

fiscal year-to-date information in accordance with 24 CFR 5.801(c)(4).

§ 232.1013 Leases.

Except to enter into resident agreements in the standard course of operating the healthcare facility, an operator may not lease or sublease any portion of the project without HUD's prior written approval.

§ 232.1015 Management agents.

(a) An operator or borrower may, with the prior written approval of HUD, execute a management agent agreement setting forth the duties and procedures for matters related to the management of the project. Both the management agent and the management agent agreement must be acceptable to HUD and approved in writing by HUD.

(b) An operator or borrower may not enter into any agreement that provides for a management agent to have rights to or claims on funds owed to the operator.

(c) Management agent fees may not be renegotiated without HUD's written approval once the management agent agreement has been executed.

(d) HUD may approve an identity of interest between a management agent and a borrower or operator only to the extent that the goods and services provided benefit the project and if the operator clearly establishes that the amounts paid to the identity-of-interest management agent for goods and services provided to the healthcare facility are not in excess of amounts that would be charged by an independent management agent.

§ 232.1017 Restrictions on deposit, withdrawal, and distribution of funds, and repayment of advances.

(a) *Deposit of funds.* An operator must deposit all revenue the operator receives directly or indirectly in connection with the operation of the healthcare facility in a separate, segregated account. The account must be with a financial institution whose deposits are insured by an agency of the Federal Government, *provided* that an account held in an institution acceptable to the Government National Mortgage Association may have a balance that exceeds the amount to which such insurance is limited.

(b) *Withdrawals of funds.* Operators, whether or not an operator is also the borrower, shall at all times maintain positive working capital for the healthcare facility. If a quarterly financial statement, required pursuant to § 232.1011, demonstrates negative working capital for the healthcare facility, the operator must cure such

violation or HUD may pursue such remedies as set forth in the insured mortgage loan's transactional documents.

§ 232.1019 Prompt notification to HUD and mortgagee of circumstances placing the value of the security at risk.

(a) HUD and the mortgagee shall be informed of any notification of any failure to comply with governmental requirements including the following:

(1) The licensed operator of a project shall promptly provide the mortgagee and HUD with a copy of any notification that has placed the licensure, a provider funding source, and/or the ability to admit new residents at risk, and any responses to those notices, provided that HUD may determine certain information to be exempt from this requirement based upon severity level. Such required information shall include, but is not limited to, the following types of notices and responses:

(i) The operator shall deliver to HUD and the mortgagee electronically, within 48 hours after the date of receipt, copies of any and all notices, reports, surveys, and other correspondence (regardless of form) received by the operator from any governmental authority that includes any statement, finding, or assertion that:

(A) The operator or the project is or may be in violation of (or default under) any of the permits and approvals or any governmental requirements applicable thereto;

(B) Any of the permits and approvals is to be terminated, limited in any way, or not renewed;

(C) Any civil money penalty (other than a de minimis amount) is being or may be imposed; or

(D) The operator or the project is subject to any governmental investigation or inquiry involving fraud.

(ii) The operator shall also deliver to HUD and the mortgagee, simultaneously with delivery to any governmental authority, any and all responses given by or on behalf of the operator to any of the foregoing and shall provide to HUD and the mortgagee, promptly upon request, such additional information relating to any of the foregoing as HUD or the mortgagee may request. The receipt by HUD and/or the mortgagee of notices, reports, surveys, correspondence, and other information shall not in any way impose any obligation or liability on HUD, the mortgagee, or their respective agents, representatives, or designees to take (or refrain from taking) any action; and HUD, the mortgagee, and their respective agents, representatives, and designees shall have no liability for any

failure to act thereon or as a result thereof.

(2) The operator shall provide additional and ongoing information as requested by the borrower, mortgagee, or HUD pertaining to matters related to that risk. Controlling documents between or among any of the parties may provide further requirements with respect to such notification and communication.

(b) This section is applicable to all operators on the effective date of this regulation.

Dated: April 12, 2012.

Carol J. Galante,

*Acting Assistant Secretary for Housing—
Federal Housing Commissioner.*

[FR Doc. 2012-10690 Filed 5-2-12; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Meloy Channel, U.S. Coast Guard Base Miami Beach, FL; Restricted Area

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

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is proposing to amend its regulations to establish a new restricted area in the waters surrounding the U.S. Coast Guard Base Miami Beach, Florida (Base Miami Beach). Base Miami Beach is composed of multiple U.S. Coast Guard (USCG) units, both land and waterside. The facility has one of the highest operational tempos in the USCG for both routine and emergency operations. The amendment to the regulations is necessary to enhance the USCG's ability to secure their shoreline to counter postulated threats against their personnel, equipment, cutters and facilities by providing stand-off corridors encompassing the waters immediately contiguous to Base Miami Beach. The amendment will also serve to protect the general public from injury or property damage during routine and emergency USCG operations and provide an explosive safety arc buffer during periodic transfer of ammunitions between units, including cutters.

DATES: Written comments must be submitted on or before June 4, 2012.

ADDRESSES: You may submit comments, identified by docket number COE-2012-0009, by any of the following methods:

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

Email: david.b.olson@usace.army.mil. Include the docket number, COE-2012-0009, 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-2012-0009. 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](http://www.regulations.gov) or email. The [regulations.gov](http://www.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 email directly to the Corps without going through [regulations.gov](http://www.regulations.gov), your email 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. 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, DC at 202-761-4922 or Mr. Jon M. Griffin, U.S. Army Corps of Engineers, Jacksonville District, Regulatory Division, at 904-232-1680.

SUPPLEMENTARY INFORMATION:

Executive Summary

The purpose of this regulatory action is to establish a restricted area in the waters surrounding the U.S. Coast Guard Base Miami Beach, Florida to counter postulated threats against their personnel, equipment, cutters and facilities by providing stand-off corridors encompassing the waters immediately contiguous to Base Miami Beach.

The Corps authority to establish this restricted area is 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).

Background

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 regulations at 33 CFR part 334 by establishing a new restricted area in the waters near Meloy Channel, Government Cut Channel, and Miami Main Channel surrounding Base Miami Beach. The proposed amendment to this regulation will allow the Base Commander, U.S. Coast Guard Base Miami Beach to restrict passage of persons, watercraft, and vessels in waters contiguous to this Command, thereby providing greater security to the personnel, equipment, cutters, and facilities housed at the site.

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.* The proposed 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). Unless information is obtained to the contrary during the comment period, the Corps expects that the proposed rule would have practically no economic impact on the

public, or result in no anticipated navigational hazard or interference with existing waterway traffic. This proposed rule, if adopted, 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 expects that this 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. Add § 334.605 to read as follows:

§ 334.605 Meloy Channel, U.S. Coast Guard Base Miami Beach, Florida; restricted area.

(a) *The area.* The restricted area shall encompass all navigable waters of the United States as defined at 33 CFR part 329, within the area bounded by a line connecting the following coordinates: Commencing from the shoreline at latitude 25°46'20.07" N, longitude 080°08'50.94" W; thence to latitude 25°46'22.69" N, longitude 080°08'44.01" W; thence to latitude 25°46'22.02" N, longitude 080°08'42.14" W; thence to latitude 25°46'12.23" N, longitude 080°08'35.33" W; thence to latitude

25°46'09.13" N, longitude 080°08'40.74" W; thence to latitude 25°46'11.63" N, longitude 080°08'43.36" W; thence to latitude 25°46'17.22" N, longitude 080°08'47.17" W; thence to latitude 25°46'17.15" N, longitude 080°08'47.62" W; thence to latitude 25°46'17.63" N, longitude 080°08'49.33" W; thence to latitude 25°46'18.91" N, longitude 080°08'50.24" W; thence proceed directly to a point on the shoreline at latitude 25°46'18.76" N, longitude 080°08'50.71" W thence following the mean high water line to the point of beginning.

(b) *The regulations.* (1) The restricted area described in paragraph (a) of this section is only open to U.S. Government vessels. U.S. Government vessels include, but are not limited to, U.S. Coast Guard and Coast Guard Auxiliary vessels, Department of Defense vessels, state and local law enforcement and emergency services vessels, and vessels under contract with the U.S. Government. Warning signs notifying individuals of the restricted area boundary and prohibiting all unauthorized entry into the area will be posted along the property boundary and, as appropriate, on the piers of the MacArthur Causeway Bridge adjacent to the restricted area.

(2) All persons, vessels, and other craft are prohibited from entering, transiting, drifting, dredging, or anchoring within the restricted area described in paragraph (a) of this section without prior approval from the Base Commander, U.S. Coast Guard Base Miami Beach or his/her designated representative.

(3) Fishing, trawling, net-fishing, and other aquatic activities are prohibited in the restricted area without prior approval from the Base Commander, U.S. Coast Guard Base Miami Beach or his/her designated representative.

(4) The restrictions described in paragraph (b) of this section are in effect 24 hours a day, 7 days a week.

(c) *Enforcement.* The regulations in this section shall be enforced by the Base Commander, U.S. Coast Guard Base Miami Beach and/or such persons or agencies as he/she may designate.

Dated: April 25, 2012.

Richard C. Lockwood,

Chief, Operations and Regulatory, Directorate of Civil Works.

[FR Doc. 2012-10606 Filed 5-2-12; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2011-0520; FRL-9667-2]

40 CFR Part 147

State of Tennessee; Underground Injection Control (UIC) Program Primacy

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: 1 the EPA has received a complete application from the State of Tennessee requesting approval of its Underground Injection Control program; 2 the EPA has determined the application contains all the required elements; 3 the application is available for inspection and copying at the address appearing below; 4 public comments are requested; and (5) a public hearing will be held.

DATES: Requests for a public hearing and/or to present oral testimony must be received by May 31, 2012; if determined to be warranted, the Public Hearing will be held on June 7, 2012 at 1:00 p.m. Requests to testify may be mailed to Fred McManus, Chief, Ground Water and SDWA Enforcement Section, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303. If it is determined that a hearing is warranted, it will be held on the 17th Floor Conference Room B, L&C Tower, 401 Church Street, Nashville, Tennessee 37243. Comments will be accepted until June 14, 2012. The EPA will determine by June 4, 2012, whether there is sufficient interest to warrant a public hearing. Contact Nancy H. Marsh to determine if a hearing is warranted (see the **FOR FURTHER INFORMATION CONTACT** section).

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OW-2011-0520, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email:* marsh.nancy@epa.gov.
- *Fax:* (404) 562-9439.
- *Mail:* State of Tennessee;

Underground Injection Control (UIC) Program Primacy, U.S. Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Hand Delivery: Water Docket, EPA Docket Center (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of

operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OW-2011-0520. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless 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 www.regulations.gov or email. The www.regulations.gov Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through www.regulations.gov, your email 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, the EPA recommends 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm> of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the following locations:

U.S. Environmental Protection Agency, Region 4, Library, 9th Floor, 61 Forsyth Street SW., Atlanta, Georgia 30303. The Library is open from