



DEPARTMENT OF THE NAVY

NAVAL STATION NEWPORT
690 PEARY STREET
NEWPORT, RHODE ISLAND 02841-1522

IN REPLY REFER TO:

NAVSTANPTINST 5090.28A
N01L

AUG 24 2016

NAVAL STATION (NAVSTA) NEWPORT INSTRUCTION 5090.28A

From: Commanding Officer, Naval Station Newport

Subj: RESTRICTED AREAS IN NAVIGABLE WATERS ABUTTING NAVSTA
NEWPORT

Ref: (a) 33 C.F.R. 334.80
(b) 33 C.F.R. 334.81
(c) 33 C.F.R. 334.82
(d) NOAA Chart 13223
(e) Memorandum of Understanding Between the Commanding Officer, Naval Station Newport, Pertinent Federal and State Agencies and The Rhode Island Lobstermen's Association and Ocean State Fisherman's Association and the Narragansett Indian Tribe dated 21 Jun 2002 and 24 Jun 2002
(f) Addendum to the Memorandum of Understanding Between the Commanding Officer, Naval Station Newport, Pertinent Federal and State Agencies and The Rhode Island Lobstermen's Association and Ocean State Fisherman's Association dated 5 May 2003
(g) NAVSTA Newport Instruction 5090.26B Recreational Fishing Procedures, dtd 21 July 2014

Encl: (1) NAVSTA Newport Restricted Access Permit
Suspension/Revocation
(2) NAVSTA Newport Restricted Access Permit
(3) Authorized Fishing or Lobstering Locations by
Restricted Access Permit Holders

1. Purpose. Establish policy, procedures and responsibilities for access to the restricted areas in the navigable waters surrounding NAVSTA Newport. References (e) and (f) are rescinded. For the purpose of this instruction, any references to fishing also include the use of lobster pots, traps, drags, and nets.

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2. Policy

a. There are three federal restricted areas in the navigable waters surrounding NAVSTA Newport, as described in references (a) through (c) and marked on reference (d). Access to these areas by persons or vessels is either prohibited or must be authorized by the NAVSTA Newport Commanding Officer (CO). The NAVSTA Newport CO must also fulfill his/her regulatory responsibilities pursuant to references (a) - (c), and enforce compliance with these federal regulations as noted below.

(1) Per reference (a), no person or vessel shall, at any time, under any circumstances, anchor or fish or tow a drag of any kind in the prohibited area covered under reference (a). Access to this area by transiting craft is authorized, however, orders and instructions issued by authorized representatives of the NAVSTA Newport Commanding Officer (CO) shall be carried out promptly by persons or vessels in or in the vicinity of the restricted area. Under reference (a), the CO is not authorized to grant access to any person or vessel to anchor, tow, or fish in this restricted area.

(2) Per references (b) and (c), all persons, swimmers, vessels and other craft, except those vessels under the supervision or contract to local military or Naval authority, vessels of the U.S. Coast Guard, and local or state law enforcement vessels, are prohibited from entering the restricted area covered under reference (b) or (c) without specific permission from the NAVSTA Newport CO. At this time, the NAVSTA Newport CO has authorized limited access to specific portions of the restricted areas covered in references (b) and (c) for the purposes of fishing or lobstering, conditioned upon completion of proper vetting, and obtaining a permit to enter the areas. Additionally, NAVSTA Newport CO authorizes MWR patrons to utilize the marina to transit the restricted area governed by reference (b) for the purpose of utilizing authorized MWR services.

b. Violation of this instruction or references (a) through (c) may result in the suspension and/or revocation of access privileges and/or prosecution through applicable Federal and state laws per the guidelines in enclosure (1). Notwithstanding the above, the Commanding Officer retains his/her authority to

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revoke access to the restricted areas covered in references (b) and (c) at any time for any reason.

4. Responsibilities

a. Staff Judge Advocate. In consultation with the NAVSTA Newport CO, review this policy annually. Update the instruction in accordance with new guidance.

b. NAVSTA Security Director. Review and forward reports of violations to the CO and the Staff Judge Advocate.

c. NAVSTA Security Department

(1) Enforce all Federal laws and regulations with respect to access in the restricted area as practicable.

(2) Refer all suspected criminal violations in the restricted areas to the appropriate federal law enforcement officials.

(3) Issue access permits to individuals properly vetted with appropriate documentation, and retain copies of all completed permits.

(4) Permit access, as outlined in this instruction.

5. Procedures

a. Authorized Personnel. Fishermen or lobstermen, upon obtaining a Restricted Area Permit for access to references (b) or (c) through a successful application and vetting through Security, are authorized to fish and/or lobster. Permit Holders are required to comply with all state and local regulations concerning licensing.

b. NAVSTA Newport Restricted Access Permit. A NAVSTA Newport Restricted Access Permit is required for all who fish or lobster within the areas outlined in Enclosure (3).

(1) A NAVSTA Newport Restricted Access Permit is required for all persons who desire access in the restricted areas that are contained in references (b) and (c) for fishing or lobstering.

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(2) To obtain a NAVSTA Newport Restricted Access Permit, requestors must undergo vetting and submit a letter containing the following information to the NAVSTA Newport Pass and ID:

1. Name, date of birth, social security number, address, telephone number and e-mail address;
2. Name, address, and telephone number of all crew;
3. Statement that requestors and crew are United States citizen(s);
4. Vessel name;
5. Copy of valid R.I. state registration;
6. Color code and registration number of buoys;
7. Vessel's radio channel and call sign;
8. Recent color photo of all crew members;
9. Four (4) recent color photographs of the vessel; 1 view of each side (port and starboard), the bow and the stern of the vessel.
10. Copy of valid Rhode Island state fishing/lobstering license

(3) Requestors will be notified by email regarding whether their request for access is granted, and if so, they will be provided a NAVSTA Newport Restricted Access Permit.

(4) NAVSTA Newport Restricted Access Permits will be valid for a period through December 31st of the issuing year.

(5) Requestors who do not submit all required documentation will not be granted access.

(6) Requestors are expected to abide by all directions and procedures set out in the Permit and any violation may subject the license holder to termination.

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(7) Requestors must agree to abide by any Notice to Mariners (NTMs), orders, and/or instructions issued by patrol craft or other authorized representatives of the NAVSTA Newport CO while in the NAVSTA restricted areas or face a suspension or revocation of their access permit.

(8) Permits must be carried by the requestor at all times. Failure to produce the permit when requested by NAVSTA personnel shall result in a direction to the permit holder to leave the area immediately until the permit can be produced.

b. By accepting a NAVSTA Newport Restricted Access Permit, the requestor shall assume all risks of operating in designated NAVSTA restricted waters and waive, release and discharge from any and all liability the U.S. Navy, the U.S. Government, and related agency or entity. Further, requestors with NAVSTA Newport Restricted Area Permits operating in NAVSTA restricted waters, agree to indemnify, and hold harmless the U.S. Navy, the U.S. Government, and their related agency or entity from any and all liabilities or claims.

c. If a permit application is approved, requestors will be reminded to review Enclosure (3) of this instruction, a map of authorized and unauthorized areas within the coordinates outlined in references (b) and (c).

(1) Fishing is not authorized within 100 feet of any U.S. Navy or U.S. Coast Guard vessels, piers, or similar docking system where vessels are moored or can be moored.

(2) Fishing is not authorized in the southwestern most point of the Still Water Basin Breakwater to the western most point of Pier 1. See Enclosure (4).

d. Whenever there is a warship in port, regardless of origin or home port, there shall be no entry by anyone into the restricted area for any reason unless advised otherwise.

e. The NAVSTA Newport CO may determine that there shall be no entry by anyone into the restricted area for any reason at any time. Accordingly, persons with authorized access shall call NAVSTA Newport Security Dispatch at (401) 841-4041 at least fifteen (15) minutes before entering a Navy restricted area to verify entry permission and inform security of their presence.

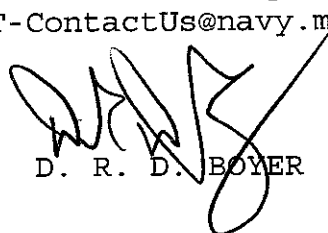
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f. Violation of Instruction. All violations of this instruction or other applicable laws and regulations shall be immediately reported to the CO, and NAVSTA Newport Security.

6. Questions regarding this program should be referred to the Staff Judge Advocate at (401) 841-6195, questions regarding implementation should be directed to Security Department at (401) 841-4041 or via email at: NWPT-ContactUs@navy.mil.



D. R. D. BOYER

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NAVSTA NEWPORT RESTRICTED AREA PERMIT SUSPENSION/REVOCATION

1. Policy. The NAVSTA Newport CO has the regulatory authority to grant or restrict access into those areas that have been designated as federal restricted areas in references (b) and (c).
2. Authority. The NAVSTA Newport CO and his or her designee has the regulatory authority and is responsible for enforcing all federal regulations concerning restricted areas around Naval Station Newport (references (a) through (c)).
3. Violations. Persons or vessels entering restricted areas without following the proper procedures or obtaining a Restricted Area permit shall be barred by the NAVSTA Newport CO and/or issued a Federal Magistrate (DD Form 1805) citation for Trespassing on Federal Property. Persons or vessels who are found to be fishing, anchoring or towing a line within the restricted area covered by reference (a) shall be barred by the NAVSTA Newport CO and/or issued a Federal Magistrate (DD Form 1805) citation for Trespassing on Federal Property. Any attempted assaults on Naval Station personnel while attempting to enforce these federal regulations, or damage to government property shall be reported to the appropriate law enforcement authorities for further action and/or possible criminal penalties.

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RESTRICTED AREA ACCESS PERMIT

1. NAVSTA hereby grants authorization for fishing in a portion of NAVSTA Newport's restricted area. This permit will be valid to the last day of the calendar year it is issued.
2. The bearer of this permit agrees to comply in full with all the terms and conditions of NAVSTANPTINST 5090.28A and all directions noted in Enclosures. Any violations of governing regulations will result in the permanent revocation of this license and all future fishing privileges at NAVSTA and may subject the permit holder to criminal prosecution.
3. Those entering restricted areas without following the proper procedures shall be barred from NAVSTA Newport and/or issued a Federal Magistrate (DD Form 1805) citation for Trespassing on Federal Property.
4. Issuance and acceptance of this permit will relieve the Federal Government of all liability in the case of accident or injury. Prospective permit holders should read and understand all applicable Federal, State, local, and NAVSTA fishing regulations before being issued a license.
5. In the event of terrorist action or attempted action within a restricted area, persons with authorized access recognize that they may be at grave risk of personal injury or loss of life and/or at risk of substantial loss or damage to their property, either as a direct or indirect result of terrorist action or as the result of the potential collateral effects of the U.S. Government's response to the terrorist's actions. By entering a restricted area, persons with authorized access knowingly assume any and all risks of terrorist actions, attempted actions and the appropriate response thereto by the United States including, but not limited to, the use of deadly force.
6. I have been given a copy, have reviewed, and understand Enclosures (4) and (5) outlining the locations I am permitted to fish and dispatch procedures I am required to follow as a condition of my R.I. fishing/lobster license.

I agree to comply in full with all regulations governing fishing aboard Naval Station Newport. I understand that signing and accepting this license relieves the Federal Government of all liability in the case of accident or injury.

Signature (Permit Holder)

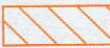

Printed Name (Permit Holder)

Date *****

Endorsement by Security Department Date Issued



LEGEND

-  RESTRICTED AREA
-  LOBSTERING NOT PERMITTED