

officer also transmits an analysis of the issues and the evidence, but makes no recommendations as to resolution of the issues. All parties may file briefs with the Regional Director within 7 days after the close of the hearing. The parties may also request to be heard orally. After review of the entire case, the Regional Director issues a final decision, either dismissing the petition or directing that an election be held. In the latter event, the election is conducted under the supervision of the Regional Director in the manner already described in this section.

(3) All matters arising after the election, including determinative challenged ballots and objections to the conduct of the election shall be processed in a manner consistent with paragraphs (a)(4), (5), and (6) of this section.

3. Section 101.28 is revised to read as follows:

**§ 101.28 Consent agreements providing for election.**

(a) The Board makes available to the parties three types of informal consent procedures through which authorization issues can be resolved without resort to formal procedures. These informal agreements are commonly referred to as consent-election agreement followed by Regional Director's determination, stipulated election agreement followed by Board certification, and full consent-election agreement providing for the Regional Director's determination of both pre- and postelection matters. Forms for use in these informal procedures are available in the Regional Offices.

(b) The procedures to be used in connection with a consent-election agreement providing for the Regional Director's determination, a stipulated election agreement providing for Board certification, and the full consent-election agreement providing for the Regional Director's determination of both pre- and postelection matters are the same as those already described in subpart C of this part in connection with similar agreements in representation cases under section 9(c) of the Act, except that no provision is made for runoff elections.

**PART 102—RULES AND REGULATIONS, SERIES 8**

4. The authority citation for 29 CFR part 102 continues to read as follows:

**Authority:** Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)), and section 552a(j) and (k) of

the Privacy Act (5 U.S.C. 552a(j) and (k)). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

5. Section 102.62 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

**§ 102.62 Consent-election agreements.**

(a) Where a petition has been duly filed, the employer and any individual or labor organizations representing a substantial number of employees involved may, with the approval of the Regional Director, enter into a consent-election agreement leading to a determination by the Regional Director of the facts ascertained after such consent election. Such agreement shall include a description of the appropriate unit, the time and place of holding the election, and the payroll period to be used in determining what employees within the appropriate unit shall be eligible to vote. Such consent election shall be conducted under the direction and supervision of the Regional Director. The method of conducting such consent election shall be consistent with the method followed by the Regional Director in conducting elections pursuant to §§ 102.69 and 102.70 except that the rulings and determinations by the Regional Director of the results thereof shall be final, and the Regional Director shall issue to the parties a certification of the results of the election, including certifications of representative where appropriate, with the same force and effect, in that case, as if issued by the Board, provided further that rulings or determinations by the Regional Director in respect to any amendment of such certification shall also be final.

\* \* \* \* \*

(c) Where a petition has been duly filed, the employer and any individual or labor organizations representing a substantial number of the employees involved may, with the approval of the Regional Director, enter into an agreement providing for a hearing pursuant to §§ 102.63, 102.64, 102.65, 102.66 and 102.67 to resolve any issue necessary to resolve the question concerning representation. Upon the conclusion of such a hearing, the Regional Director shall issue a Decision. The rulings and determinations by the Regional Director thereunder shall be final, with the same force and effect, in that case, as if issued by the Board. Any election ordered by the Regional Director shall be conducted under the direction and supervision of the Regional Director. The method of conducting such consent election shall

be consistent with the method followed by the Regional Director in conducting elections pursuant to §§ 102.69 and 102.70, except that the rulings and determinations by the Regional Director of the results thereof shall be final, and the Regional Director shall issue to the parties a certification of the results of the election, including certifications of representative where appropriate, with the same force and effect, in that case, as if issued by the Board, provided further that rulings or determinations by the Regional Director in respect to any amendment of such certification shall also be final.

Dated in Washington, DC, on July 22, 2004.

By direction of the Board.

**Lester A. Heltzer,**

*Executive Secretary.*

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**BILLING CODE 7545-01-P**

**DEPARTMENT OF DEFENSE**

**Department of the Army, Corps of Engineers**

**33 CFR Part 334**

**RIN 0710-AA58**

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

**AGENCY:** United States Army Corps of Engineers, Department of Defense.

**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The Corps of Engineers is proposing 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 area 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:** Written comments must be submitted on or before August 26, 2004.

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Miller, Headquarters Regulatory Branch, Washington, DC at (202) 761-7763, 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 proposes to amend the danger zone regulations in 33 CFR part 334 by adding § 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 has 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 proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review under the Regulatory Flexibility Act.

These proposed rules have 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 accordingly, certifies that this proposal if adopted, would have no significant economic impact on small entities.

c. Review under the National Environmental Policy Act.

A preliminary environmental assessment has been prepared for this action. The District expects, due to the minor nature of the proposed additional restricted area regulations, that this action, if adopted, would not have a significant impact on the quality of the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

d. Unfunded Mandates Act.

This proposed 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.

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

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

For the reasons set out in the preamble, 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. Section 334.855 would be added 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 (37°59'31.72"N; 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 (37°57'51.32"N; 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 (37°49'59.27"N; 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 (37°51'31.77"N; 86°00'03.79"W) located approximately 3.4 miles north of Vine Grove, Kentucky to Point E (37°55'21.95"N; 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: July 19, 2004.

**Michael B. White,**  
Chief, Operations, Directorate of Civil Works.  
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#### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Parts 3 and 5

RIN 2900-AL70

#### Presumptions of Service Connection for Certain Disabilities, and Related Matters

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to reorganize and