

**DEPARTMENT OF DEFENSE****Department of the Army; Corps of Engineers****33 CFR Part 334****United States Army Danger Zone; Salt River, Rolling Fork River, and Otter Creek; U.S. Army Garrison, Fort Knox Military Reservation; Fort Knox, KY**

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Final rule.

**SUMMARY:** The Corps of Engineers is amending its regulations to establish a danger zone on navigable portions of the Salt River and the Rolling Fork River and the non-navigable portions of Otter Creek, within the installation boundaries of the Fort Knox Military Reservation. These regulations will enable the Army to prohibit public access to the area and enhance safety and security within active military impact and training areas.

The Salt River passes through an active military area. Unexploded ordnance (UXO) from military weapons firing is located within the areas along the river and a multi-purpose digital training range is under construction in this area. The Salt River is also used for river training activities. Training and military weapons firing activities occur approximately 320 days per year in this area. The Rolling Fork River passes through the center of the Yano Multi-purpose Training Range. Weapons firing from artillery, M1A2 Abrams Tanks, Bradley Fighting Vehicles, helicopters, and other weapons systems occur approximately 320 days of each year. Otter Creek runs through the installation. Otter Creek travels through Training Areas 8, 9, and 10. These areas are used to train soldiers for combat operation training on M1A2 Abrams Tanks and Bradley Fighting Vehicles. Artillery simulators and other explosive devices are used for these training activities, presenting a risk to civilians entering the area. These regulations are necessary to protect the public from potentially hazardous conditions that may exist as a result of Army use and security of the area. The regulations will also safeguard government personnel and property from sabotage and other subversive acts, accidents, or incidents of similar nature.

**DATES:** This rule is effective April 25, 2005.

**ADDRESSES:** U.S. Army Corps of Engineers, ATTN: GECW-CO, 441 G Street, NW., Washington, DC 20314-1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. David B. Olson, Headquarters Regulatory Branch, Washington, DC at (202) 761-4922, or Ms. Amy S. Babey, Corps of Engineers, Louisville District, at (502) 315-6691.

**SUPPLEMENTARY INFORMATION:** 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 amending the danger zone regulations in 33 CFR part 334 by adding Section 334.855, which establishes a danger zone in the navigable portions of Salt River and Rolling Fork River, and non-navigable portions of Otter Creek, within the Ft. Knox Military Reservation installation boundaries. To better protect the Army, personnel stationed at the facility, and the general public, the Army requested the Corps of Engineers establish a Danger Zone. This would enable the Army to keep persons and vessels out of the area at all times, except with the permission of the Commanding General, U.S. Army Garrison, Ft. Knox Military Reservation, Fort Knox, Kentucky, or his/her authorized representative.

**Procedural Requirements***a. Review Under Executive Order 12866*

This rule is issued with respect to a military function of the Department of Defense and the provisions of Executive Order 12866 do not apply.

*b. Review Under the Regulatory Flexibility Act*

This rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 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). The Corps expects that the economic impact of the establishment of this danger zone would have minimal impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and therefore certifies that this rule would have no significant economic impact on small entities.

*c. Review Under the National Environmental Policy Act*

The Louisville District has prepared an Environmental Assessment (EA) for this action. Due to the minor nature of the additional danger zone regulations, the Corps has concluded that this action would not have a significant impact to the quality of the human environment, and preparation of an Environmental

Impact Statement is not required. The EA may be reviewed by contacting the District office listed at the end of the **FOR FURTHER INFORMATION CONTACT** section, above.

*d. Unfunded Mandates Act*

This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small governments would not be significantly and uniquely affected by this rulemaking.

*e. Submission to Congress and the General Accounting Office*

Pursuant to Section 801(a)(1)(A) of the Administrative Procedure Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this rule to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office. This rule is not a major rule within the meaning of Section 804(2) of the Administrative Procedures Act, as amended.

**List of Subjects in 33 CFR Part 334**

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

■ For the reasons stated in the preamble, the Corps amends 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 § 334.855 to read as follows:

**§ 334.855 Salt River, Rolling Fork River, Otter Creek; U.S. Army Garrison, Fort Knox Military Reservation; Fort Knox, Kentucky; Danger Zone.**

(a) *The area.* Salt River from Point A (latitude 37°59'31.72" N; longitude 85°55'32.98" W) located approximately 1.2 miles southeast of West Point, Kentucky; southward to its confluence with the Rolling Fork River. Salt River from Point B (latitude 37°57'51.32" N; longitude 85°45'37.14" W) located approximately 2.8 miles southwest of Shepherdsville, Kentucky; southward to its confluence with the Rolling Fork River. Rolling Fork River from Point C (latitude 37°49'59.27" N; longitude 85°45'37.74" W) located approximately 1.6 miles southwest of Lebanon

Junction, Kentucky northward to its confluence with the Salt River. Otter Creek from Point D (latitude 37°51'31.77" N; longitude 86°00'03.79" W) located approximately 3.4 miles north of Vine Grove, Kentucky to Point E (latitude 37°55'21.95" N; longitude 86°01'47.38" W) located approximately 2.3 miles southwest of Muldraugh.

(b) *The regulation.* All persons, swimmers, vessels and other craft, except those vessels under the supervision or contract to local military or Army authority, vessels of the United States Coast Guard, and federal, local or state law enforcement vessels, are prohibited from entering the danger zones without permission from the Commanding General, U.S. Army Garrison, Fort Knox Military Reservation, Fort Knox, Kentucky or his/her authorized representative.

(c) *Enforcement.* The regulation in this section, promulgated by the United States Army Corps of Engineers, shall be enforced by the Commanding General, U.S. Army Garrison, Fort Knox Military Reservation, Fort Knox, Kentucky and/or other persons or agencies as he/she may designate.

Dated: March 16, 2005.

**Michael B. White,**

*Chief, Operations, Directorate of Civil Works.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

42 CFR Parts 403, 416, 418, 460, 482, 483, and 485

[CMS-3145-IFC]

RIN 0938-AN36

### Medicare and Medicaid Programs; Fire Safety Requirements for Certain Health Care Facilities; Amendment

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Interim final rule with comment period.

**SUMMARY:** This interim final rule with comment period adopts the substance of the April 15, 2004 temporary interim amendment (TIA) 00-1 (101), *Alcohol Based Hand Rub Solutions*, an amendment to the 2000 edition of the Life Safety Code, published by the National Fire Protection Association (NFPA). This amendment will allow certain health care facilities to place

alcohol-based hand rub dispensers in egress corridors under specified conditions. This interim final rule with comment period also requires that nursing facilities install smoke detectors in resident rooms and public areas if they do not have a sprinkler system installed throughout the facility or a hard-wired smoke detection system in those areas.

**DATES:** *Effective date:* These regulations are effective on May 24, 2005.

*Comments date:* To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on May 24, 2005.

**ADDRESSES:** In commenting, please refer to file code CMS-3145-IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of three ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to <http://www.cms.hhs.gov/regulations/ecomments>. (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.)

2. *By mail.* You may mail written comments (one original and two copies) to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-3145-IFC, P.O. Box 8018, Baltimore, MD 21244-8018.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786-9994 in advance to schedule your arrival with one of our staff members.

Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; or 7500 Security Boulevard, Baltimore, MD 21244-1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

*Submission of comments on paperwork requirements.* You may submit comments on this document's paperwork requirements by mailing your comments to the addresses provided at the end of the "Collection of Information Requirements" section in this document.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Danielle Shearer, (410) 786-6617; James Merrill, (410) 786-6998; or Mayer Zimmerman, (410) 786-6839.

#### **SUPPLEMENTARY INFORMATION:**

*Submitting Comments:* We welcome comments from the public on all issues set forth in this rule to assist us in fully considering issues and developing policies. You can assist us by referencing the file code CMS-3145-IFC and the specific "issue identifier" that precedes the section on which you choose to comment.

*Inspection of Public Comments:* Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (410) 786-9994.

#### **I. Background**

##### *A. Alcohol-Based Hand Rubs (ABHR)*

The Life Safety Code (LSC) is a compilation of fire safety requirements for new and existing buildings that is updated and generally published every 3 years by the National Fire Protection Association (NFPA), a private, nonprofit organization dedicated to reducing loss of life due to fire. The Medicare and Medicaid regulations have historically incorporated these requirements by reference, while providing the opportunity for a Secretarial waiver of a requirement under certain circumstances. The statutory basis for incorporating NFPA's LSC for our providers is under the Secretary's general rulemaking authority at sections 1102 and 1871 of the Social Security Act.

On January 10, 2003, we published a final rule in the **Federal Register**, entitled "Fire Safety Requirements for Certain Health Care Facilities" (68 FR