DEPARTMENT OF THE ARMY
NORFOLK DISTRICT, CORPS OF ENGINEERS
FORT NORFOLK, 803 FRONT STREET
NORFOLK, VIRGINIA 23510-1096

REPLY TO
ATTENTION OF:

CENAO-TS-G

October 12, 2001

MEMORANDUM FOR: ALL MILITARY UNITS LOCATED IN OR ADJACENT TO NAVIGABLE WATERS OF THE UNITED STATES WITHIN THE COMMONWEALTH OF VIRGINIA

SUBJECT: Threat Condition Charlie or Delta - Corps of Engineers Action Granting Legal Authorities in Support of Military Actions, Revision # 2. This order supercedes previous authorizations.

The District Engineer has established a temporary order effective any time military commands are ordered to implement Force Protection/Threat Condition Charlie or Delta or when directed by the District Engineer.

(a) Applicability.

(1) The United States Army Corps of Engineers, Norfolk District, pursuant to the authority granted in 33 C.F.R. 209.200, 334.3(c) and 33 U.S.C. 1 has established temporary restricted areas adjacent to all government assets under the control of the Army, Air Force, Coast Guard, Marine Corps or Navy and commercial airports located in or adjacent to navigable waters of the United States, within the Commonwealth of Virginia. This order becomes effective anytime military commands are directed to implement the procedures associated with Force Protection/Threat Condition Charlie or Delta or when directed by the District Engineer.

(2) Navigable waters of the United States are those waters defined in 33 C.F.R. 329.4.

(3) For the purpose of this regulation an asset is any building, vessel or other man-made structure whose proximity to navigable waters of the United States prevent shore side security from effectively protecting those assets.

(b) The Area. Any time military assets are ordered to implement Threat Condition Charlie or Delta:

(1) The Commanding Officer, Officer in Charge, any person charged with the security of any U.S. Government asset, persons in charge of airports, or any other facility authorized by the District Engineer, is authorized to establish a temporary restricted area 100 yards channelward of Mean High Water and/or 100 yards in any direction of a pier or other mooring structure when such assets are located adjacent to navigable waters of the U. S. (as defined in 33 CFR 329).

(2) Facilities surrounded by navigable waters of the United States with no connection to the shore may establish a 100-yard restricted area around the perimeter of the facility.

(3) Any military vessel moored at a location outside of an authorized restricted area, including temporary restricted areas established by other parts of this regulation, may establish a 150 foot restricted area around the hull of the vessel on waters of the United States. This paragraph applies only to government owned or operated vessels.

(4) The overall dimension of a restricted area may be increased or decreased as deemed necessary by the District Engineer.

(c) The Regulation:

(1) No vessels or persons may enter restricted areas established in accordance with this regulation without the permission of persons in charge, or persons or agencies authorized to act in his/her behalf.

(2) Patrol crafts enforcing the restricted area shall monitor marine channels (VHF) 13 and 16 at all times so vessels approaching a restricted area can contact them for instructions. Commercial and recreational vessels shall contact the Patrol Commander on channel 13 or 16 prior to entering a restricted area.

(3) City, State and Federal law enforcement vessels shall contact the Patrol Commander of a restricted area on marine channel 13 or 16 or other channel designated by Port Operations Teams/ Commanders/COTP prior to entering a restricted area.

(d) Exceptions:

(1) Any vessels and/or persons that need to transit a restricted area because it encompasses a designated channel, fairway or established route of navigation, and where no reasonable alternative route of navigation exist must contact the patrol commander prior to entering the restricted area. This regulation authorizes security personnel, the authority to ascertain the identity and intent of the vessel. If a determination is made that the vessel and/or persons are a threat to a designated asset located within the restricted area, security units may take actions as provided by law or regulation that are deemed necessary to protect designated assets.

(2) Commercial Fishing vessels may continue to operate within a designated area provide they obtain permission from the enforcement authority of the restricted area and contact the patrol Commander via marine channel 13 or 16 prior to entering the area.

(3) In those navigable waterways or rivers where the width from bank to bank is less than 100 yards and traffic is limited to small commercial or recreational traffic that are unlikely to have VHF radios, security teams may stop, identify, and take other actions provided by law or regulation to ensure the vessel/persons pose no threat to the facility. Once this has been done the vessels and/or persons may proceed through the restricted area. Vessels are directed to proceed through the area by the most direct route and as quickly as is practicable.

(e) Enforcement: This order shall be enforced by the Commanding Officer, Officer in Charge, any person charged with the security of any U.S. Government asset, persons in charge of airports, or any other facility authorized by the District Engineer while U.S. Military Commands are in Threat Condition Charlie or Delta.

(f) Effective Date: Any time United States Military Commands are ordered to implement Force Protection/Threat Condition Charlie/ Delta or when specific authority is granted by the District Engineer.

(g) Duration: This order shall remain in effect until Threat Condition Charlie or Delta has been suspended at military installations or by the direction of the District Engineer.

(h) Additional Information: For the latest information regarding Restricted Areas contact the Corps of Engineers Regulatory Branch at (757) 441-7653 or check the web site at http://www.nao.usace.army.mil/Regulatory/PN/PN.html.

FOR AND IN BEHALF OF THE DISTRICT ENGINEER, COLONEL DAVID L. HANSEN:

for J. ROBERT HUME, III
Chief, Regulatory Branch