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Dated: February 22, 2002.

**Claire M. Lathers,**

*Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.*  
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## DEPARTMENT OF DEFENSE

### Department of the Air Force

#### 32 CFR Part 809a

RIN 0701-AA64

#### Installation Entry Policy, Civil Disturbance Intervention and Disaster Assistance

**AGENCY:** Department of the Air Force, DoD.

**ACTION:** Final Rule.

**SUMMARY:** The Department of the Air Force has revised its regulations in 32 CFR part 809a dealing with installation entry policy, barments, enforcing order within or near Air Force installations, and civil disturbance and disaster assistance, to reflect current policies. This rule implements guidance from Section 21 of the Internal Security Act of 1950; DoD Directive 5200.8, Security of DoD Installations and Resources; and Title 10 U.S.C., Sections 332 and 333. The revision adds expulsion and installation entry point check procedures.

**EFFECTIVE DATE:** March 27, 2002.

**FOR FURTHER INFORMATION CONTACT:** SMSgt Walter Filipiak, (210) 671-0898.

#### List of Subjects in 32 CFR Part 809a

Civil defense, Civil disorders, Disaster assistance, Federal buildings and facilities, Foreign relations, Law enforcement, Military personnel.

For the reasons set forth in the preamble, the Department of the Air Force is revising 32 CFR Part 809a to read as follows:

#### PART 809a—INSTALLATION ENTRY POLICY, CIVIL DISTURBANCE INTERVENTION AND DISASTER ASSISTANCE

Sec.

809a.0 Purpose.

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**Authority:** 10 U.S.C. 332 and 333.

#### § 809a.0 Purpose.

This part prescribes the commanders' authority for enforcing order within or near Air Force installations under their jurisdiction and controlling entry to those installations. It provides guidance for use of military personnel in controlling civil disturbances and in supporting disaster relief operations. This part applies to installations in the United States, its territories and possessions, and will be used to the maximum extent possible in the overseas commands. Instructions issued by the appropriate overseas commander, status of forces agreements, and other international agreements provide more definitive guidance for the overseas commands. Nothing in this part should be construed as authorizing or requiring security forces units to collect and maintain information concerning persons or organizations having no affiliation with the Air Force other than a list of persons barred from the installation.

#### Subpart A—Installation Entry Policy

##### § 809a.1 Random installation entry point checks.

The installation commander determines when, where, and how to implement random checks of vehicles or pedestrians. The commander conducts random checks to protect the security of the command or to protect government property.

##### § 809a.2 Military responsibility and authority.

(a) Air Force installation commanders are responsible for protecting personnel and property under their jurisdiction and for maintaining order on installations, to ensure the uninterrupted and successful accomplishment of the Air Force mission.

(b) Each commander is authorized to grant or deny access to their installations, and to exclude or remove persons whose presence is unauthorized. In excluding or removing persons from the installation, the installation commander must not act in an arbitrary or capricious manner. Their action must be reasonable in relation to their responsibility to protect and to preserve order on the installation and to safeguard persons and property thereon. As far as practicable, they should prescribe by regulation the rules and conditions governing access to their installation.

##### § 809a.3 Unauthorized entry.

Under Section 21 of the Internal Security Act of 1950 (50 U.S.C. 797), any directive issued by the commander of a military installation or facility, which includes the parameters for authorized entry to or exit from a military installation, is legally enforceable against all persons whether or not those persons are subject to the Uniformed Code of Military Justice (UCMJ). Military personnel who reenter an installation after having been properly ordered not to do so may be apprehended. Civilian violators may be detained and either escorted off the installation or turned over to proper civilian authorities. Civilian violators may be prosecuted under 18 U.S.C. 1382.

##### § 809a.4 Use of Government facilities.

Commanders are prohibited from authorizing demonstrations for partisan political purposes. Demonstrations on any Air Force installation for other than political purposes may only occur with the prior approval of the installation commander. Demonstrations that could result in interference with, or prevention of, the orderly accomplishment of the mission of an installation or that present a clear danger to loyalty, discipline or morale

of members of the Armed Forces will not be approved.

#### **§ 809a.5 Barment procedures.**

Under the authority of 50 U.S.C. 797, installation commanders may deny access to the installation through the use of a barment order. Barment orders should be in writing but may also be oral. Security forces maintain a list of personnel barred from the installation.

### **Subpart B—Civil Disturbance Intervention and Disaster Assistance**

#### **§ 809a.6 Authority.**

The authority to intervene during civil disturbances and to provide disaster assistance is bound by directives issued by competent authorities. States must request federal military intervention or aid directly from the President of the United States by the state's legislature or executive. Installation commanders must immediately report these requests in accordance with AFI 10-802, *Military Support to Civil Authorities* (Available from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.).

#### **§ 809a.7 Definitions.**

The following definitions apply to this part:

(a) *Emergencies*. These are conditions which affect public welfare and occur as a result of enemy attack, insurrection, civil disturbances, earthquake, fire, flood, or other public disasters which endanger life and property or disrupt the usual process of government. The term "emergency" includes any or all of the conditions explained in this section.

(b) *Civil defense emergency*. This is a disaster situation resulting from devastation created by an enemy attack and requiring emergency operations during and following attack. It may also be proclaimed by appropriate authority in anticipation of an attack.

(c) *Civil disturbances*. These are group acts of violence or disorder prejudicial to public law and order including those which follow a major disaster. They include riots, acts of violence, insurrections, unlawful obstructions or assemblages, or other disorders.

(d) *Major disaster*. Any flood, fire, hurricane, or other catastrophe which, in the determination of the President, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of the State and local governments in alleviating the damage, hardship, or suffering caused thereby.

#### **§ 809a.8 Installation policies and laws.**

This subpart contains policies on the use of Air Force military personnel in civil disturbances and disasters. The more important laws concerning military aid to civil authorities are also summarized.

(a) The Air Force gives military assistance to civil authorities in civil defense or civil disturbances and disasters only when such assistance is requested or directed. Commanders will not undertake such assistance without authority, unless the overruling demands of humanity compel immediate action to protect life and property and to restore order.

(b) The military service having available resources nearest the affected area is responsible for providing initial assistance to civil authorities in emergencies. Subsequent operations are to be according to the mutual agreement between the senior service commanders concerned.

(c) The protection of life and property and the maintenance of law and order within the territorial jurisdiction of any State is the primary responsibility of State and local authorities. It is well-established U.S. Government policy that intervention with military forces takes place only after State and local authorities have used their own forces and are unable to control the situation, or when they do not take appropriate action.

#### **§ 809a.9 Conditions for use of Air Force resources.**

This part is not intended to extend Air Force responsibilities in emergencies to generate additional resources (manpower, materiel, facilities, etc.) requirements, or encourage participation in such operations at the expense of the Air Force primary mission. It is a guide for the employment of Air Force resources when:

(a) A disaster or disturbance occurs in areas in which the U.S. Air Force is the executive agent of the United States.

(b) A disaster or disturbance occurs in areas that are remote from an Army installation but near an Air Force installation, thereby necessitating Air Force assumption of responsibility pending arrival of Army personnel.

(c) The overriding demand of conditions resulting from a natural disaster compels immediate action to protect life and property and to restore order.

#### **§ 809a.10 Military commanders' responsibilities.**

(a) Civilians in the affected area will be informed of the rules of conduct and

other restrictive measures to be enforced by the military. These will be announced by local proclamation or order, and will be given the widest publicity by all available media.

(b) Persons not normally subject to military law, who are taken into custody by military forces incident to civil disturbances, will be turned over to the civil authorities as soon as possible.

(c) Military forces will ordinarily exercise police powers previously inoperative in an affected area; restore and maintain order; maintain essential transportation and communication; and provide necessary relief measures.

(d) U.S. Air Force civilian employees may be used, in any assignments in which they are capable and willing to serve. In planning for on-base contingencies of fires, floods, hurricanes, and other natural disasters, arrangements should be made for the identification and voluntary use of individual employees to the extent that the needs for their services are anticipated.

#### **§ 809a.11 Procedures outside the United States.**

It is Air Force policy to make every reasonable effort to avoid any confrontation between United States military forces and host nation demonstrators or other dissidents posing a threat to Air Force resources. Intervention by United States military personnel outside the United States is governed by international law, bilateral and other international agreements to which the United States is a party, and host-nation laws. Local plans to counter such situations must include provisions to request and obtain host nation civil or military support as quickly as possible.

**Pamela D. Fitzgerald,**

*Air Force Federal Register Liaison Officer.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

#### **33 CFR Part 100**

[CGD05-02-009]

RIN 2115-AE46

#### **Special Local Regulations for Marine Events; Chesapeake Bay Near Annapolis, MD**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

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