 98315.

* * * * *

15. In § 770.20 revise the undesignated citation following paragraph (a) and paragraph (b) to read as follows:

§ 770.20 Violations.

(a) * * *

Whoever, within the jurisdiction of the United States, goes upon any military, naval * * * reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation * * * shall be fined not more than \$5,000 or imprisoned not more than six months or both.

(b) Moreover, any person who willfully violates this subpart is subject to a fine not to exceed \$5,000 or imprisonment for not more than one (1) year or both as provided in 50 U.S.C. 797.

16. Revise subpart F, part 770 to read as follows:

Subpart F—Base Entry Regulations for Puget Sound Naval Shipyard, Bremerton, Washington

Sec.

770.47 Purpose.

770.48 Definition.

770.49 Background.

770.50 Entry restrictions.

770.51 Entry procedures.

770.52 Violations.

Subpart F—Base Entry Regulations for Puget Sound Naval Shipyard, Bremerton, Washington

Authority: 5 U.S.C. 301; 10 U.S.C. 6011; 50 U.S.C. 797; DoD Directive 5200.8 of April 25, 1991; SECNAVINST 5511.36A of July 21, 1992; OPNAVINST 5530.14C of December 10, 1998; 32 CFR 700.702; 32 CFR 700.714.

§ 770.47 Purpose.

To promulgate regulations and procedures governing entry upon Puget Sound Naval Shipyard, and to prevent the interruption of the functions and operations of Puget Sound Naval Shipyard by the presence of any unauthorized person within the boundaries of the Puget Sound Naval Shipyard.

§ 770.48 Definition.

For the purpose of this subpart, Puget Sound Shipyard shall include that area of land, whether or not fenced or covered by water, in Kitsap County in the State of Washington under the operational control of the Commander,

Puget Sound Naval Shipyard or any tenant command. This includes all such areas regardless of whether the areas are being used for purely military purposes, for housing, for support purposes, or for any other purpose by a naval command or other federal agency.

§ 770.49 Background.

(a) Puget Sound Naval Shipyard is a major naval ship repair facility, with operational requirements to complete repairs and overhaul of conventionally powered and nuclear powered naval vessels. It is vital to national defense that the operation and use of the shipyard be continued without interruption. Additionally, most of Puget Sound Naval Shipyard is dedicated to heavy industrial activity where potentially hazardous conditions exist.

(b) For prevention of the interruption of the stated use of Puget Sound Naval Shipyard and prevention of injury to any unsupervised or unauthorized person as a consequence of the hazardous conditions that exist, as well as for other reasons, it is essential to restrict entry upon Puget Sound Naval Shipyard to authorized persons only.

§ 770.50 Entry restrictions.

Except for military personnel and civilian employees of the United States in the performance of their official duties, entry upon Puget Sound Naval Shipyard, or remaining thereon by any person for any purpose without advance consent of the Commander, Puget Sound Naval Shipyard or his/her authorized representative, is prohibited.

§ 770.51 Entry procedures.

(a) Any person or group of persons desiring the advance consent of the Commander, Puget Sound Naval Shipyard, or his authorized representative, shall, in writing, submit a request to the Commander, Puget Sound Naval Shipyard, at the following address: Commander, Puget Sound Naval Shipyard, 1400 Farragut Avenue, Bremerton, WA 98314-5001.

§ 770.52 Violations.

(a) Any person entering or remaining on Puget Sound Naval Shipyard, without the consent of the Commander, Puget Sound Naval Shipyard, or an authorized representative, shall be subject to the penalties prescribed by 18 U.S.C. 1382, which provides in pertinent part:

Whoever, within the jurisdiction of the United States, goes upon any military, naval * * * reservation, post, fort, arsenal, yard, station or installation, for any purpose prohibited by law or lawful regulation * * * shall be fined not more than \$500.00 or

imprisoned not more than six months or both.

(b) Moreover, any person who willfully violates this subpart is subject to a fine not to exceed \$5000.00 or imprisonment for not more than one year or both as provided in 50 U.S.C. 797.

17.-18. The authority citation for subpart G, part 770 is revised to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 6011; 50 U.S.C. 797; DoD Directive 5200.8 of April 25, 1991; SECNAVINST 5511.36A of July 21, 1992; NAVCOMSYSCOMINST 5510.2B of April 18, 1990; 32 CFR 700.702; 32 CFR 700.714.

19. In § 770.55 remove the number "830" contained in the parenthetical and add, in its place, the number "1700".

20. In § 770.57 remove the number "830" contained in the parenthetical and add, in its place, the number "1700".

Dated: August 23, 2000.

C.G. Carlson,

Major, U.S. Marine Corps., Alternate Federal Register Liaison Officer.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 162

[CGD 09-00-010]

RIN 2115-AG01

Inland Waterways Navigation Regulations; Ports and Waterways Safety

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: By this direct final rule, the Coast Guard is removing an inland waterway navigation regulation that sets time limit requirements and requires Captain of the Port approval before using the Portage River and Lily Pond Harbor in Michigan as harbors of refuge. The elimination of this rule is necessary because Portage River and Lily Pond Harbor are no longer used as harbors of safe refuge.

DATES: This rule is effective on December 4, 2000, unless a written adverse comment, or written notice of intent to submit an adverse comment, reaches Marine Safety Office Duluth by November 6, 2000. If an adverse comment, or notice of intent to submit

an adverse comment, is received, the Coast Guard will withdraw this direct final rule and publish a timely notice of withdrawal in the **Federal Register**. Comments must be received on or before November 6, 2000.

ADDRESSES: Comments may be mailed to the United States Coast Guard, Marine Safety Office Duluth, 600 South Lake Avenue, Duluth, Minnesota 55802, or may be delivered to the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The Marine Safety Office Duluth maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at Marine Safety Office Duluth, 600 South Lake Avenue, Duluth, Minnesota, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, contact Lieutenant Randy Wagner, United States Coast Guard, Marine Safety Office Duluth, Minnesota telephone (218) 720-5286.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments for or against this rule. Persons submitting comments should include names and addresses, identify the rulemaking [CGD09-00-010] and the specific section of this rule to which each comment applies, and give the reason(s) for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the address under **ADDRESSES**. Persons wanting acknowledgement of receipt of comments should enclose a stamped, self-addressed postcards or envelopes.

Regulatory Information

The Coast Guard is publishing a direct final rule, the procedures of which are outlined in 33 CFR 1.05-55, because no adverse comments are anticipated. If no adverse comment or any written notice of intent to submit an adverse comment is received within the specified comment period, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days before the effective date, the Coast Guard will publish a document in the **Federal Register** stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if the Coast Guard receives a written adverse comment or