

**U.S. Army Corps
of Engineers**

Baltimore District
PN 23-06

Public Notice

**In Reply to Application Number
NAB-2018-00042-M43 (Naval Surface Warfare Center,
Dahlgren Division/Danger Zone)**

Comment Period: February 21, 2023 to April 7, 2023

THE PURPOSE OF THIS PUBLIC NOTICE IS TO ANNOUNCE A RE-OPENING OF THE PUBLIC COMMENT PERIOD AND SOLICIT COMMENTS FROM THE PUBLIC ABOUT THE PROPOSED ACTION. AT THIS TIME, NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT THE ACTION WILL BE GRANTED.

On 5 December 2022, the Baltimore District issued Public Notice [NAB-2018-00042-M43](#) concerning a request from the Naval Surface Warfare Center, Dahlgren Division (NSWCDD) for the expansion of an existing danger zone on the Potomac River, pursuant to Section 7 of the Rivers and Harbors Act (40 Stat. 266; 33 U.S.C. 1) as described below:

APPLICANT:

Commanding Officer
Naval Surface Warfare Center, Dahlgren Division
6149 Welsh Road, Suite 203
Dahlgren, Virginia 22448-5117

LOCATION:

Potomac River at the Middle Danger Zone, in the vicinity of NSWCDD, Dahlgren, Virginia, as shown on the enclosed map.

ACTION:

NSWCDD has requested the expansion of the middle danger zone in the Potomac River (south of the Governor Harry W. Nice Memorial/Senator Thomas "Mac" Middleton Bridge) in the vicinity of the facility in Dahlgren, Virginia. NSWCDD operates research, development, test, and evaluation ranges on the Potomac River using the danger zones as defined in the Code of Federal Regulations (CFR) 334.230 (Enclosure). The NSWCDD range operations center controls Navy operations on the Potomac River Test Range. The purpose of this amendment is to expand the middle danger zone which is needed for planned infrared sensor testing for detection of airborne chemical or biological agent simulants, directed energy testing, and for operating manned or unmanned watercraft. These activities will also continue to be conducted in the existing middle danger zone. This amendment will extend the legal authority to engage civilian watercraft for safe transit instructions in the Potomac River within the expanded middle danger zone.

During the initial 5 December 2022 through 4 January 2023 comment period, comments were received concerning potential impacts to transient boaters and commercial watermen, boating traffic safety, and general environmental and wildlife concerns. Several commenters requested an extension of the comment period for the proposed rule.

Recognizing the considerable interest in the proposed action, the Baltimore District is re-opening the public notice comment period from 21 February 2023 until 7 April 2023 to coincide with the re-opened comment period for the proposed rule in the Federal Register.

Comments previously submitted in response to the 5 December 2022 Corps Baltimore District public notice and Federal Register notice have been incorporated into the District's administrative record and will be fully considered in the Corps' final decision.

For the reasons outlined 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 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. Revise § 334.230(a)(1)(ii) to read as follows:

§334.230 Potomac River.

* * * * *

(1) * * *

(i) * * *

(ii) **Middle zone.** Beginning approximately 140 yards south of the Governor Harry W. Nice Memorial/Senator Thomas "Mac" Middleton Bridge, extending from the Virginia shore at latitude 38°21'30.4", longitude 77°0'53.2" along a line parallel to the Bridge to latitude 38°21'45.6", longitude 76°59'0" a point near the Maryland shore; thence to latitude 38°20'5", longitude 76°59'0"; thence to latitude 38°19'06", longitude 76°57'06" which point is about 3,300 yards east-southeast of Light 30; thence to Line of Fire Buoy O, about 1,150 yards southwest of Swan Point; thence to Line of Fire Buoy M, about 1,700 yards south of Potomac View; thence to Line of Fire Buoy K, about 1,400 yards southwesterly of the lower end of Cobb Island; thence to Buoy 14, abreast of St. Clements Island; thence southwest to a point near the northeast shore of Hollis Marsh at latitude 38°10'00", longitude 76°45'22.4"; thence northwest to Line of Fire Buoy J,

about 3,000 yards off Popes Creek, Virginia; thence to Line of Fire Buoy L, about 3,600 yards off Church Point; thence to Line of Fire Buoy N, about 900 yards off Colonial Beach; thence to Line of Fire Buoy P, about 1,000 yards off Bluff Point; thence northwest to latitude 38°17'54", longitude 77°01'02", a point of the Virginia shore on property of the Naval Support Facility Dahlgren, a distance of about 4,080 yards; thence north along the Potomac shore of Naval Surface Warfare Center, Dahlgren to Baber Point; thence west along the Upper Machodoc Creek shore of Naval Surface Warfare Center, Dahlgren to Howland Point at latitude 38°19'0.5", longitude 77°03'23"; and thence northeast to latitude 38°19'18", longitude 77°02'29", a point on the Naval Surface Warfare Center, Dahlgren shore about 350 yards southeast of the base of the Navy recreational pier. The datum for these coordinates is North American Datum of 1983 (NAD_1983). Hazardous operations are normally conducted in this zone daily except Saturdays, Sundays, and national holidays.

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Note: There is no proposed change to the danger zone area in the Lower Zone and Upper Zone as currently described and codified at 33 CFR 334.230.

The decision whether to amend the middle 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, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and, in general, the needs and welfare of the people.

Comments are being solicited from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to grant, modify, or deny authorization 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.

Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

It is requested that you communicate the foregoing information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice.

Written comments concerning the action described above may be submitted directly to the District Engineer by email April.E.Sparkman@usace.army.mil or regular mail:





U.S. Army Corps of Engineers, Baltimore District
Attn: Ms. April E. Sparkman
Regulatory Branch,
2 Hopkins Plaza
Baltimore, Maryland 21201

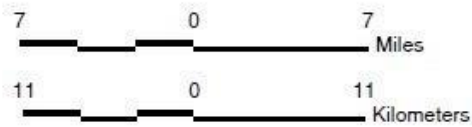
within the comment period as specified above to receive consideration. If you have any questions concerning this matter, please contact Ms. April Sparkman at 410.962.0148 or April.E.Sparkman@usace.army.mil.

The proposed rulemaking has also been re-posted in the Federal Register for public comments for 45 days beginning 21 February 2023 until 7 April 2023, Docket Number COE-2022-0007. The original Federal Register Notice may be found here: <https://www.regulations.gov/document/COE-2022-0007-0001> This public notice is issued by the Chief, Regulatory Branch.

Potomac River Test Range

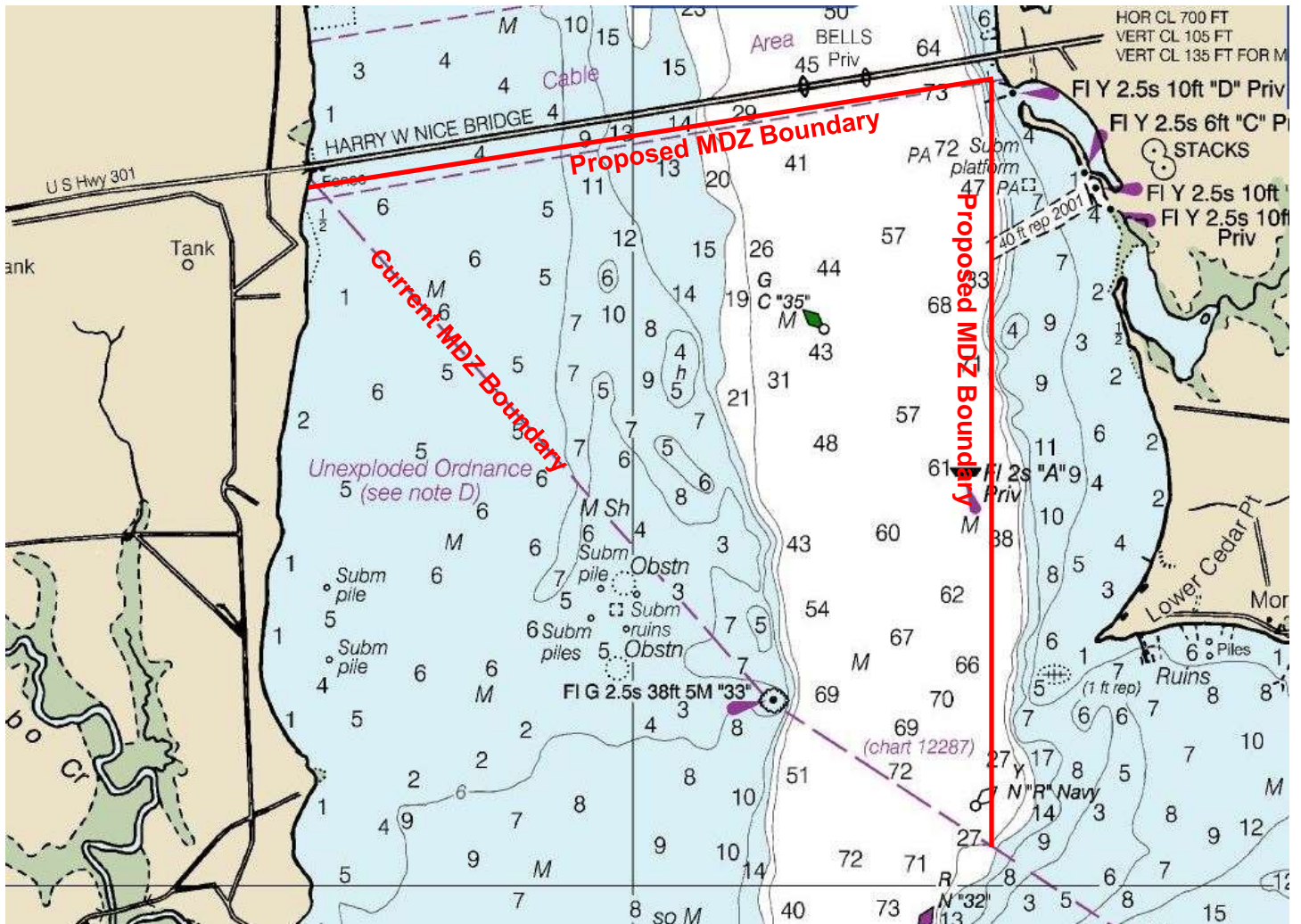


-  Potomac River Test Range (PRTR)
-  Proposed Middle Danger Zone Expanded area
-  Naval Support Facility (NSF) Dahlgren
-  Military Installation



Source: NSWCDD GIS (2008 - 2011); Danger Zones defined in 33 CFR § 334.230.

Map and Coordinates of Proposed Danger Zone Expansion



Proposed change to 33 CFR 334.230 (a) Middle Danger Zone Boundary
Marked in Red on National Oceanic and Atmospheric Administration Chart 12286

The northern Middle Danger Zone boundary is proposed to be approximately 140 yards downstream of the Harry W. Nice Bridge; extending from the Virginia shore at latitude $38^{\circ} 21' 30.4''$ longitude $77^{\circ} 0' 53.2''$ to latitude $38^{\circ} 21' 45.6''$ longitude $76^{\circ} 59' 00''$ a point near the Maryland shore.

The eastern boundary of the proposed expansion will be at Longitude $76^{\circ} 59' 00''$ connecting to the existing Middle Danger Zone boundary at Latitude $38^{\circ} 20' 05''$.

Latitude and longitude coordinates are consistent with North American Datum of 1983.