



# PUBLIC NOTICE

## US Army Corps of Engineers, Honolulu District

Regulatory Office (CEPOH-RO)  
Building 230  
Fort Shafter, Hawaii 96858-5440

Public Notice Date: December 13, 2018  
Expiration Date: January 12, 2019  
Permit File Number: POH-2018-78

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### FEDERAL PUBLIC NOTICE

Interested parties are hereby notified that an application has been received from the U.S. Navy for a Department of the Army permit to establish a danger zone adjacent to the Finegayan Small Arms Range in waters of the United States as described below and shown on the enclosed figure.

AUTHORITY: This request is being considered 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](#)). Regulations the U.S. Army Corps of Engineers (Corps) is proposing to revise are at [33 CFR part 334](#).

GENERAL INFORMATION: Danger zone regulations are promulgated by the U.S. Army Corps of Engineers. Danger zones are defined as water areas used for target practice, bombing, rocket firing, or other especially hazardous operations, normally for the armed forces.

APPLICANT:

Hans E. Sholley, Captain  
U.S. Navy, Commanding Officer, U.S. Naval Base Guam  
PSC 455 BOX 152. FPO AP 96540-1000

Navy POC: Mr. Andrew Manibusan, Explosives Safety Officer

WATERWAY AND LOCATION OF THE PROPOSED ACTION: The proposed danger zone is located in the Pacific Ocean adjacent to the Finegayan Small Arms Range located at U.S. Naval Base Guam Telecommunication Site, on the northwestern coast of Guam.

PROPOSED DANGER ZONE AND PURPOSE:

The Department of the Navy is requesting the U.S. Army Corps of Engineers establish a permanent danger zone in the Pacific Ocean adjacent to the existing Finegayan Small Arms Range. The proposed danger zone, comprising 892 acres and extending into the ocean approximately 2.36 miles from the coast, overlies part of the existing "Small Arms Safety Drop Zone" shown on NOAA Chart 81048, Guam. The Finegayan Small Arms Range has been used for training exercises by both military and non-military units. Non-military units include the Guam Police Department, Federal Bureau of Investigations,

Homeland Security, Naval Criminal Investigative Service, Guam Customs and Quarantine, and Guam Airport Authority.

The establishment of a 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 at the Finegayan Small Arms Range. 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 west.

The proposed establishment of this Danger Zone was considered in the Final Mariana Islands Training and Testing/Overseas Environmental Impact Statement prepared by the Navy. This location is an existing range 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 safety zone completely on land.

Military and Government of Guam law enforcement agencies are required to qualify with their assigned weapon prior to executing their duties. Additionally, other military forces (ships, submarines, expeditionary forces and other combat forces) are required to qualify and maintain their qualifications on the weapons needed to further the execution of their assigned mission. These ranges are not only used by 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.

Currently there are two other ranges on Naval Base Guam that are being used to support weapons qualifications. However, due to the number of units required to maintain weapon qualifications, the two ranges are insufficient. Both ranges are fully booked with commands having to be placed on a waiting list for range availability.

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 § 334.1415 to read as follows:

§ 334.1415 Pacific Ocean, adjacent to the Finegayan Small Arms Range at Naval Base Guam Telecommunication Site, on the northwestern coast of Guam; danger zone.

- (a) Area of Proposed Danger Zone. Coordinates are bounded by the following four points: Point A (13° 34' 57" N; 144° 49' 53" E) following the high tide line to Point B (13° 35' 49" N; 144° 47' 59" E), Point C (13° 34' 57" N; 144° 47' 45"

E), and Point D (13° 34' 48" N; 144° 49' 50" E). The datum for the coordinates is NAD-83.

(b) The regulation. (1) Vessels or persons shall expeditiously transit through the danger zone when the small arms range is in use. Vessels shall not be permitted to anchor or loiter within the danger zone while the range is in use. Range activities shall be halted until all vessels are cleared from the danger zone. When the range is not in use, the danger zone shall be open to normal maritime traffic and all activities to include anchoring and loitering.

(2) When the range is in use, the person(s) or officer(s) in charge shall display a red flag from a conspicuous and easily-seen location along the nearby shore to signify that the range is in use and will post lookouts to ensure the safety of all vessels transiting through the area. If the range is in use at night, a strobe light shall be displayed from the same conspicuous and easily-seen location in lieu of flags. The range shall not be used when visibility is equal to or less than the maximum range of the weapons being used at the facility.

(c) Enforcement. The restrictions on public access in this section shall be enforced by the Commander, Joint Region Marianas, and such agencies as the Commander may designate in writing.

HISTORIC PROPERTIES: Pursuant to Section 106 of the National Historic Preservation Act (NHPA), our assessment of the project leads us to a preliminary determination that the proposed action does not have the potential to cause effects to historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. Therefore, no further consultation will be conducted in accordance with 36 CFR 800.3(a), unless we receive additional information regarding historic properties.

ENDANGERED SPECIES: The Endangered Species Act (ESA) requires federal agencies to consult with the National Marine Fisheries Service and/or U.S. Fish and Wildlife Service pursuant to Section 7 of ESA on all actions that may affect ESA-listed threatened and endangered species or designated critical habitat. The following species have the potential to occur within the area proposed for the danger zone: green sea turtle (*Chelonia mydas*), hawksbill sea turtle (*Eretmochelys imbricata*), and scalloped hammerhead shark (*Sphyrna lewini*). In addition, the following three species of listed coral could be within the boundaries of the proposed danger zone: *Acropora globiceps*, *Acropora retusa*, and *Seriatopora aculeate*. There is no designated critical habitat for listed species in the action area. After receipt of comments from this public notice, the U.S. Army Corps of Engineers will evaluate the potential impacts to listed species.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). There is designated EFH in the project area. Our

assessment of the project leads us to a preliminary determination that establishing a danger zone will not have a substantial adverse effect on EFH for Bottomfish, Pelagics, Coral Reef Ecosystems, or Crustaceans, and therefore expanded EFH consultation is not required. Our rationale for this preliminary determination is based on the minimal direct impacts associated with the establishment of danger zones. Based on comments from the National Marine Fisheries Service in response to this public notice, further EFH consultation may be necessary.

**OTHER GOVERNMENT AUTHORIZATIONS/CERTIFICATIONS:** Prior to a decision on whether to establish a danger zone as proposed, the applicant may be required to obtain a Coastal Zone Management Program consistency determination or waiver from the Guam Bureau of Statistics and Plans. Other state/territory and local approval which may be required would be the responsibility of the Commander, Naval Base Guam.

**FEDERAL EVALUATION OF APPLICATION:** The decision whether to issue a permit for the creation of a danger zone will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; and other interested parties in order to evaluate the direct, indirect, and cumulative impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above.

**PUBLIC HEARING:** Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state clearly and concisely, the reasons and rationale for holding a public hearing. The District Commander will then decide if a hearing should be held.

**COMMENT AND REVIEW PERIOD:** Comments on this public notice should be made in writing via conventional mail or e-mail. Comments will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize this proposal. Conventional mail comments should be sent to:

U.S. Army Corps of Engineers, Honolulu District  
Regulatory Office, Attn: Karen Urelus  
PSC 455 Box 188  
FPO AP 96540

Alternatively, comments may be e-mailed to [Karen.M.Urelus@usace.army.mil](mailto:Karen.M.Urelus@usace.army.mil). In order to be accepted, e-mail comments must originate from the author's e-mail account. Both conventional mail and e-mail comments must include the DA permit number **POH-2018-78** and the commenter's name, address, and phone number. **All comments whether conventional mail or e-mail should be submitted on or before January 12, 2019.**

PRIVACY & CONFIDENTIALITY: It should be noted that materials submitted as part of the permit application become part of the public record and are thus available to the general public under the procedures of the Freedom of Information Act (FOIA). Submissions should not include any information that the submitter seeks to preserve as confidential.

If you have any questions about this project or the permit process, please contact Karen Urelus at [Karen.M.Urelus@usace.army.mil](mailto:Karen.M.Urelus@usace.army.mil) or (671) 339-2108.

FOR THE DISTRICT ENGINEER:

Jamie R. Hyslop  
Acting Chief, Regulatory Branch

Enclosure: Figure (1)