



DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

[COE-2020-0015]

Danger Zone; Pacific Ocean at U.S. Marine Corps Base, Camp Blaz, Mason Live-Fire Training Range Complex, on the North Coast of Guam

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

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is proposing to revise its existing regulations to establish a danger zone at the U.S. Marine Corps Base, Camp Blaz in the Pacific Ocean, Guam. The Marine Corps requested establishment of a danger zone extending over the Pacific Ocean adjacent to the Mason Live-Fire Training Range Complex (LFTRC). Establishment of the danger zone would intermittently restrict commercial, public, and private vessels from entering or lingering in the restricted safety zone to ensure public safety during small arms training activities. This danger zone is necessary to minimize potential conflicts between local populace activities and ongoing military training in the subject area.

DATES: Written comments must be submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by docket number COE-2020-0015, by any of the following methods:

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

E-mail: david.b.olson@usace.army.mil. Include the docket number, COE-2020-0015, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW-CO-R (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-2020-0015. 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 e-mail. 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 e-mail directly to the Corps without going through [regulations.gov](http://www.regulations.gov), your e-mail 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 compact disk 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.

SUPPLEMENTARY INFORMATION:

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 danger zone in the Pacific Ocean. The amendment to this regulation will allow the Commanding Officer of the U.S. Marine Corps Base, Camp Blaz, Guam to restrict passage of persons, watercraft, and vessels in the waters within the danger zone during use of the Mason Live-Fire Training Range. The establishment of the

danger zone would intermittently restrict passage of persons, watercraft, and vessels from entering or lingering in the danger zone to ensure public safety during live-fire training activities at the Mason LFTRC. This danger zone will be in place as a precautionary measure to protect the public from any potential impacts in firing small arms to the north.

The Department of Defense military forces and the Government of Guam law enforcement agencies are required to qualify with their assigned weapons prior to executing their duties and further the execution of their assigned mission. These ranges are not only used by military forces assigned to the island, but also deployable military forces (Army, Navy, Air Force, and Marines). The Department of Defense requires frequent firing of assigned weapons to ensure proficiency in the use and operations of assigned weapons.

The proposed danger zone would comprise approximately 3,660 acres extending into the ocean approximately 2.8 miles from the north coast of Guam. The proposed establishment of this danger zone was considered in the Final Guam and CNMI Military Relocation Environmental Impact Statement (2015). The Department of the Navy considered the environmental consequences of the proposed action, strategic implications, operational training requirements, and obligations under treaties and announced its decision to construct and operate a live-fire training range complex on Guam in support of the relocation of U.S. Marines.

The Mason LFTRC will consist of five ranges firing small arms up to and including .50 caliber rifles and heavy machine guns. This location is part of the Marine Corps Base Camp Blaz (MCBCB) facility and meets all of the landside requirements of a small arms range. With limited land on the island, it is not feasible to have the firing range and danger zone completely on land.

The Installation Range Control Officer (IRCO) will be responsible for submitting all Notice to Mariners (NTM) no later than 24 hours before the use of the range and publishing the range schedule and standard operating procedures on the MCBCB web page. The establishment of the danger zone would ensure public safety and facilitate safe live-fire training. "Day" operations would occur between 7:00 a.m. and 7:00 p.m. "Night" operations (estimated to occur two nights per week) would occur between 7:00 p.m. and 10:00 p.m. or 6:00 a.m. and 6:59 a.m. No training is planned to occur between the hours of 10:00 p.m. and 6:00 a.m. When the danger zone is activated it will be closely monitored by surface radar and personnel designated to serve as observers. Due to the extreme depth of the waters off the coast of Guam buoys will not be employed.

Procedural Requirements

a. Review Under Executive Orders 12866 and 13563.

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This proposed rule

has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this proposed rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

The Corps determined this proposed rule is not a significant regulatory action. This regulatory action determination is based on the proposed rule governing the danger zone, which would not allow any person, vessel or other craft to enter or remain in the area during times designated for live-fire except those authorized by the enforcing agency. When the range is not in use, the danger zone will be open to normal maritime traffic and to all activities, including anchoring and loitering.

b. Review Under the Regulatory Flexibility Act.

This proposed rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96-354). The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (*i.e.*, small businesses and small governments). The proposed danger zone is necessary to protect public safety during use of the small arms range. The proposed danger zone will be in effect on an intermittent basis, and persons, vessels, and other watercraft can transit around the danger zone when it is in effect and live-firing exercises may be conducted. The proposed danger zone would not allow any person, vessel or other craft to enter or remain in the area during times designated for live-fire except those authorized by the enforcing agency. When the range is not in use,

the danger zone will be open to normal maritime traffic and to all activities, including anchoring and loitering. Unless information is obtained to the contrary during the comment period, the Corps certifies that the proposed rule would have no significant economic impact on the public. After considering the economic impacts of this proposed danger zone regulation on small entities, I certify that this action will not have a significant impact on a substantial number of 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.

e. Congressional Review Act.

The Congressional Review Act, 5 U.S.C. 801 et seq., generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The Corps will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the Federal Register. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Restricted areas, Waterways.

For the reasons set forth in the summary above, 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 § 334.1425 to read as follows:

§ 334.1425 Pacific Ocean adjacent to the Mason Live-Fire Training Range Complex located at U.S. Marine Corps Base, Camp Blaz, on the northwestern coast of Guam; danger zone.

(a) Area of Proposed Danger Zone. The danger zone will consist of two areas: An outer area (Area 1) for large caliber weapons and a smaller area (Area 2) for smaller caliber weapons within Area 1. The datum for the coordinates is NAD-83.

(1) Area 1. The waters bounded by the following seven points: Point A (13° 38' 59.443" N; 144° 51' 11.522" E) following the mean high water line to Point B (13° 38' 36.722" N; 144° 52' 50.256" E), following the mean high water line to Point C (13° 38' 33.936" N; 144° 52' 53.031" E), to Point D (13° 40' 8.336" N; 144° 53' 44.876" E), to Point E (13° 40' 56.842" N; 144° 53' 42.808" E), to Point F (13° 41' 28.434" N; 144° 52' 37.582" E), and Point G (13° 41' 3.344" N; 144° 51' 53.652" E).

(2) Area 2. A subset of waters within Area 1 bounded by the following six points: Point A (13° 39' 7.432" N; 144° 52' 8.210" E) following the mean high water line to Point B (13° 38' 36.722" N; 144° 52' 50.256" E), following the mean high water line to Point C (13° 38' 33.936" N; 144° 52' 53.031" E), to Point D (13° 39' 54.724" N; 144° 53' 37.400" E), to Point E (13° 40' 25.737" N; 144° 52' 43.157" E), and Point F (13° 40' 6.494" N; 144° 52' 7.349" E).

(b) The regulation. (1) The enforcing agency will designate which area will be closed for use on dates designated for live-fire. No persons, watercrafts, or vessels shall enter, or remain, in the area during the times designated for live-fire except those authorized by the enforcing agency. The Installation Range Control Officer will be responsible for submitting all local Notices to Mariners of specific dates of firing, which will be disseminated through the U.S. Coast Guard and on the Marine Corps Base Camp Blaz web site. The area will be open to normal maritime traffic when the range is not in use.

(2) When the range is in use red flags will be displayed from a conspicuous and easily seen location on the east and west boundary of the danger zone to signify that the range is in use. These flags will be removed when firing ceases for the day.

(3) During the night firing, red lights will be displayed on the east and west side of the danger zone to enable safety observers to detect vessels which may attempt to enter the danger zone. All range flags and red lights will be visible from 360 degrees. Due to the depth of the ocean the danger zone will not be marked with buoys.

(c) Enforcement. The restrictions on public access through the danger zone shall be enforced by the Commander, Marine Corps Base, Camp Blaz, and such agencies as the Commander may designate in writing.

Thomas P. Smith,

Chief, Operations and Regulatory Division

Directorate of Civil Works.

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