

**DEPARTMENT OF DEFENSE****Department of the Army, Corps of Engineers****33 CFR Part 334****United States Army Restricted Area, Skiffes Creek, Fort Eustis, VA**

**AGENCY:** United States Army Corps of Engineers, DoD.

**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The Corps of Engineers is proposing regulations to establish a restricted area in the vicinity of Skiffes Creek at Fort Eustis, Virginia. These regulations will enable the Army to enhance security around vessels moored at the facility. The regulations will safeguard military vessels and United States government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions which may exist as a result of Army use of the area.

**DATES:** Written comments must be submitted on or before September 12, 2001.

**ADDRESSES** 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. Rick Henderson, Corps of Engineers, Norfolk District, at (757) 441-7653.

**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 proposes to amend the restricted area regulations in 33 CFR part 334 by adding 334.281 which establishes a restricted area in Skiffes Creek, a tributary of the James River, at Fort Eustis, Virginia. The public currently has unrestricted access to the facility and units assigned there. To better protect vessels and personnel stationed at the facility, the Commander, Fort Eustis, has requested the Corps of Engineers establish a Restricted Area to be enforced whenever the base is in Threat Condition Charlie or Delta. This will enable the Army to implement a waterside security program that is currently not available at the facility.

**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.*

These proposed rules have been reviewed under the Regulatory Flexibility Act (Public Law 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, if adopted, will not have a significant impact to the quality of 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 proposed 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.

**List of Subjects in 33 CFR part 334**

Danger zones, marine safety, 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 334.281 is added to read as follows:

**§ 334.281 Skiffes Creek, Fort Eustis, Virginia, Restricted Area.**

(a) *The area.* The waters within an area beginning at latitude 37°09'39" N, longitude 76°37'02" W; thence northerly to latitude 37°10'18" N, longitude 76°36'52" west; thence southwesterly along the shoreline to latitude 37°10'05" N, longitude 76°36'34" W; thence northeasterly along the shoreline to latitude 37°10'28" N, longitude 76°36'19" W; thence easterly to latitude 37°10'25" N, longitude 76°36'07" W; thence southwesterly along the shoreline to the point of origin.

(b) *The regulations.* No vessel or persons may enter or pass through the restricted area any time the base is in Threat Condition Charlie or Delta unless specific authorization is granted by the Commander, Fort Eustis, and/or other persons or agencies as he/she may designate.

(c) *Enforcement.* (1) The regulation in this section, promulgated by the United States Army Corps of Engineers, shall be enforced by the Commander, Fort Eustis, and/or other persons or agencies as he/she may designate.

(2) Federal and State Law enforcement vessels and personnel may enter the restricted area at any time to enforce their respective laws.

Dated: July 23, 2001.

**Charles M. Hess,**

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

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**DEPARTMENT OF DEFENSE****Department of the Army, Corps of Engineers****33 CFR Part 334****Naval Restricted Area, Naval Station Everett, Washington**

**AGENCY:** United States Army Corps of Engineers, DoD.

**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The Corps of Engineers is proposing to establish a new restricted area in the waters surrounding Naval Station Everett at Everett, Washington. The designation would effectively establish a 300-foot safety zone around moored vessels and the major piers of this naval base, and lesser distances