

**Comment of the Government of Canada**  
**Proposed establishment of 34 permanent safety zones in U.S. waters of the Great Lakes to be used for live ammunition training**

The Government of Canada welcomes the opportunity to provide comments on the proposed establishment of 34 permanent safety zones on the Great Lakes to be used for United States Coast Guard (USCG) weapons training exercises, Docket Number 25767. The following comments were developed in consultation with the Government of Ontario. We also thank the USCG for their briefing provided to Canadian officials on November 2<sup>nd</sup>, 2006.

There is a long history of border cooperation between our two countries based on principles of partnership, efficiency, effectiveness, and security collaboration. More recently, in the context of the Shared Border Accord (1995), the Smart Borders Action Plan (2001), and the Security and Prosperity Partnership (2005), Canada and the United States have collaborated on a growing number of joint initiatives to increase our common security, and to facilitate legitimate cross-border flows of people and commerce, in this, the largest trading relationship in the world.

Anchoring its commitment to North American security, Canada has increased support to national and border security by about US \$ 10 billion since 2001. An example of our effective security cooperation is the deployment of 23 Canada-US Integrated Border Enforcement Teams (IBETs) from coast to coast along our shared border in 15 strategic regions, including the Great Lakes. Other innovative bilateral security arrangements have been established, including recognition of each country's approved vessel security plans, and joint inspection of foreign-flagged vessels entering the Great Lakes.

To increase marine domain awareness in the Great Lakes Region, Canada established an interim Great Lakes Marine Security Operations Centre (GL-MSOC). The GL-MSOC works closely with the East Coast MSOC in Halifax to create a real time, comprehensive picture of marine activity on the Great Lakes.

Since September 11, 2001, Canada has committed over CDN \$ 930 million to strengthen marine security. These resources are to enhance Canada's capacity to respond to marine security threats in the Great Lakes region. For example, the Royal Canadian Mounted Police's National Port Enforcement Team Program (NPET) brings together intelligence-led teams comprised of Royal Canadian Mounted Police, Canada Border Services Agency and police from local jurisdictions to investigate criminal activities and other threats at major Canadian ports.

Canada's on-water law enforcement presence and response capacity on the Great Lakes has also been enhanced with the deployment of three joint Royal Canadian Mounted Police /Canada Coast Guard vessels, as well as over 100 other smaller law enforcement vessels. The vessels are not armed with machine guns, but the Coast Guard vessels carry identifiable armed peace officers and are marked as Canadian police vessels for law enforcement/maritime security in the Great Lakes. The Canadian Coast Guard will operate four new patrol permanent vessels which will be constructed with law enforcement personnel aboard.

In April 2003, Canada and the US agreed to an understanding (Pro Memoria) regarding the Rush-Bagot Treaty of 1817. This agreement confirmed Canada's acceptance of USCG vessels

armed with machine guns as law enforcement vessels operating in US waters and not as naval forces under the Department of Defence. As part of that agreement, the US also assured Canada that USCG vessels so armed will not engage in law enforcement activities in Canadian waters. The purpose of the Rush-Bagot Treaty, which followed the War of 1812, was to limit warships and armaments on the Great Lakes, and was deemed by both countries to not prevent the type of law enforcement envisaged in the Pro Memoria.

However, in the spirit of our border partnership, we believe that new security initiatives, whether on the land border or on the Great Lakes – such as the proposal to establish live ammunition training zones in US Waters of the Great Lakes - must be better communicated and consulted between governments well before they are announced. This is particularly true with respect to the Great Lakes region and the many municipal, industrial, environmental, and other stakeholders which are directly concerned on both sides of the border.

Canadian provinces and municipalities, as well as other Canadian and US stakeholders, have conveyed to the Government of Canada questions and concerns regarding the establishment of the 34 safety zones and the live ammunition training to be conducted in those zones. These concerns relate primarily to whether spent ammunition will add to lead and other forms of contamination in the Great Lakes, as well as safety considerations regarding commercial and recreational traffic.

The Government of Canada shares these questions and concerns. Canada believes that the safety and environmental impacts of this proposed activity need to be more fully assessed before live ammunition training resumes.

The Great Lakes are vital to both nations as a shared, precious resource.

- They contain almost 20 percent of the world's surface freshwater but less than one percent of the water is renewed annually.
- The Great Lakes region (including both Canada and the US) produces a gross domestic product estimated at \$3.8 trillion.
- More than 40 million people rely on the Great Lakes drainage basin as their source of drinking water.
- The lakes are home to over 350 species of fish, as well as 3500 species of plants and animals.

The Great Lakes also unite our two countries in terms of communities, commerce, tourism, the environment, and security. Sovereign law enforcement activities in our respective waters need to take into account these broader interests in the Great Lakes region. Following are more detailed safety and environmental considerations.

### **Environmental Considerations**

Canadian officials have reviewed the *USCG's Preliminary Health Risk Assessment for Proposed U.S. Coast Guard Weapons Training Exercises* which concludes that the introduction of discharged ammunition in the Great Lakes will not result in elevated risks and that further investigation is not required. However, there is a legacy of toxic pollution in the Great Lakes which continues to create environmental and health risks, even though the sources of this pollution, in many cases, have long been removed.

The creation of Safety Zones for USCG live ammunition training in the Great Lakes will result in the discharge of ammunition - adding lead, copper, zinc and antimony - into the water and sediment of the Great Lakes. Any activity that results in a net increase in pollution to the Great Lakes is counter-productive to both governments' commitments under the *Canada-U.S. Great Lakes Water Quality Agreement*.

The purpose of the Agreement is “to restore and maintain the chemical, physical, and biological integrity of the waters of the Great Lakes Basin Ecosystem” and “to eliminate or reduce to the maximum extent practicable the discharge of pollutants into the Great Lakes System”. The Agreement further states that “it is the policy of the Parties that the discharge of toxic substances in toxic amounts be prohibited and the discharge of any or all persistent toxic substances be virtually eliminated”.

The environmental impact of discharged ammunition in the Great Lakes may have a cumulative impact well beyond the five year study period in the USCG Preliminary Health Risk Assessment. It also runs contrary to the objective of bans by both governments on lead in gunshot and fishing gear in the Great Lakes Basin.

The *Great Lakes Water Quality Agreement* contains specific objectives for chemical concentrations in water, based on the environmental effect data available at that time. The USCG Preliminary Health Risk Assessment estimates that lead concentration in sediment pore water will be increased by approximately 4.8 micrograms per litre in fresh water. This value does not consider existing or background contamination from previous activities and the assessment acknowledges that risks to aquatic life would be underestimated if contamination currently exists in training areas.

The USCG Preliminary Health Risk Assessment is limited by not considering the effects of training exercises that take place in areas with existing levels of contamination with the potential for cumulative impacts with expended ammunition. There could be an elevated risk if existing sediment concentrations are already near or over screening levels used in this risk assessment.

## **Marine Safety**

Transport Canada Marine Safety has advised that an important prerequisite to the effectiveness of the safety zones is the provision of sufficient notice to mariners through the broadcast of notices to shipping.

The Federal Register indicates that "the proposed safety zones will be enforced only upon notice by the cognizant Captain of the Port for the area in which the exercise will be held. The cognizant Captain of the Port will cause notice of the enforcement of a live fire exercise safety zone to be made by all appropriate means to effect the widest publicity among the affected segments of the public including publication in the Federal Register as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners. The cognizant Captain of the Port will issue a Broadcast Notice to Mariners and Local Notice to Mariners notifying the public when enforcement of a live fire exercise safety zone is suspended".

This commitment in the Register appears to meet the requirement of advance notice, but it is not clear what length of advance notice will be given and if this will be sufficient. Canada would strongly recommend a 48 to 72 hour advance notice before conducting live ammunition exercises in order to ensure that Great Lakes commercial and recreational traffic is fully aware that training is going to take place the following day. Advance notice that goes out only a few hours before an exercise would risk not being received by ships and boaters before they have left port on set courses.

The Government of Canada also shares concerns of commercial industry, including shippers and passenger services, that some of the proposed locations cross commercial navigation course lines and entries/departures in way of ports. We understand that industry stakeholders are themselves reviewing these proposed locations in an effort to reduce the impact of any delays or diversions for commercial ships, including through possible recommendations for possible relocation or reduction of proposed zones. We would also ask that consideration be given to scheduling the training exercises in early spring or late fall to reduce the impact on recreational boating.

### **Recommendations:**

- An environmental assessment under the National Environmental Protection Act be conducted on the impacts of live ammunition training taking into account existing conditions in the Great Lakes.
- The United States Coast Guard should consider whether an evaluation of water quality, sediment and benthos at each of the sites prior to initiating training exercises could provide meaningful additional information for managing environmental effects from this undertaking. Additional site-specific data could allow for baseline comparisons with *Great Lakes Water Quality Agreement* and other relevant objectives for metals, and an assessment of the cumulative impact of metal input from the exercises. Water quality, sediments and benthos conditions could then be reassessed at a suitable future interval (e.g., at five years) to confirm the assumptions made in the risk assessment, in particular the predictions related to lead and its effects.

- The USCG should consider approaching ammunition manufacturers to explore the feasibility of using specialized non-toxic shot loaded for training purposes. On the assumption that the ballistic characteristics of the shot would not be compromised to any great extent, this would eliminate the introduction of additional toxic substances to the lakes.
- The USCG should provide advance notification 48-72 hours before conducting live ammunition training exercises.
- Training exercises should be conducted in early spring (before April 15) or late fall (after November 15), as this measure would reduce the impacts to recreational boating.
- Additional communications efforts should be considered to clarify how often the training zones will be used each year, and for what duration of time. If, for example, the zones are only to be used a few times each year for short periods of time, then this information will help to clarify that the training itself will not be a permanent activity.
- Consideration given to relocation, amending the configuration or number of the safety zones to ensure that no traffic route is included in a training zone, if information is received to this effect from the commercial industry.
- The USCG training exercise should be time bounded and limited to five years, at which point the USGC should reapply for consideration of its proposed rulemaking, taking into account impacts of the initial training.
- A number of other safety concerns were expressed during the public hearings. Live ammunition training should not resume until these concerns are fully assessed and can be effectively mitigated.