

SAWCO-E

10 December 1985

SUBJECT: Standing Operating Procedure for Range Control Operations
(Range Control SOP)

Commanding General
Marine Corps Base
Camp Lejeune, NC 28542-5001

1. Reference:

a. Your Base Order P11102.1K dated 11 Oct 1985 transmitting your revised Range Control SOP Manual BO P11102.1; effective 1 November 1985.

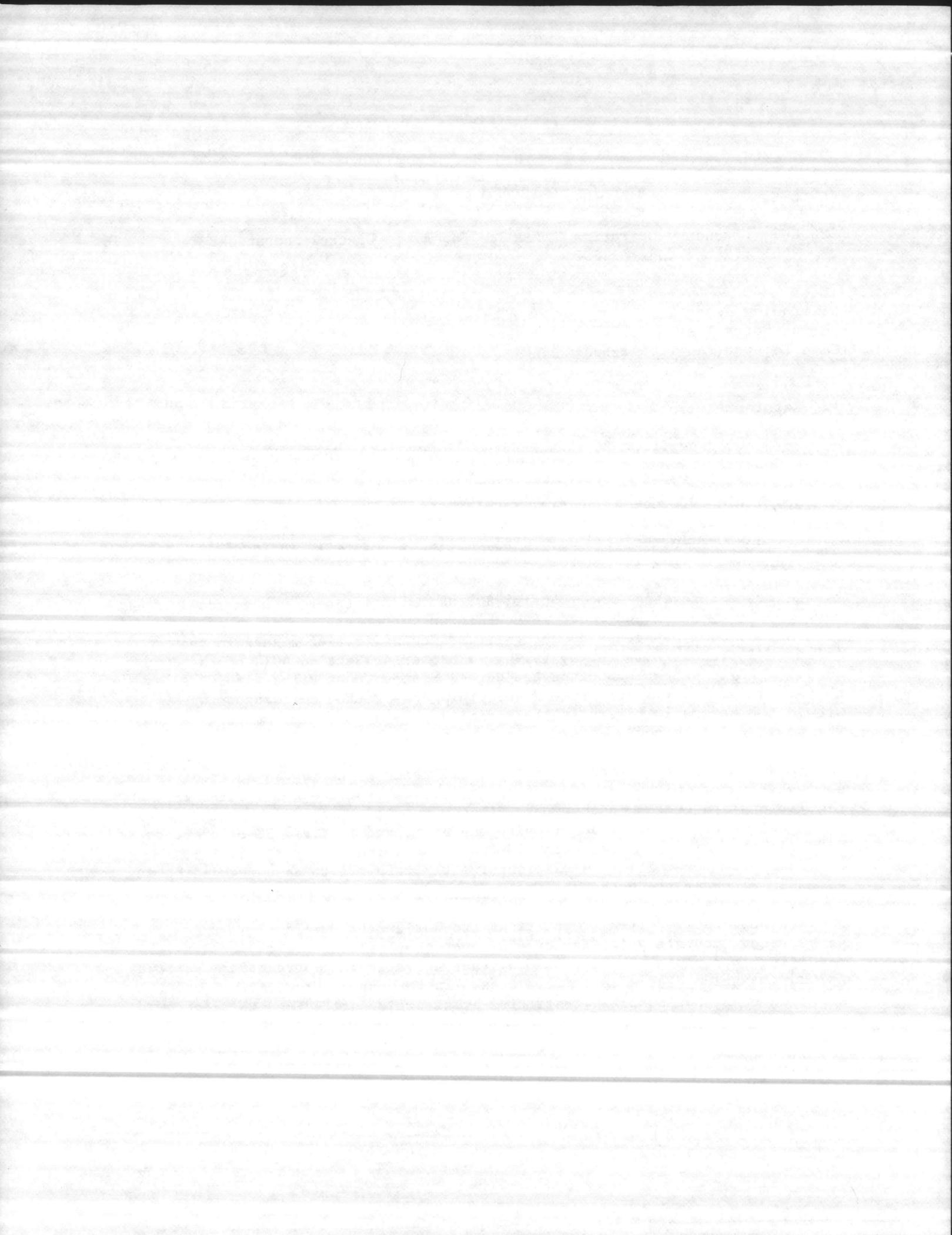
b. Title 33, Code of Federal Regulations, subsection 204.56.

c. SAWCO-E letter of 5 July 1985, subject: Atlantic Intracoastal Waterway (AIWW) Traffic Control.

2. Referenced revised Range Control SOP Manual has recently been received and reviewed by my staff and found to contain an incomplete quotation of Federal regulations that may cause confusion regarding navigation rights in the Atlantic Intracoastal Waterway (AIWW). Chapter 4, Section 4012 of the SOP, entitled NAVIGABLE WATERS cites the United States Coast Pilot 4 (USCP 4) as the source of Federal regulations describing restricted and danger zones within the navigable waters in the vicinity of Camp Lejeune, North Carolina. The Coast Pilot is not a Federal Regulation. It is an annual publication of the U.S. Department of Commerce for the purpose of providing a ready reference for guidance and assistance for all parties using or having an interest in the navigable waters within the region covered by the publication. Federal regulations are quoted in the Coast Pilot merely as a part of the guidance for particular areas. The actual regulations are found in Title 33 of the Code of Federal Regulations in subsection 204.56. The correct cite is "33 CFR 204.56." The Coast Pilot is also incorrectly referred to as a regulation in Appendix A, under the headings "Coast Pilot 4" and "Navigable Waters."

3. The applicable Federal regulations are not quoted completely nor paraphrased accurately in section 4012, paragraphs 1.a., b., c., or 2.a. resulting in a mistaken understanding that the Atlantic Intracoastal Waterway (AIWW) is included as a restricted area. In the CFR the regulations are arranged such that specific restricted areas are described and then followed

Enclosure (4)



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by particular regulations for that area. Within 204.56, paragraph (a) describes the "Atlantic Ocean east of New River Inlet," paragraph (b) describes the "New River" and the eight restricted sectors, and then paragraph (c) sets forth the regulations for those areas. Next, paragraph (d)(1) describes the target and bombing areas in the Atlantic Ocean in the vicinity of Bear Inlet, and paragraph (d)(2) sets forth the regulations for that area. Finally, paragraph (e)(1) describes the "Inland waters in the Browns Inlet area between Bear Creek and the Onslow Beach Bridge over the Atlantic Intracoastal Waterway" and paragraph (e)(2) prescribes the regulations for that area.

~~It should be noted that the channel of the AIWW is not specified as "restricted" in any of these areas; indeed, paragraph (e)(2)(1) states that "Vessels may proceed through the Atlantic Intracoastal Waterway in the area without stopping except in cases of extreme emergencies." This exception of the AIWW is important and should be especially quoted in your Range Control SOP to avoid violations of Federal regulations by your officers who may routinely not allow vessels to proceed through the AIWW.~~

~~4. In my letter of 5 July 1985 reference c. above, I pointed out that your current routine closures of the AIWW for regularly scheduled firing exercises were not "extreme emergencies" and were therefore not authorized by the current regulations. I also requested additional information to assist us in processing your request to change the CFR to authorize your delay of vessels in the AIWW. Under the current regulations, you are responsible for enforcing all sections of 33 CFR 204.56, including assuring that vessels are not stopped in the AIWW except in cases of extreme emergencies. I have a similar responsibility to assure that the public rights of navigation are protected in all waters that are not otherwise regulated under Federal law or regulation. To continue to delay the traffic without authority places the Federal Government in a vulnerable position regarding the liability for the navigators costs or other damages resulting from the delays. In this regard, I believe that it is imperative that you pursue the necessary changes to the CFR to authorize your current practice of delaying the AIWW traffic for regularly scheduled firing exercises. As I pointed out in my earlier letter, I am prepared to assist you in this matter in any way I can. Please contact me or Mr. Charles W. Hollis, Chief of my Regulatory Branch.~~

Wayne A. Hanson
Colonel, Corps of Engineers
Commanding

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