US Army Corps of Engineers
St Paul District

Public Notice

APPLICANT: Department of the Air Force

ISSUED: 17 August 2004

REFER TO: 01-05821-MTV

SECTION:7 - Rivers & Harbors Act of 1917

Final Notice

1. **The Corps of Engineers has amended its regulations to designate an existing military exercise area as a Danger Zone. A notice of the final Rule (33 CFR 334.845) has been posted in the Federal Register, dated July 30, 2004.**

2. The military exercise area is located off the Wisconsin shoreline in Lake Michigan from Manitowoc to Port Washington, as shown on National Oceanographic and Atmospheric Administration (NOAA) chart 14901 (1999). The Danger Zone will only be activated by the Wisconsin Air National Guard (WiANG) during military exercises. WiANG will advise fishermen and mariners in the vicinity when a military exercise is scheduled and thus ensure their safety by alerting them of, temporary, potentially hazardous conditions which may exist as a result. The existing military exercise area is currently shown on aeronautical charts as Restricted Air Space R-6903. The area, however, needs to also be marked on navigation charts as a Danger Zone to properly conform with the restricted air space designation to better insure security and safety for the public. This amendment of the regulation allows WiANG to request that the United States Coast Guard (USCG) issue a Notice to Mariners when exercises are planned and thus better inform fishermen and mariners of military activities in this area. WiANG intends to continue to schedule this area for use in a similar manner as it has been used during the past 20 years.

2. SPECIFIC INFORMATION: See the attached copy of the July 30, 2004, Federal Register notice for exact description of the area and the text of the regulations. If you have further questions, please contact:

Col. Gunther Neumann
Volk Field Combat Readiness Training Center
100 Independence Drive
Camp Douglas, WI 54618-5001
(608) 427-1200

Robert J. Whiting
Chief, Regulatory Branch
Construction-Operations

PART 175—EQUIPMENT REQUIREMENTS

■ 1. The authority citation for part 175 is revised to read as follows:

Authority: 46 U.S.C. 4302; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 175.25 to subpart B, to read as follows:

§ 175.25 Enforcement of State requirements for children to wear personal flotation devices.

(a) This section applies to operators of recreational vessels on waters subject to the jurisdiction of any State that has established by statute a requirement for children of a certain age to wear an appropriate PFD approved by the Coast Guard, while aboard a recreational vessel.

(b) If the applicable State statute establishes any requirement for children of a certain age to wear an appropriate PFD approved by the Coast Guard, then that requirement applies on the waters subject to the State's jurisdiction instead of the requirement provided in § 175.15(c) of this part.

Dated: June 10, 2004.

David S. Belz,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 04–17411 Filed 7–29–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Department of Air Force, Wisconsin Air National Guard Danger Zone Under Restricted Air Space R–6903, Lake Michigan, Sheboygan County, WI

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

ACTION: Final rule.

SUMMARY: The Corps of Engineers is amending its regulations which establish a Danger Zone at an existing Military Exercise Area located off the Wisconsin shoreline in Lake Michigan from Manitowoc to Port Washington, as shown on NOAA Chart 14901 (1999). These regulations will enable the Wisconsin Air National Guard (WiANG) to advise fishermen and mariners in the vicinity when a military exercise is scheduled and thus ensure their safety by alerting them of temporary, potentially hazardous conditions which may exist as a result.

DATES: *Effective Date:* August 30, 2004.

ADDRESSES: U.S. Army Corps of Engineers, ATTN: CECW–CO, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Ms. Joanne M. Barry, Headquarters Regulatory Branch, Washington, DC, at (202) 761–7763, or Ms. Maria T. Valencia, Corps of Engineers, St. Paul District, Regulatory Branch, at (651) 290–5364.

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 restricted area regulations in 33 CFR part 334 by adding § 334.145 which identifies the existing danger zone in Lake Michigan offshore from Manitowoc and Sheboygan Counties in Wisconsin, as shown on NOAA Chart 14901 (1999). By correspondence dated 3 July 2001, the WiANG has requested the Corps of Engineers to re-identify this danger zone. The area is located under Restricted Air Space R–6903 which is shown on existing aeronautical charts. This amendment of the regulation will allow WiANG to request that the Coast Guard issue a Notice to Mariners when exercises are planned and thus better inform fishermen and mariners of military activities in this area. WiANG intends to continue to schedule this area for use in a similar manner as it has been used during the past 20 years. Historical activity includes, but is not limited to, inert air-to-air and air-to-surface delivery, defensive countermeasures training and sonar buoy drops.

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) 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 identification of this danger zone 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

The St. Paul District has prepared an Environmental Assessment (EA) for this action. Due to the administrative nature of this action and because there is no intended change in the use of the area, the Corps has concluded that 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. The EA may be reviewed at the St. Paul 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, it is not a Federal private sector mandate and it is not subject to the requirements of either section 202 or section 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.

e. Submission to Congress and the General Accounting Office

Pursuant to section 801(a)(1)(A) of the Administrative Procedure Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this Rule to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office. This Rule is not a major Rule within the meaning of section 804(2) of the Administrative Procedures Act, as amended.

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 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 334.845 is added to read as follows:

§ 334.845 Wisconsin Air National Guard, Volk Field military exercise area located in Lake Michigan offshore from Manitowoc and Sheboygan Counties; Danger Zone.

(a) *The area.* (1) The waters within an area beginning at a point at latitude 43°19′00″ N., longitude 87°41′00″ W.; to latitude 44°05′30″ N., longitude 87°29′45″ W.; to latitude 44°02′00″ N., longitude 87°02′30″ W.; to latitude 43°15′30″ N., longitude 87°14′00″ W.; thence to the point of beginning, as shown on NOAA Chart 14901 (1999) and existing aeronautical charts.

(b) *The regulation.* (1) During specific, infrequent periods when Military exercises will be conducted, as promulgated in the Local Notice to mariners published by the United States Coast Guard (USCG), all vessels entering the danger zone are advised to proceed across the area by the most direct route and without unnecessary delay. (2) During specific, infrequent periods when Military exercises will be conducted, as promulgated in the Local Notice to mariners published by the USCG , no vessel or craft of any size shall lie-to or anchor in the danger zone, other than a vessel operated by or for the USCG, or any other authorized agency.

(c) *Normal use.* At all other times, nothing in this regulation shall prohibit any lawful uses of this area.

(d) *Enforcement.* The regulation in this section shall be enforced by the Commanding Officer, VOLK Field, WI, and/or persons or agencies as he/she may designate.

Dated: June 28, 2004.

Michael B. White,

Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 04–17352 Filed 7–29–04; 8:45 am]

BILLING CODE 3710–92–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 50 and 58

[OAR–2003–0229; FRL–7794–1]

RIN 2060–AM02

National Ambient Air Quality Standards for Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In *American Trucking Associations* v. *EPA*, 175 F. 3d 1027 (D.C. Cir. 1999), the court vacated the PM_{10} national ambient air quality standards (NAAQS) that EPA adopted in 1997. Today's action removes the vacated 1997 PM_{10} standards and related requirements from the Code of Federal Regulations (CFR).

DATES: This rule is effective on July 30, 2004.

ADDRESSES: The EPA does not seek comment on this final rule. EPA has established an official public docket for this action under Docket ID No. OAR–2003–0229. The official public docket consists of the documents specifically referenced in this action.

The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1742, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the "Federal Register" listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's final rule will also be available on the WWW through EPA's Technology Transfer Network (TTN). Following signature by the EPA Administrator, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg*. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

FOR FURTHER INFORMATION CONTACT: Eric O. Ginsburg, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency (C304–02), Research Triangle Park, NC 27711; e-mail *Ginsburg.Eric@epa.gov*; telephone (919) 541–0877; fax (919) 541–4511.

SUPPLEMENTARY INFORMATION:

I. Background

A. 1997 Revision of the PM NAAQS

On July 18, 1997, EPA promulgated revisions to the primary and secondary NAAQS for particulate matter (PM) (62 FR 38652), revising the PM NAAQS in several respects. New standards were added, using $PM_{2.5}$ (defined as particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (μm)) as the indicator for standards adopted for the purpose of regulating fine particles, and continuing to use PM_{10} (defined as particles with an aerodynamic diameter less than or equal to a nominal 10 μm) as the indicator for standards adopted for the purpose of regulating coarse-fraction particles (referring to those particles with an aerodynamic diameter less than or equal to a nominal 10 μm but greater than 2.5 μm). The 1997 annual PM_{10} standard used the same form as the pre-existing annual PM_{10} standard adopted in 1987, whereas the 1997 24-hour PM_{10} standard incorporated a new statistical form, based on the 99th percentile of 24-hour PM_{10} concentrations at each monitor in an area. EPA also adopted various requirements related to the 1997 PM_{10} standards such as new measurement methods, a new attainment test, and air quality monitoring schedules.

At that time, EPA determined that the pre-existing 1987 PM_{10} standards should remain in place and continue to apply in order to provide for an effective transition to the 1997 PM_{10} standards. 62 FR at 38701. To this end, EPA adopted a regulation setting forth criteria under which the pre-existing PM_{10} standards would cease to apply. See 40 CFR 50.6(d), 62 FR at 38711.

B. Judicial Vacatur of the 1997 PM_{10} Standards

Following promulgation of the 1997 PM NAAQS, numerous petitions for review of the PM standards were filed in the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit). These petitions were consolidated in *American Trucking Associations, Inc. et al.*, v. *EPA* and the court issued its initial opinion on May 14, 1999. *American Trucking Associations, Inc. et al.*, v. *Environmental Protection Agency*, 175 F.3d 1027 (D.C. Cir. 1999), rehearing granted in part and denied in part, 195 F.3d 4 (D.C. Cir. 1999), affirmed in part and reversed in part, *Whitman* v. *American Trucking Associations, Inc. et al.*, 121 S.Ct 903 (2001); see also *American Trucking Associations* v. *EPA*, 283 F.3d 355 (D.C. Cir. 2002) (denying all remaining petitions for

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