



Billing Code 3720-58

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

Oregon Army National Guard, Camp Rilea, Clatsop County, Oregon; Danger Zone

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 is proposing to establish a new danger zone in the waters adjacent to Camp Rilea located in Clatsop County, Oregon. The regulation would prohibit any activity by the public within the danger zone during use of weapons training ranges. The new danger zone is necessary to ensure public safety and satisfy the Oregon National Guard operations requirements for small arms training.

DATES: Written comments must be submitted by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number COE-2011-0036, 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-2011-0036, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW-CO (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-2011-0036. 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 or e-mail. The 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, 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 CD-ROM 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, D.C. at 202-761-4922 or Mr. Steve Gagnon, U.S. Army Corps of Engineers, Portland District, Regulatory Branch, at 503-808-4379.

SUPPLEMENTARY INFORMATION: In response to a request from the Oregon Army National Guard, and 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 to establish a new danger zone. The proposed danger zone will prohibit access to waters adjacent to Camp Rilea during use of weapons training ranges, thereby ensuring that no threat is posed to passing water traffic due to ricochet rounds.

Procedural Requirements

a. Review Under Executive Order 12866. The 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). Unless information is obtained to the contrary

during the public notice comment period, the Corps expects that this danger zone would have practically no economic impact on the public, and minimal anticipated navigational hazard or interference with existing waterway traffic. This proposed rule, if adopted, will have no significant economic impact on small entities.

c. Review under the National Environmental Policy Act. Due to the administrative nature of this action and because the proposed site for the danger zone is located in the Pacific Ocean and vessels may navigate around the prohibited area, the Corps expects that this regulation, if adopted, will not have a significant impact to 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 impose an enforceable duty among the private sector and, therefore, it is not a Federal private section mandate and it is not subject to the requirements of either section 202 or Section 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, Navigation (water), Restricted Areas, Waterways.

For the reasons stated 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 33 CFR 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 §334.1175 to read as follows:

§ 334.1175 Pacific Ocean, at Camp Rilea, Clatsop County, Oregon; Danger Zone.

(a) The area. The danger zone shall encompass all navigable waters of the United States as defined at 33 CFR part 329, within the area bounded by a line connecting the following coordinates: Beginning at latitude 46°09'00.32"N, longitude 123°57'52.57"W; thence to latitude 46°09'00.32"N, longitude 124°01'03.92"W; thence to latitude 46°05'25.38"N, longitude 124°01'03.92"W; thence to latitude 46°05'25.38"N, longitude 123°56'23.19"W.

(b) The regulations. (1) No person or vessel shall enter or remain in the danger zone when restrictions are in force during weapons range training activities. At all other times, nothing in this regulation prohibits any lawful uses of this area.

(2) A schedule for proposed closures of the danger zone will be furnished to the U.S. Coast Guard, Astoria Command Center one week in advance of range training activities to provide local notice to mariners. Changes to the schedule made less than one week in advance of the event will be transmitted to the Astoria Command Center on the day the change is made.

(3) At least 30 minutes prior to restricting navigation in the danger zone, red flags will be raised on wooden poles immediately next to the beach at the north and south boundaries of Camp Rilea. The red flags will remain flying while the ranges are in use. During night weapons training activities, red lights will be substituted for the flags. Closure announcements will be broadcast over marine VHF Channel 16/19. When range training activities are completed, the red flags will be removed and an announcement made over marine VHF Channel 16/19 that restrictions are lifted.

(4) When restrictions are in force, Camp Rilea will visually monitor the danger zone using radar and guards, equipped with binoculars and two-way radios, posted on the beach near the north and south boundaries of the Camp. If a vessel is detected in the danger zone, a cease fire will be called on all active weapons ranges and Camp Rilea will attempt to contact the vessel using marine VHF radio. Cease fire will be maintained until the vessel leaves the danger zone.

(c) Enforcement. The regulations in this section shall be enforced by the Commanding Officer, Camp Rilea, Oregon and such agencies as he/she may designate.

DATE_April 23, 2012

Richard C. Lockwood

Chief, Operations and Regulatory

Directorate of Civil Works

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