



SPECIAL PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

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NOTICE OF PROPOSED RULE AMENDMENT TO RESTRICTED AREA AT NAVAL BASE VENTURA COUNTY SAN NICOLAS ISLAND

Public Notice/Application No.: SPL-2012-00735-AJS

Project: NBVC San Nicholas Island Restricted Area Amendment

Comment Period: November 22, 2013 through December 23, 2013

Project Manager: Antal Szijj; 805-585-2147; Antal.J.Szijj@usace.army.mil

Applicant

Commander, Naval Base Ventura County

Contact

Anna Shepherd
Community Plans and Liaison Officer
Naval Base Ventura County
311 North Main Road, Building PM 66
Point Mugu, California 93042

Location

In the waters surrounding San Nicholas Island, Ventura County, California (at: lat 33.2827N, long: 119.5000W), as depicted on the attached map.

Activity

To amend the existing restricted area around San Nicholas Island to match current operational needs (see attached drawings). For more information see page 3 of this notice.

Interested parties are hereby notified that the U.S. Army Corps of Engineers (Corps) has received a request to amend an existing restricted area as described herein and shown on the attached drawings. We invite you to review today's public notice and provide views on the proposed action. By providing substantive, site-specific comments to the Corps Regulatory Division, you provide information that support the Corps' decision-making process. All comments received during the comment period become part of the record and will be considered in the decision to approve or deny the request under Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. § 1). Comments should be mailed to:

U.S. Army Corps of Engineers, Ventura Field Office
Attn: Antal Szijj
2151 Alessandro Drive, Suite 110
Ventura, CA 93001

Alternatively, comments can be sent electronically to: Antal.J.Szijj@usace.army.mil

Concurrent with this public notice, a notice of proposed rulemaking is being published in the Federal Register. Please visit www.regulations.gov and search under docket number COE-2013-0014.

Evaluation Factors

The decision whether to approve the request 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. Factors that will be considered include 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 production and, in general, the needs and welfare of the people.

General Information

Pursuant to Section 7 of the Rivers and Harbors Act of 1917, danger zone and restricted area regulations in navigable waters of the United States are promulgated by the Corps in response to requests made by other Federal agencies. Restricted areas are established for the purpose of prohibiting or limiting public access to the area. Restricted areas generally provide security for Government property and/or protection to the public from the risks of damage or injury arising from the Government's use of that area.

The restricted area around San Nicolas Island was established by regulation in 1965. The original and later revised regulations specifically allow fishing in the other two sections, except when closed by the Commander, Pacific Missile Range. The restricted area regulations also establish a 300 yard no-access buffer around the island and specifically prohibit landing on the island.

Purpose and Need for Amendment to Restricted Area

As presently designed, the restricted area does not match current operational requirements. While the existing focus of the restricted area is section Alpha, current operations are primarily focused to the west, over section Bravo. The boundaries of the three areas also bisect the north side of the island and would be better defined by a separation at the east end between section Alpha and Charlie. There is also an error in the regulation, which incorrectly designates one point of section Alpha's boundary (see attached map for restricted area boundary and sections).

Section Alpha regulations restrict commercial trawl fishing and other "fishing operations." Commercial fishing is now common within section Alpha and most of the fishing at and around the island occurs in section Alpha. Additionally, current regulations (see 33 C.F.R. §§ 334.980(d)(2) and (d)(4)), restrict all vessels except fishing vessels, range craft, and vessels cleared for entry, from Sections Bravo or Charlie at any time, except in emergency. This is also not enforced.

The proposed change would modify 33 C.F.R. § 334.980 to update the regulations and more adequately support the NBVC's present operational needs. The proposal would change the boundaries of the restricted area sections into western, eastern and northern areas (the overall size of the restricted area would remain unchanged). This change would make the areas more aligned with visible features on the island. The Navy could still open and close these sections in part or in whole depending on operational needs. The proposed change would remove references to range marker poles, given that the majority of boaters use Global Positioning System to determine location and the need for markers (and subsequent maintenance of markers) no longer exists.

The proposal would remove references to fishing restrictions to clarify that the Navy does not regulate fishing, but rather closes areas to all access when necessary for operations. The proposal would update titles and contact references to match current command structure.

Restricted anchorages within the restricted area are also being modified by the U. S. Coast Guard under a separate authority and process.

Proposed Rule

List of Subjects in 33 C.F.R. Part 334

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

For the reasons set out in the preamble, the Corps proposes to amend 33 C.F.R. Part 334 as follows:

PART 334 -- DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for 33 C.F.R. 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 334.980 to read as follows:

334.980 Pacific Ocean, around San Nicholas Island, Calif., naval restricted area.

(a) The area. (1) perimeter (restricted). The waters of the Pacific Ocean around San Nicholas Island, Calif., extending about 3 miles seaward from the shoreline, described as follows:

	Latitude	Longitude
Point A	33°10'10"	119°24'20"
Point C	33°10'10"	119°31'10"
Point D	33°12'00"	119°35'30"
Point E	33°14'20"	119°37'40"
Point F	33°16'40"	119°38'10"
Point G	33°19'10"	119°37'10"
Point I	33°20'10"	119°31'10"
Point K	33°17'40"	119°24'50"
Point L	33°13'50"	119°21'50"

(2) Sections of Area. ALPHA section is the northerly section of the area, and is described as follows:

	Latitude	Longitude
Point H	33°20'01"	119°32'02"
Point I	33°20'10"	119°31'10"
Point K	33°17'40"	119°24'50"
Point L	33°13'50"	119°21'50"
Point O	33°13'50"	119°26'02"
Thence northwesterly along shoreline to Point N		
Point N	33°17'04"	119°32'02"
Point H	33°20'01"	119°32'02"

BRAVO section is the westerly section of the area, and is described as follows:

	Latitude	Longitude
Point N	33°17'04"	119°32'02"
Thence westerly, southerly and easterly along the shoreline to Point M		
Point M	33°13'10"	119°29'40"
Point B	33°10'10"	119°29'40"
Point C	33°10'10"	119°31'10"
Point D	33°12'00"	119°35'30"
Point E	33°14'20"	119°37'40"
Point F	33°16'40"	119°38'10"
Point G	33°19'10"	119°37'10"
Point H	33°20'01"	119°32'02"
Point N	33°17'04"	119°32'02"

CHARLIE section is the southerly section of the area, and is described as follows:

	Latitude	Longitude
Point L	33°13'50"	119°21'50"
Point O	33°13'50"	119°26'02"
Thence southerly and westerly along the shoreline to Point M		
Point M	33°13'10"	119°29'40"
Point B	33°10'10"	119°29'40"
Point A	33°10'10"	119°24'20"
Point L	33°13'50"	119°21'50"

(b) The regulations. (1) Except during closure periods or as otherwise provided in this section, the restricted area will be open to all vessels.

(2) Boats must remain at least 300 yards from the shoreline of San Nicolas Island at all times. Nothing in this provision shall be construed as authorization to anchor within 300 yards or to land on San Nicolas Island, except in an emergency.

(3) No person, vessel or other craft shall enter the restricted area or designated section(s) during closure periods unless authorized to do so by the Commanding Officer, Naval Base Ventura County or the Officer in Charge, San Nicolas Island.

(4) Submarine cables within the restricted area post a risk to the equipment of vessels engaged in dredging, dragging, seining, anchoring and other bottom contact operations. Appropriate care must be taken to avoid damage.

(5) Closure Periods. Notice that the restricted area or section(s) ALPHA, BRAVO, or CHARLIE are closed to entry shall be given by radio broadcast Monday through Friday at 0900 and 1200 on 2638 kHz and 2738 kHz or by contacting "PLEAD CONTROL" on VHF-FM radio channel 11 or 16. Closure information may also be requested by telephone between 0600 and 1800 Monday through Friday at (805) 989-8841 or via recorded message at (805) 989-1470.

(6) The regulations in this section shall be enforced by personnel attached to Naval Base Ventura County, Point Mugu, Calif., and by such agencies as may be designated by the Commandant, 11th Naval District, San Diego, Calif.

Preliminary Review of Selected Factors

EIS Determination- 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 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.

Coastal Zone Management- The Corps certifies that the proposed amendment would comply with and would be conducted in a manner that is consistent with the approved State Coastal Zone Management Program. For those projects in or affecting the coastal zone, the Federal Coastal Zone Management Act requires that prior to finalizing the amended regulation, the Corps must seek concurrence from the California Coastal Commission that the proposed action is consistent with the enforceable policies of the State's Coastal Zone Management Plan. The District Commander hereby requests the California Coastal Commission's concurrence or non-concurrence.

Essential Fish Habitat- Preliminary determinations indicate the proposed amendment would not adversely affect essential fish habitat. Therefore, formal consultation under Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act is not required at this time.

Cultural Resources- The latest version of the National Register of Historic Places has been consulted and this site is not listed. This review constitutes the extent of cultural resources investigations by the District Commander, and she is otherwise unaware of the presence of such resources. Due to the administrative nature of this action and because there is no intended change in the use of the area, the Corps has made a preliminary determination that there is no potential to cause effect to historic properties.

Endangered Species- Preliminary determinations indicate that the proposed amendment would not affect federally-listed endangered or threatened species, or their critical habitat. Therefore, formal consultation under Section 7 of the Endangered Species Act does not appear to be required at this time.

Public Hearing- 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 hearing shall state with particularity the reasons for holding a public hearing.

For additional information please call Antal Szijj of my staff at 805-585-2147 or via e-mail at Antal.J.Szijj@usace.army.mil . This public notice is issued by the Chief, Regulatory Division.



Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

U.S. ARMY CORPS OF ENGINEERS – LOS ANGELES DISTRICT

Figure 1: Vicinity Map



Figure 2: Existing Restricted Area

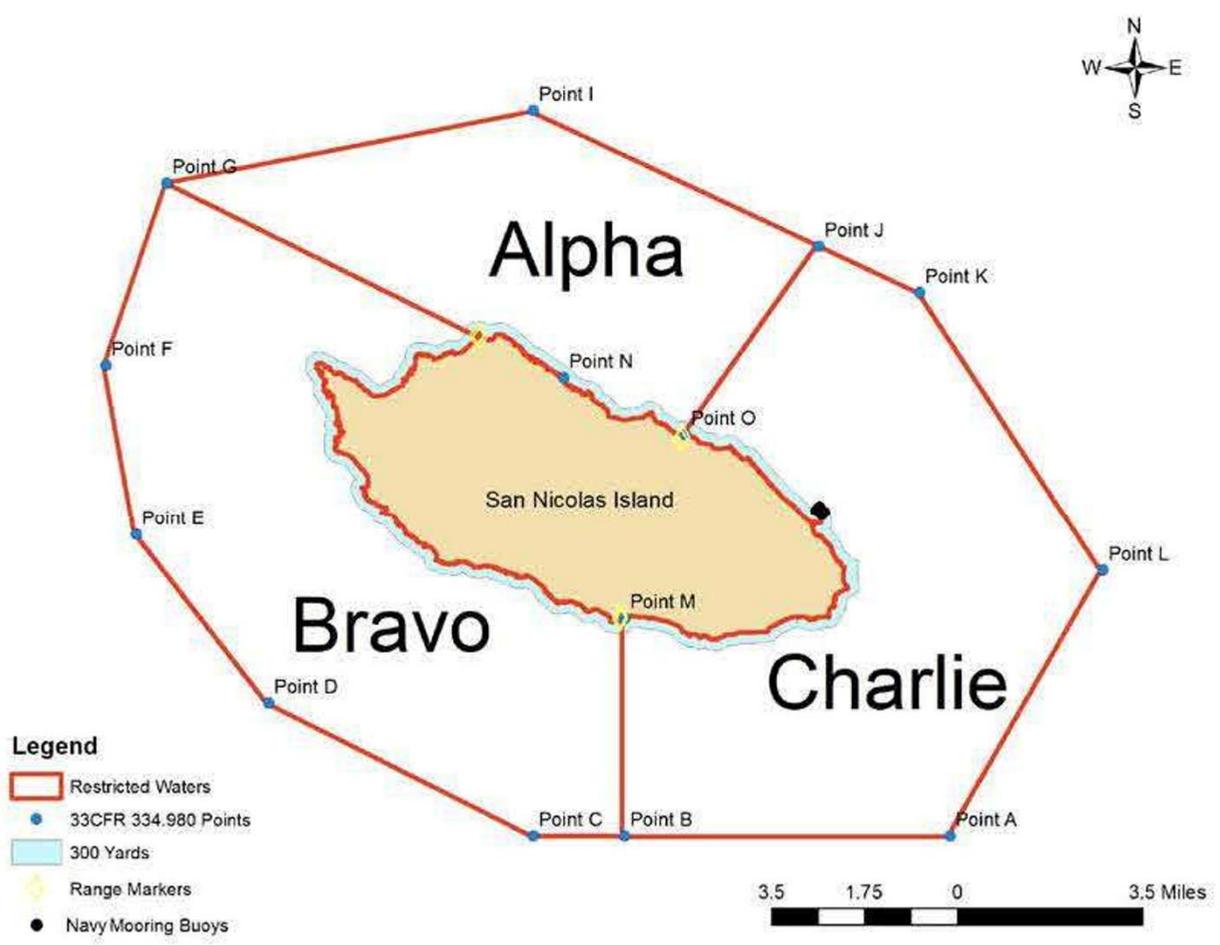


Figure 3: Proposed Restricted Area

