



Billing Code 3720-58

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

West Arm Behm Canal, Naval Surface Warfare Center, Ketchikan Alaska;

Restricted Areas.

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

ACTION: Notice of proposed amendment and request for comments.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is proposing to amend existing regulations for an existing restricted area near Ketchikan, Alaska to correct inaccuracies in regards to flashing beacon light descriptions, point of contact changes, and restrictive area distances for small craft.

DATES: Written comments must be submitted on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number COE-2015-0009, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov> . Follow the instructions for submitting comments.

E-mail: [david.b.olson@usace.army.mil](mailto:david.b.olson@usace.army.mil) . Include the docket number, COE-2015-0009, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW-CO (David B. Olson),  
441 G Street NW, Washington, DC 20314-1000.

Hand Delivery / Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE-2015-0009.

All comments received will be included in the public docket without change and may be made available on-line at <http://www.regulations.gov> , including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through regulations.gov or e-mail. The regulations.gov web site is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail directly to the Corps without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to [www.regulations.gov](http://www.regulations.gov) . All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, D.C. at 202-761-4922 or Ms. Linda Speerstra, U.S. Army Corps of Engineers, Alaska District, Regulatory Division, at 907-747-0658.

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 proposing to amend the regulation at 33 CFR part 334 by amending existing language applicable to restricted area in the waters of the West Arm Behm Canal, Naval Surface Warfare Center, Ketchikan Alaska; Area No. 5. The proposed amendment would revise the wording of the existing restricted area description to accurately describe the installed light configuration, update contact information and increase vessel transiting area.

#### Procedural Requirements

a. Review Under Executive Order 12866. The proposed rule 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. This proposed rule has been reviewed under the Regulatory Flexibility Act (Public Law 96-354). The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). The restricted area is necessary to protect users of this waterway during naval operations. The restricted area will only be closed for brief amounts of time (usually no more than 20 minutes) when it is activated. Unless information is obtained to the contrary during the comment period, the Corps certifies that the proposed rule would have no significant economic impact on the public. After considering the economic impacts of this proposed restricted area regulation on small entities, I certify that this action will not have a significant impact on a substantial number of 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 expects that these amendments to regulation, if adopted, will not have a significant impact on the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered.

d. Unfunded Mandates Act. This proposed rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Therefore, this proposed rule is not subject to the requirements of Sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA). The proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, the proposed rule is not subject to the requirements of Section 203 of UMRA.

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 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. Amend § 334.1275 by revising paragraphs (b)(5), (c) and (d) to read as follows:

§ 334.1275 West Arm Behm Canal, Ketchikan, Alaska, restricted area.

\* \* \* \* \*

(b) \* \* \*

(5) Area No. 5. (i) The area will be open unless the Navy is actually conducting operations. To ensure safe and timely passage through the restricted area vessel operators are required to notify the Facility Control Officer of their

expected time of arrival, speed and intentions. For vessels not equipped with radio equipment, the Navy shall signal with flashing beacon lights whether passage is prohibited and when it is safe to pass through the area. A flashing amber beacon means that the area is closed to all vessels and to await a clear signal. The flashing amber beacon not lighted is the clear signal and indicates that vessels may proceed through the area. Each closure of the area by the Navy will normally not exceed 20 minutes.

(ii) When Area No. 5 restrictions are in place, vessels may operate within 1000 yards of the shoreline at speeds no greater than 5 knots in accordance with the restriction in effect in Area No. 3.

(c) Vessels will be allowed to transit Restricted Area #5 within 20 minutes of marine radio or telephone notification to the Navy Facility Control Officer.

(d) Enforcement. The regulations in this section shall be enforced by the Commander, Naval Surface Warfare Center, Carderock Division, and such agencies he/she may designate.

DATE\_May 12, 2015

APPROVED\_\_\_\_\_

Edward E. Belk, Jr., P.E.

Chief, Operations and Regulatory Division

Directorate of Civil Works

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