



**US Army Corps
of Engineers®**

SPECIAL PUBLIC NOTICE

FINAL RULE TO ESTABLISH A NEW RESTRICTED AREA IN SAN DIEGO BAY

LOS ANGELES DISTRICT

Public Notice/Application No.: 2001-00804-RLK

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APPLICANT

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LOCATION. Pacific Ocean. In San Diego Bay, in the City of San Diego, San Diego County, California.

ACTIVITY. The Corps of Engineers (Corps), at the request of the U. S. Navy, has established a new restricted area for military operations involving naval vessels home-ported at Naval Base, San Diego. This restricted area designation permits naval security forces to restrict activities by the public on the northeast side of the base, Naval Air Station North Island (NASNI). The regulations are necessary to safeguard Navy vessels and the United States Government facilities from sabotage and other subversive acts, accidents, or incidents of a similar nature.

The Final Rule for this Restricted Area (RA) was published in the Federal Register on June 26, 2003, and it will become effective 30 days from the date of publication. This RA will be in effect on July 26, 2003. For more information see page 3 of this notice.

EVALUATION FACTORS.

The decision to establish a new designation was based on an evaluation of the probable impact including cumulative impacts of the restricted area on the public interest. The decision to approve the request reflects the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the request, was balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the request, were considered including the cumulative effects thereof. Factors that were considered included conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

The Corps previously solicited comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of the restricted area designation. All comments received were considered by the Corps to determine if the area shall be established as a restricted area. To make this decision, comments were used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments were used in the preparation of an Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA). Comments were also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

PRELIMINARY REVIEW OF SELECTED FACTORS

CWA - Water Quality. Not applicable. No discharge of fill or dredged material will be placed in Waters of the United States.

Coastal Zone Management Act (CZMA) – Coastal Resources. The U.S. Navy has certified that the activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management Program. The California Coastal Commission (CCC) has concurred with the Navy's findings on the action on November 15, 2001 (ND-099-01). The CCC has determined the action to be consistent to the maximum extent practicable with CZMA.

Magnuson-Stevens Fishery Conservation and Management Act (Act) - Essential Fish Habitat (EFH). The U.S. Navy has certified that the activity complies with the Act, and it will not have a substantial adverse impact on EFH or Federally managed fisheries in California waters under the Pacific Groundfish Fishery and the Coastal Pelagics Fishery Management Plans. The NMFS has concurred with the Navy's and the Corps' findings on the action on May 30, 2001. The NMFS has determined the activity to be consistent to the maximum extent practicable with the Act.

Endangered Species Act (ESA) – Federal-Listed Species. The U.S. Navy and the Corps determined that the activity will have no effect federally listed endangered or threatened species, or their critical habitat. Therefore, formal consultation under Section 7 of the ESA does not apply.

National Historic Preservation Act (NHPA) - Cultural Resources. The latest version of the National Register of Historic Places has been consulted and this site is not listed. The U.S. Navy and the Corps determined that the activity will have no effect on cultural resources, as protected under the NHPA.

Environmental Impact Statement (EIS) Determination. The Corps has evaluated potential project impacts under the NEPA and documented the findings in an EA. The Findings of No Significant Impact was signed on February 4, 2003. An EIS is not required for the activity.

PROPOSED ACTIVITY FOR WHICH A PERMIT IS REQUIRED. The U.S. Navy has requested the Corps to establish a permanent restricted area on the waters along the northern shoreline of NASNI, as pursuant to Section 7 of the Rivers and Harbor Act of 1917, for the use, administration, and navigation of the navigable waters of the U.S. as public necessity may require for the protection of life and property. The proposed area is identified and delineated by the following points: Beginning at 32°42'55.0" N, 117°11'30.5" W; thence running easterly to 32°42'57.0" N, 117°11'22.5" W; thence running easterly to 32°42'56.0" N, 117°11'19.0" W; thence running southeasterly to 32°42'49.0" N, 117°11'08.5" W; thence running southeasterly to 32°42'44.5" N, 117°11'06.5" W; thence running southerly to 32°42'40.0" N, 117°11'06.5" W. In total, the restricted area encompasses an area of 29.8 acres.

ADDITIONAL PROJECT INFORMATION.

Restricted Area. Restricted area, per 33 CFR 334.2(b), is defined as the water area for the purpose of prohibiting or limiting public access to the area. Restricted areas generally provide security for Government property and/or protection to the public from the risks of damage or injury arising from the Government's use of that area. The Regulations for the restricted area are as follows:

(a) **The regulation.**

(1) The restricted area shall not be open to swimming, fishing, water-skiing, mooring or anchorage.

(2) Dragging, seining, other fishing operations, and other activities not under the direction of the United States, which might foul underwater installations within the restricted area, are prohibited.

(3) All tows entering the restricted area shall be streamed and shortened to the seaward of the area and towing appendages and catenaries shall not be dragged along the bottom while proceeding through the area.

(4) All vessels entering the restricted area shall proceed across the area by the most direct route and without unnecessary delay.

(5) No vessel or craft of any size shall lie-to or anchor in the restricted area at any time other than a vessel operated by or for the U.S. Navy, U.S. Coast Guard, other authorized military components, or other vessels authorized by Commander, Navy Region Southwest, or his/her designee.

(6) When security conditions dictate, Naval security forces may impose strict enforcement of stand-off distances within the restricted area. This enforcement will not prevent utilization of navigable channels, but will serve to control its use in order to protect vital National interests.

(b) **Enforcement.** The Commander, Navy Region Southwest, and such agencies or persons shall enforce the regulation in this section, promulgated by the United States Army Corps of Engineers, as he/she may designate.

For additional information please call Russell Kaiser of my staff.
This public notice is issued by the Chief, Regulatory Branch