

Port Townsend Paper Mill and Port Townsend Marina.

E. A local municipality said that the Department of the Navy should prepare an environmental impact statement for all activities involving the Naval Magazine Indian Island since 1998, including the expansion of the restricted area.

The Corps has prepared an environmental assessment for this rulemaking action to expand the existing restricted area. Other Department of the Navy activities at this facility are outside of this rulemaking action, and will be addressed as appropriate through separate National Environmental Policy Act (NEPA) actions by the Navy.

One commenter requested a public hearing, expressing concern that insufficient information was provided regarding the nature of the potentially hazardous conditions, from which the expanded restricted area is intended to provide protection for the public.

This rulemaking action does not evaluate or implement any change to the nature or intensity of U.S. Navy operations at the Indian Island facility, but merely enlarges an existing restricted area in order to provide an additional safety and security buffer between the public and those activities. This rulemaking and its underlying evaluation focus on the environmental and public interest impacts of the expanded restricted area. It does not evaluate the impacts of present safety and security conditions at the Indian Island facility; any changes to those conditions will be evaluated, as appropriate, by the Navy. Because the commenter did not raise reasons for holding a public hearing reflecting concerns over the impacts of the expanded restricted area, we have determined that no valid public interest would be served by holding such a hearing.

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 its regulations at 33 CFR part 334 by modifying the restricted area at § 334.1270. The enlarged area will be activated on an intermittent basis by the U.S. Navy.

Procedural 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, 5 U.S.C. 601) 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 has determined that the modification of this restricted area would have practically no economic impact on the public and no anticipated navigational hazard or interference with existing waterway traffic. Accordingly, the Corps certifies that this regulation 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 determined that 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 with a Finding of No Significant Impact has been prepared for this action in accordance with applicable regulations. It may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, 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 Reform Act (Pub. L. 104–4). We have also found under section 203 of the Act, that small governments will not be significantly or 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 amends 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for 33 CFR 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 334.1270 is revised to read as follows:

§ 334.1270 Port Townsend, Indian Island, Walan Point; naval restricted area.

(a) *The area.* The waters of Port Townsend Bay bounded by a line

commencing on the north shore of Walan Point at latitude 48°04'42" North, longitude 122°44'30" West (Point A); thence to latitude 48°04'50" North, longitude 122°44'38" West (Point B); thence to latitude 48°04'52" North, longitude 122°44'57" West (Point C); thence to latitude 48°04'44" North, longitude 122°45'12" West (Point D); thence to latitude 48°04'26" North, longitude 122°45'21" West (Point E); thence to latitude 48°04'10" North, longitude 122°45'15" West (Point F); thence to latitude 48°04'07" North, longitude 122°44'49" West (Point G); thence to a point on the Walan Point shoreline at latitude 48°04'16" North, longitude 122°44'37" West (Point H).

(b) *The regulations.* This area is for the exclusive use of the U.S. Navy. No person, vessel, craft, article or thing shall enter the area without permission from the enforcing agency. The restriction shall apply during periods when ship loading and/or pier operations preclude safe entry. The periods will be identified by flying a red flag from the ship and/or pier.

(c) *Enforcement.* The regulation in this section shall be enforced by Commander, Navy Region Northwest and such agencies and persons as he/she shall designate.

Dated: December 18, 2008.

Jonathan A. Davis,

Acting Deputy Chief, Operations, Directorate of Civil Works.

[FR Doc. E8–30590 Filed 12–22–08; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Naval Restricted Area, Manchester Fuel Depot, Washington; and Naval Restricted Areas, Sinclair Inlet, WA

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

ACTION: Final rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is issuing a final rule establishing a restricted area within Puget Sound at Orchard Point, at the U.S. Navy Manchester Fuel Depot, near Manchester. The Corps is also amending an existing regulation for restricted areas within Sinclair Inlet at the Naval Base Kitsap-Bremerton and the Puget Sound Naval Shipyard, at the City of Bremerton, Kitsap County. The purpose of the new restricted area is to ensure the security and safety of the public,

and satisfy security, safety and operational requirements as they pertain to naval vessels. The purpose of the amended restricted area is also to ensure the security and safety of the public, and satisfy security, safety and operational requirements as they pertain to naval vessels, in addition to releasing for unimpeded transit of Washington State Ferries the eastern most area of the established restricted area. The restricted areas will be marked on navigation charts to ensure security and safety for the public.

DATES: *Effective date:* January 22, 2009.

ADDRESSES: U.S. Army Corps of Engineers, Attn: CECW-CO (David B. Olson), 441 G Street, NW., Washington, DC 20314-1000, or by e-mail to david.b.olson@usace.army.mil.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters Operations and Regulatory Community of Practice, at 202-761-4922, Ms. Michelle Walker, Regulatory Branch Chief, U.S. Army Corps of Engineers, Seattle District, Northwest Division, at 206-764-6915, or Ms. Vicky Didenhover of the Regulatory Branch, U.S. Army Corps of Engineers, Seattle District, at 206-764-3311.

SUPPLEMENTARY INFORMATION: In the July 31, 2007, issue of the *Federal Register* (72 FR 41655), the Corps published a proposed rule to establish a new restricted area and to amend an existing restricted area in Puget Sound and Sinclair Inlet, Washington.

In response to the proposed rule, we received one comment expressing concerns regarding the proposed restricted area for Manchester Fuel Depot:

A. Location of restricted area: The commenter expressed concern regarding the description of the location of the restricted area in relation to Orchard Point.

We agree that the fuel pier is best described as located south of Orchard Point. Paragraph (b) of § 334.1244 has been modified to state that the fuel pier is located south of Orchard Point.

B. Marking of restricted area: The commenter expressed concern that he and his neighbors would have to “travel a little further” to clear the restricted area and asked if the South East corner could be marked in order to avoid unintentional incursions.

Marking would most likely entail establishing a permanent buoy or structure in the Rich Passage area. At this time, the Navy has no plans to mark a restricted area that will be implemented only on an intermittent basis.

C. Noise created by vessels pounding against the pier: The commenter indicated that at certain times moored vessels pound noisily against the fuel pier or camels, due to wind or waves.

The establishment of a restricted area does not affect how vessels are moored at the pier. The noise complaint is more appropriately addressed by the Navy through separate administrative processes.

D. When the restricted areas are active: The commenter contended that the restricted area would only be active during loading/unloading operations, as articulated in the proposed rule, but should more appropriately remain active the entire time the ship is at the pier.

The restricted area, which is to be in effect whenever pier operations preclude safe entry, will give the Navy flexibility to keep the restrictions active anytime a ship is at the pier, not merely during fueling operations.

E. The restricted area is ineffective without a physical barrier: The commenter asserted that some sort of physical barrier would be needed to provide effective security.

The establishment of a restricted area provides a legal basis upon which the public may be excluded from access and thus constitutes a legal action, not a physical action. There are currently no plans to install a physical barrier at Manchester Fuel Depot.

No comments were received on the proposed changes to the restricted area regulation for Sinclair Inlet.

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 restricted area regulations in 33 CFR part 334 by adding § 334.1244 for the Manchester Fuel Depot, the creation of which is intermittent and subject to activation by the U.S. Navy. We are also amending the restricted area regulations in 33 CFR part 334 by modifying the area at § 334.1240, which creates a permanent enlargement near Pier D at Naval Base Kitsap-Bremerton and deletes the northeastern-most section of the restricted area.

Procedural 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. This rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C.

601) 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). We have determined that the establishment of the new restricted area and the amendment of the existing restricted area would have practically no economic impact on the public and no anticipated navigational hazard or interference with existing waterway traffic. Accordingly, we certify that this rule 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, we have determined that 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 with a Finding of No Significant Impact has been prepared for this action in accordance with applicable regulations. It may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, 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 Reform Act (Pub. L. 104-4). 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, Marine safety, 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 33 CFR 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 § 334.1240 to read as follows:

§ 334.1240 Sinclair Inlet; naval restricted areas.

(a) *Sinclair Inlet: naval restricted areas.* (1) *Area No. 1.* All the waters of Sinclair Inlet westerly of a line drawn from the Bremerton Ferry Landing at

latitude 47°33'48" North, longitude 122°37'23" West on the north shore of Sinclair Inlet; and latitude 47°32'52" North, longitude 122°36'58" West, on the south shore of Sinclair Inlet.

(2) *Area No. 2.* That area of Sinclair Inlet to the north and west of an area bounded by a line commencing at latitude 47°33'40" North, longitude 122°37'32" West (Point A); thence south to latitude 47°33'36" North, longitude 122°37'30" West (Point B); thence southwest to latitude 47°33'23" North, longitude 122°37'45" West (Point C); thence southwest to latitude 47°33'19" North, longitude 122°38'12" West (Point D); thence southwest to latitude 47°33'10" North, longitude 122°38'19" West (Point E); thence southwest to latitude 47°33'07" North, longitude 122°38'29" West (Point F); thence southwest to latitude 47°33'04" North, longitude 122°39'07" West (Point G); thence west to the north shore of Sinclair Inlet at latitude 47°33'04.11" North, longitude 122°39'41.92" West (Point H).

(3) *The regulations.* (i) *Area No. 1.* No vessel of more than, or equal to, 100 gross tons shall enter the area or navigate therein without permission from the enforcing agency, except Washington State Ferries on established routes.

(ii) *Area No. 2.* This area is for the exclusive use of the United States Navy. No person, vessel, craft, article or thing, except those under supervision of military or naval authority shall enter this area without permission from the enforcing agency.

(b) *Enforcement.* The regulation in this section shall be enforced by the Commander, Navy Region Northwest, and such agencies and persons as he/she shall designate.

■ 3. Add § 334.1244 to read as follows:

§ 334.1244 Puget Sound, Manchester Fuel Depot, Manchester, Washington; naval restricted area.

(a) *The area.* The waters of Puget Sound surrounding the Manchester Fuel Depot Point A, a point along the northern shoreline of the Manchester Fuel Depot at latitude 47°33'55" North, longitude 122°31'55", West; thence to latitude 47°33'37" North, longitude 122°31'50", West (Point B); thence to latitude 47°33'32" North, longitude 122°32'06", West (Point C); thence to latitude 47°33'45.9" North, longitude 122°32'16.04", West (Point D), a point in Puget Sound on the southern shoreline of the Manchester Fuel Depot.

(b) *The regulations.* No person, vessel, craft, article or thing except those under the supervision of the military or naval authority shall enter the area without

the permission of the enforcing agency or his/her designees. The restriction shall apply during periods when a ship is loading and/or pier operations preclude safe entry. The restricted periods will be identified by the use of quick-flashing beacon lights, which are mounted on poles at the end of the main fuel pier on the south side of Orchard Point at the entrance of Rich Passage. Entry into the area is prohibited when the quick-flashing beacons are in a flashing mode.

(c) *Enforcement.* The regulation in this section shall be enforced by the Commander, Navy Region Northwest, and such agencies and persons as he/she shall designate.

Dated: December 18, 2008.

Jonathan A. Davis,

Acting Deputy Chief, Operations, Directorate of Civil Works.

[FR Doc. E8-30588 Filed 12-22-08; 8:45 am]

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DEPARTMENT OF EDUCATION

34 CFR Part 200

RIN 1810-AB01

[Docket ID ED-2008-OESE-0003]

Title I—Improving the Academic Achievement of the Disadvantaged

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Final rule; correction.

SUMMARY: The Department of Education is correcting a final regulation that was published in the **Federal Register** on October 29, 2008 (73 FR 64436). The final regulations clarified and strengthened the Title I regulations in the areas of assessment, accountability, public school choice, and supplemental educational services.

DATES: Effective December 23, 2008.

FOR FURTHER INFORMATION CONTACT: Zollie Stevenson, Jr., Director, Student Achievement and School Accountability Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W230, Washington, DC 20202-6132. Telephone: (202) 260-1824.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or computer diskette) on

request to the contact person listed under this section.

SUPPLEMENTARY INFORMATION: This is the second set of corrections to these regulations. The first set of corrections was published in the **Federal Register** on November 28, 2008 (73 FR 72352).

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List of Subjects in 34 CFR Part 200

Administrative practice and procedure, Adult education, Children, Education of children with disabilities, Education of disadvantaged children, Elementary and secondary education, Eligibility, Family-centered education, Grant programs—education, Indians—education, Infants and children, Institutions of higher education, Juvenile delinquency, Local educational agencies, Migrant labor, Nonprofit private agencies, Private schools, Public agencies, Reporting and recordkeeping requirements, State-administered programs, State educational agencies.

■ Accordingly, 34 CFR part 200 is corrected by making the following correcting amendments:

PART 200—TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

■ 1. The authority citation for part 200 continues to read as follows:

Authority: 20 U.S.C. 6301 through 6578, unless otherwise noted.

§ 200.7 [Amended]

■ 2. Section 200.7 is amended by:

■ A. In paragraph (b)(3), removing the words “adequate yearly progress” and adding, in their place, the word “AYP”.

■ B. In paragraph (b)(4), removing the words “adequate yearly progress” and adding, in their place, the word “AYP”.