Trust'' should be withdrawn and a further rule proposed to better address the public's continued concerns regarding the Department's procedures for taking land into trust for federally-recognized Indian tribes.

**DATES:** Comments regarding this rulemaking should be received by September 12, 2001.

**ADDRESSES:** Comments regarding this action should be submitted to: Terry Virden, Director, Office of Trust Responsibilities, MS 4513 MIB, 1849 C Street, NW, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Terry Virden, Office of Trust Responsibilities, MX 4513 MIB, 1849 C Street, NW, Washington, DC 20240; telephone 202/208–5831.

**SUPPLEMENTARY INFORMATION:** The rule entitled ''Acquisition of Title to Land in Trust'' was published in the **Federal Register** on January 16, 2001, and its effective date was extended by a Notice published in the **Federal Register** on April 16, 2001. This effective date of this rule has been further extended to November 10, 2001, by action taken today in this issue of the **Federal Register**.

During the comment period first extending the effective date of this rule (April 16–June 15, 2001), the Department received 192 submissions from a variety of Indian tribes, state and local governments, and other interested groups and individuals. The comments articulated a variety of opposing views. For example, comments stated that the final rule should be revoked, amended in part only, changed in specific ways or made immediately effective. Even though many comments suggested amending only certain parts of the final rule, the Department finds that it may be impracticable and inefficient to repeal only part of the final rule. While the Department continues to review these comments during a further extension of the effective date, as published in today's issue of the **Federal Register**, the Department is seeking comments on whether to withdraw the final rule and propose a new rule that would better speak to the ongoing concerns of the public regarding the Department's procedures for taking land into trust for federally-recognized tribes.

Comments that are being reviewed concern several areas of the final rule. One area of concern is individual applications for lands into trust for housing or home site purposes. The Department is considering the advisability of expediting and prioritizing these types of applications under a new proposed rule. Applications for housing or home site purposes could be identified as acquisitions containing five (5) acres of land or less for the purpose of meeting individual housing needs. Another area of concern has been land use issues on off-reservation acquisitions and land use issues with the designation of Tribal Land Acquisition Areas (TLAA). In applications for off-reservation acquisitions, the Department is considering the advisability of requiring that tribes submit land use plans for the parcel to be acquired. The Secretary would approve those land use plans as part of her review of the application. In addition, when a tribe submits an application to the Secretary for approval of a TLAA, the Department is considering the advisability of requiring that the application contain a land use plan for the TLAA which the Secretary would approve as part of her review and approval of the TLAA designation.

Several comments focused on the lack of standards contained in the final rule. The Department is considering clarifying the standards that will be used by the Secretary to determine whether to approve an application and defining the burdens of proof that the applicant and those opposing a trust application have to the application. For on-reservation acquisitions, the Department is considering requiring a tribe or individual to show by substantial evidence that the acquisition facilitates tribal self-determination, economic development, Indian housing, land consolidation, or natural resources protection. The Department is further considering requiring opponents of on-reservation trust acquisitions to show by clear evidence that the acquisition will result in severe negative impact to the environment or severe harm to the local government. For off-reservation acquisitions, the Department is considering requiring that tribes show by substantial evidence that the acquisition is necessary to facilitate tribal self-determination, economic development, Indian housing, land consolidation, or natural resources protection, and the tribe be further required to show that no demonstrable harm to the local community is realized. The Department is considering requiring that opponents of off-reservation acquisitions show by clear evidence that the acquisition will result in significant harm to the local community or severe negative impacts to the environment.

Another area of concern has been the availability of applications for review. The Department is considering changing the length of time that states and local communities have to comment on the application. Currently, for on-reservation acquisitions, the final rule provides state and local communities 30 days to comment on an application. The Department is considering allowing state and local communities 60 days to comment on on-reservation acquisitions. For off-reservation acquisitions, the final rule currently provides that state and local communities have 60 days to comment on an application. The Department is considering allowing the state and local communities 90 days to comment on off-reservation applications. The additional 30 days to review applications will provide state and local governments adequate time to review the application at the local Bureau of Indian Affairs (BIA) agency or regional office. The Department is also interested in using technology to make the review of applications easier and more efficient. Any comments on how the Internet or computer technology might facilitate review of trust acquisition applications would be helpful.

Considering the range of comments already received and reviewed, the Department takes this action to seek comment on whether the final rule should be withdrawn for the best interests of the constituencies served by the rule.

Dated: August 8, 2001.

**Neal A. McCaleb,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 01–20254 Filed 8–10–01; 8:45 am]

**BILLING CODE 4310–02–P**

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

### 33 CFR Part 334

### Naval Restricted Area, Naval Air Station Whidbey Island, Washington

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

**ACTION:** Notice of proposed rulemaking and request for written comments.

**SUMMARY:** The Corps of Engineers is proposing to establish a new restricted area in the waters of Crescent Harbor, Saratoga Passage, adjacent to Naval Air Station Whidbey Island near Oak Harbor, Washington. Under this proposal, there would be no permanent, around-the-clock restrictions on use of the area. Restrictions would be intermittent and temporary, and only apply when naval training exercises are signaled as in progress. Prior to the commencement of an exercise, the Navy would conduct an air or surface reconnaissance of the area to ensure the

area is clear. Vessels underway and laying a course through the area would not be interfered with, but such vessels would not be allowed to delay their progress. Vessels anchored in, or nearing the restricted area during the conduct of an exercise, would be contacted by a Navy patrol boat and advised to depart or steer clear. Exercises would only occur when all vessels and persons were clear of the area. The purpose of this proposal is to ensure public safety and the Navy's ability to conduct training exercises without interference.

**DATES:** Comments must be submitted on or before September 12, 2001.

**ADDRESSES:** U.S. Army Corps of Engineers, ATTN: CECW–OR, 20 Massachusetts Avenue, NW., Washington DC 20314–1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Frank Torbett, Headquarters Regulatory Branch at (202) 761–4618 or Mr. Jack Kennedy, Corps Seattle District, at (206) 764–6907.

**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 Appropriation Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps proposes to amend the regulations in 33 CFR part 334 by adding a new Section 334.1218 which would establish a new naval restricted area in the waters of Crescent Harbor, Saratoga Passage, adjacent to Naval Air Station Whidbey Island, near Oak Harbor, Island County, Washington.

The restrictions proposed in this request would be intermittent, infrequent, and of short duration. According to the Navy, a review of their operations and restricted areas indicated the need for an additional restricted area in Crescent Harbor, a waterbody used by Explosive Ordinance Disposal Units for training exercises for many years without incident or complaint. The restricted area is required for safety purposes. The exercises in question take place about once a month and require only a very temporary closure of the waterway. A typical training cycle takes approximately one hour. Besides Explosive Ordinance Disposal exercises, the Navy envisions invoking the restrictions during naval training exercises involving activities like aerial minesweeping, underwater object locating, and air-sea rescue.

**Procedural Requirements**

*a. Review Under Executive Order 12866*

This proposed 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 proposed rule has been reviewed under the Regulatory Flexibility Act (Public Law 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 establishment of this restricted area would have 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 Seattle District has prepared a preliminary Environmental Assessment (EA) for this action. The preliminary EA concluded that this action will not have a significant impact on the human environment. After receipt and analysis of comments from this **Federal Register** posting and the Seattle District's concurrent Public Notice, the Corps will prepare a final environmental document detailing the scale of impacts this action will have upon the human environment. The environmental assessment may be reviewed at the District Office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

*d. Unfunded Mandates Act*

This proposed 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 Act. We have also found under Section 203 of the Act that small governments will not be significantly and uniquely affected by this rulemaking.

**List of Subjects in 33 CFR Part 334**

Danger Zones, Marine Safety, Restricted Areas, Waterways.

For the reasons set out in the preamble, we propose to amend 33 CFR Part 334 to read 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 new section 334.1218 to read as follows:

**§ 334.1218 Crescent Harbor, Naval Air Station Whidbey Island, Oak Harbor, WA; Naval Restricted Area.**

(a) *The area.* The area is drawn from the Polnell Point Light (48°16′22″ N, 122°33′32″ W) west-southwest to a point in central Crescent Harbor (48°16′00″ N, 122°36′00″ W) and then due north to a point along Crescent Harbor's northern shoreline on Whidbey Island (48°17′55″ N, 122°36′00″ W).

(b) *The regulations.* (1) Restrictions would be intermittent, and only apply when naval training exercises are in progress.

(2) Prior to the commencement of an exercise, the Navy would conduct an air or surface reconnaissance of the area to ensure the area is clear. Vessels underway and laying a course through the area would not be interfered with, but such vessels would not be allowed to delay their progress. Vessels anchored in, or nearing the restricted area during the conduct of an exercise, will be contacted by a Navy patrol boat and advised to depart or steer clear.

(3) Exercises would only occur when all vessels and persons are clear of the area. When exercises are in progress, use of the area will be indicated by the presence of a red ''Bravo'' flag flying from the patrol boat and/or a buoy to be placed at the Southwest corner of the restricted area (latitude 48°16′00″ N, longitude 122°36′00″W).

(4) During training exercises while the red ''Bravo'' flag is flying from a patrol boat and/or the marker buoy, no vessel, watercraft, or person shall enter or remain within the designated restricted area. Upon completion of an exercise, the red ''Bravo'' flag will be struck and restrictions will cease to apply.

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

Dated: July 30, 2001.

**Charles M. Hess,**

*Chief, Operations Division, Directorate of Civil Works.*

[FR Doc. 01–20230 Filed 8–10–01; 8:45 am]

**BILLING CODE 3710–GB–P**

## DEPARTMENT OF DEFENSE

## Department of the Army, Corps of Engineers

## 33 CFR Part 334

## United States Army Restricted Area, Skiffes Creek, Fort Eustis, VA

**AGENCY:** United States Army Corps of Engineers, DoD.

**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The Corps of Engineers is proposing regulations to establish a restricted area in the vicinity of Skiffes Creek at Fort Eustis, Virginia. These regulations will enable the Army to enhance security around vessels moored at the facility. The regulations will safeguard military vessels and United States government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions which may exist as a result of Army use of the area.

**DATES:** Written comments must be submitted on or before September 12, 2001.

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761–4618, or Mr. Rick Henderson, Corps of Engineers, Norfolk District, at (757) 441–7653.

**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 proposes to amend the restricted area regulations in 33 CFR part 334 by adding 334.281 which establishes a restricted area in Skiffes Creek, a tributary of the James River, at Fort Eustis, Virginia. The public currently has unrestricted access to the facility and units assigned there. To better protect vessels and personnel stationed at the facility, the Commander, Fort Eustis, has requested the Corps of Engineers establish a Restricted Area to be enforced whenever the base is in Threat Condition Charlie or Delta. This will enable the Army to implement a waterside security program that is currently not available at the facility.

**Procedural Requirements**

*a. Review Under Executive Order 12866*

This proposed 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.*

These proposed rules have been reviewed under the Regulatory Flexibility Act (Public Law 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 establishment of this restricted area 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*

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed additional restricted area regulations, that this action, if adopted, will not have a significant impact to the quality of the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT,** above.

*d. Unfunded Mandates Act*

This proposed 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 Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

**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 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. Section 334. 281 is added to read as follows:

**§ 334. 281 Skiffes Creek, Fort Eustis, Virginia, Restricted Area.**

(a) *The area.* The waters within an area beginning at latitude 37°09′39″ N, longitude 76°37′02″ W; thence northerly to latitude 37°10′18″ N, longitude 76°36′52″ west; thence southwesterly along the shoreline to latitude 37°10′05″ N, longitude 76°36′34″ W; thence northeasterly along the shoreline to latitude 37°10′28″ N, longitude 76°36′19″ W; thence easterly to latitude 37°10′25″ N, longitude 76°36′07″ W; thence southwesterly along the shoreline to the point of origin.

(b) *The regulations.* No vessel or persons may enter or pass through the restricted area any time the base is in Threat Condition Charlie or Delta unless specific authorization is granted by the Commander, Fort Eustis, and/or other persons or agencies as he/she may designate.

(c) *Enforcement.* (1) The regulation in this section, promulgated by the United States Army Corps of Engineers, shall be enforced by the Commander, Fort Eustis, and/or other persons or agencies as he/she may designate.

(2) Federal and State Law enforcement vessels and personnel may enter the restricted area at any time to enforce their respective laws.

Dated: July 23, 2001.

**Charles M. Hess,**

*Chief, Operations Division, Directorate of Civil Works.*

[FR Doc. 01–20229 Filed 8–10–01; 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, Naval Station Everett, Washington

**AGENCY:** United States Army Corps of Engineers, DoD.

**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The Corps of Engineers is proposing to establish a new restricted area in the waters surrounding Naval Station Everett at Everett, Washington. The designation would effectively establish a 300-foot safety zone around moored vessels and the major piers of this naval base, and lesser distances