

DEPARTMENT OF DEFENSE**Office of the Secretary****32 CFR Parts 43 and 50**

[RIN 0790-AH87]

Personal Commercial Solicitation on DoD Installations**AGENCY:** Office of the Secretary of Defense.**ACTION:** Proposed rule.

SUMMARY: This document proposes to amend the Department regulations relating to policy and procedures on personal commercial solicitation on DoD installations. The proposed change incorporates current policy letters that were issued since the last publication of DoD Directive 1344.7 in February 1986. These include: policy on use of on-base financial institutions and non-profit, tax exempt, private organizations to provide financial education; limits on the use of commercial sponsorship to obtain personal contact information for solicitation; and required reporting of solicitation policy violations to higher headquarters. The proposed change also includes a new solicitation evaluation form to help installations detect solicitation policy violations. This document will not have a significant impact on the public.

DATES: Comments must be received by June 20, 2005.**ADDRESSES:** Forward comments to: Colonel Michael A. Pachuta (*Michael.Pachuta@osd.mil*) or Mr. James M. Ellis (*James.Ellis@osd.mil*), at DUSD (MC&FP), 241 S. 18th St, Crystal Square #4, Suite 302, Arlington, VA 22202.**FOR FURTHER INFORMATION CONTACT:** Colonel Michael A. Pachuta or Mr. James M. Ellis at (703) 602-4994 or (703) 602-5009 respectively, or main (703) 602-5001.**SUPPLEMENTARY INFORMATION:****Executive Order 12866**

This proposed regulatory action is not a significant regulatory action, as defined by Executive Order 12866.

Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))

This proposed regulatory action will not have a significant adverse impact on a substantial number of small entities.

Unfunded Mandates Act of 1995 (Sec. 202, Pub. L. 104-4)

This proposed regulatory action does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in aggregate, or

by the private sector of \$100 million or more in any one year.

Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35)

This proposed regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act. A new form is introduced, a sample of which is at attached. It will be made available on the DoD Forms Web site (*http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm*) upon release of the issuance. The agent will provide the form to the service member at the beginning of their meeting. The form will not be returned to the agent.

Federalism (Executive Order 13132)

This proposed regulatory action does not have federalism implications, as set forth in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. There are some changes in the DoD Instruction 1344.aa, mostly from existing policy memoranda issued since the last update of the DoDD 1344.7, Personal Commercial Solicitation on DoD Installations. It updates old and adds some new references. It also includes a new Personal Commercial Solicitation Evaluation form.

Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"

It has been determined that this rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

List of Subjects in 32 CFR Parts 43 and 50

Consumer protection, Federal buildings and facilities, Government employees, Life insurance, Military personnel.

Accordingly, 32 CFR Chapter I, subchapter D is proposed to be amended as follows:

PART 43—[REMOVED]

1. Part 43 is removed.
2. Part 50 is added to read as follows:

PART 50—PERSONAL COMMERCIAL SOLICITATION ON DOD INSTALLATIONS**Subpart A—General Provisions**

Sec.

- 50.1 Purpose.
- 50.2 Applicability.
- 50.3 Policy.
- 50.4 Responsibilities.

Subpart B—Procedures

- 50.6 Purpose.
 - 50.7 Applicability and scope.
 - 50.8 Definitions.
 - 50.9 Policy.
 - 50.10 Responsibilities.
 - 50.11 Procedures.
 - 50.12 Information requirements.
- Appendix A to Part 50—Life Insurance Products and Securities
Appendix B to Part 50—Overseas Life Insurance Registration Program

Authority: 5 U.S.C. 301.**Subpart A—General Provisions****§ 50.1 Purpose.**

This part updates policy for personal commercial solicitation on DoD installations and continues the established annual DoD registration requirements for life insurance companies operating on all DoD installations.

§ 50.2 Applicability.

This part applies to The Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Combatant Commands, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components"). The term "Military Services" as used herein refers to the Army, the Navy, the Air Force, and the Marine Corps.

§ 50.3 Policy.

(a) The DoD shall safeguard and promote the welfare of DoD personnel as consumers by setting forth a uniform approach to the conduct of all personal commercial solicitation and sales to them by dealers and their agents. For those individuals and their companies that fail to follow this policy, the opportunity to solicit on military installations may be limited or denied as appropriate.

(b) Command authority shall include authority to approve or prohibit all commercial solicitation covered by this Directive. Nothing in this part limits an

installation commander's inherent authority to put time and place restrictions on commercial activities at the installation.

§ 50.4 Responsibilities.

(a) The Under Secretary of Defense for Personnel and Readiness shall:

(1) Develop and publish policies and procedures governing personal commercial solicitation on DoD installations consistent with the policies set forth in this part.

(2) Maintain, and make available to installation Commanders the current master file of all individual agents, dealers, and companies who have their privileges withdrawn at any DoD Installation.

(3) Develop and maintain a list of all State Insurance Commissioners' points of contact for DoD matters and forward this list to the Military Services.

(b) The Heads of the DoD Components, or their designees, shall ensure implementation of this subpart and subpart B.

Subpart B—Procedures

§ 50.6 Purpose.

(a) This subpart implements Subpart A of this part and establishes procedure for personal commercial solicitation on DoD installations.

(b) Continues the established annual DoD registration requirement for the sale of insurance and securities on DoD installations overseas.

(c) Identifies prohibited practices that may cause withdrawal of commercial solicitation privileges on DoD installations and establishes notification requirements when privileges are withdrawn.

(d) Establishes procedures for persons solicited on DoD installations to evaluate solicitors.

(e) Identifies procedures for providing financial education programs to military personnel.

§ 50.7 Applicability and scope.

(a) This subpart applies to the Office of the Secretary of Defense, the Military Departments, Chairman of the Joint Chiefs of Staff, the Combatant Commands, Defense Agencies, DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as "DoD Components").

(b) The provisions of this subpart do not apply to services furnished by residential service companies, such as deliveries of milk, laundry, newspapers and related services to personal residences on the installation when

such services are requested by the resident and authorized by the installation commander.

(c) This subpart applies to all other personal commercial solicitation on DoD installations, including meetings on DoD installations of private, non-profit, tax-exempt organizations that involve commercial solicitation. Attendance at these meetings shall be voluntary and the time and place of such meetings are subject to the discretion of the installation commander or his or her designee.

§ 50.8 Definitions.

Agent. An individual who receives remuneration as a salesperson or whose remuneration is dependent on volume of sales of a product or products. (Also referred to as "commercial agent").

Authorized bank and/or credit union. Bank and/or credit union selected by the installation commander through open competitive solicitation to provide exclusive on-base delivery of financial services to the installation under a written operating agreement.

Banking institution. An entity chartered by a state or the Federal Government to provide financial services.

Commercial solicitation. The conduct of a private business, including the offering and sale of products and services, on a military installation. Solicitation on installations is a privilege as distinguished from a right, and its control is a responsibility vested in the DoD installation commander.

Commercial sponsorship. The act of providing assistance, funding, goods, equipment (including fixed assets), or services to an MWR program(s) event(s) by an individual, agency, association, company or corporation, or other entity (sponsor) for a specified (limited) period of time in return for public recognition or advertising promotions. Enclosure 9 of DoD Instruction 1015.10¹ provides general policy governing commercial sponsorship.

Credit union. A cooperative nonprofit association, incorporated under the Credit Union Act, or similar State statute, for the purpose of encouraging thrift among its members and creating a source of credit at a fair and reasonable rate of interest.

DoD installation. Any Federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which DoD personnel are assigned for duty, including barracks, transient housing, and family quarters.

DoD personnel. All active duty officers (commissioned and warrant) and enlisted members of the Military Departments and all civilian employees, including nonappropriated fund employees and special Government employees, of the Department of Defense.

Financial services. Those services commonly associated with financial institutions in the United States, such as electronic banking (e.g., ATMs and personal computing banking), in-store banking, checking, share and savings accounts, fund transfers, sale of official checks, money orders and travelers checks, loan services, safe deposit boxes, trust services, sale and redemption of U.S. Savings Bonds, and acceptance of utility payments and any other services provided by financial institutions.

General agent. A person who has a legal contract to represent a company.

Insurance carrier. An insurance company issuing insurance through an association, reinsuring, or coinsuring such insurance.

Insurance product. A policy, annuity, or certificate of insurance issued by an insurer or evidence of insurance coverage issued by a self-insured association, including those with savings and investment features.

Insurer. Any company or association engaged in the business of selling insurance policies to DoD personnel.

Military services. The Army, the Navy, the Air Force, and the Marine Corps. Also includes the Coast Guard when operating as a service in the Navy.

Normal home enterprises. Sales or services that are customarily conducted in a domestic setting and do not compete with an installation's officially sanctioned commerce.

Personal. Pertaining to a particular individual's private affairs, interests, or activities.

Securities. Mutual funds, stocks, bonds, or any product registered with the Securities and Exchange Commission except for any insurance or annuity product issued by a corporation subject to supervision by State insurance authorities.

Solicitation. The conduct of any private business, including the offering and sale of insurance or securities on a military installation.

Suspension. Temporary termination of privileges pending completion of a commander's inquiry or investigation.

Withdrawal. Termination of privileges for a set period of time following completion of a commander's inquiry or investigation.

¹ This issuance can be viewed at <http://www.dtic.mil/whs/directives/>.

§ 50.9 Policy.

It is the policy of the Department of Defense to safeguard and promote the welfare of DoD personnel as consumers by setting forth a uniform approach to the conduct of all personal commercial solicitation and sales to them on DoD installations.

§ 50.10 Responsibilities.

(a) The Principal Deputy Under Secretary of Defense for Personnel and Readiness (PDSUD (P&R)), under the Under Secretary of Defense for Personnel and Readiness, shall:

(1) Identify policy and develop procedures governing personal commercial solicitation activities conducted on DoD installations.

(2) Maintain the master file of all individuals and companies who have their privileges withdrawn at any DoD installation and disseminate this file to installation commanders.

(3) Maintain a list of State Insurance Commissioner points of contact for DoD matters and disseminate this list to the Military Services.

(b) The Heads of the DoD Components, or their designees, shall:

(1) Ensure implementation of this subpart and compliance with its provisions.

(2) Require installations under their cognizance report each instance of withdrawal of commercial solicitation privileges.

(3) Submit lists of all individuals and companies who have had their commercial solicitation privileges withdrawn at installations under their cognizance to the PDUSD(P&R) in accordance with this subpart.

§ 50.11 Procedures.

(a) *General.* (1) No person has authority to enter upon a DoD installation to transact personal commercial solicitation as a matter of right. Personal commercial solicitation will be permitted only if the following requirements are met:

(i) The solicitor is duly licensed under applicable Federal, State, or municipal laws and has complied with installation regulations in accordance with paragraph (c) of this section.

(ii) A specific appointment has been made for each meeting with the individual concerned and each meeting is conducted only in family quarters or in other areas designated by the installation commander.

(iii) The solicitor agrees to provide each person solicited the personal commercial solicitation evaluation included in Appendix A of this part during the initial appointment. The person being solicited is not required to

complete the evaluation. However, completed evaluations should be sent by the person who was solicited to the office designated by the installation commander on the back of the evaluation form.

(2) Those seeking to transact personal commercial solicitation on overseas installations shall be required to observe, in addition to the above, the applicable laws of the host country and, upon request, present documentary evidence to the installation commander, or designee, that the company they represent, and its agents, meet the applicable licensing requirements of the host country.

(b) *Life insurance products and securities.* (1) Life insurance products and securities offered and sold to DoD personnel shall meet the prerequisites described in Appendix A of this part.

(2) Installation commanders may permit insurers and their agents to solicit on DoD installations if the requirements of paragraph (a) of this section are satisfied and if they are licensed under the insurance laws of the State in which the installation is located. In overseas areas, the DoD Components shall limit insurance solicitation to those insurers registered under the provisions of Appendix B of this part.

(3) The conduct of all insurance business on DoD installations shall be by specific appointment. When establishing the appointment, insurance agents shall identify themselves to the prospective purchaser as an agent for a specific company.

(4) Installation commanders shall designate areas where interviews by appointment may be conducted. The opportunity to conduct scheduled interviews shall be extended to all solicitors on an equitable basis. Where space and other considerations limit the number of agents using the interviewing area, the installation commander may develop and publish local policy consistent with this concept.

(5) Installation commanders shall make disinterested third-party counseling available to DoD personnel desiring counseling. DoD personnel shall be encouraged to seek legal assistance or other advice from a disinterested third-party prior to entering a contract for insurance.

(6) In addition to the solicitation prohibitions contained in paragraph (c) of this section, the DoD Components shall prohibit the following:

(i) DoD personnel from representing any insurer, dealing directly or indirectly on behalf of any insurer or any recognized representative of any insurer on the installation, or as an

agent or in any official or business capacity with or without compensation.

(ii) The use of an agent as a participant in any Military Service-sponsored education or orientation program.

(iii) The designation of any agent or the use by any agent of titles (for example, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant") that in any manner suggests or implies any type of endorsement from the U.S. Government, the Armed Forces, or any State or Federal agency or government entity.

(iv) The assignment of desk space for interviews for other than a specific prearranged appointment. During such appointment, the agent shall not be permitted to display desk signs or other materials announcing his or her name or company affiliation.

(v) The use of an installation "daily bulletin," marquee, newsletter, web page or other official notice to announce the presence of an agent and/or his or her availability.

(c) *Supervision of on-base commercial activities.* (1) All pertinent installation regulations shall be posted in a place easily accessible to those conducting and receiving personal commercial solicitation on the installation.

(2) The installation commander shall make available a copy of installation regulations to anyone conducting on-base commercial solicitation activities with the warning that failure to abide by the regulations may result in the loss of solicitation privileges.

(3) The installation commander, or designated representative, shall inquire into any alleged violations of this Subpart or questionable solicitation practices. The DD Form 2885, Personal Commercial Solicitation Evaluation, at Appendix A of this part is provided as a means to supervise solicitation activities on the installation. The DD Form 2885 is available at the Department of Defense Forms web site under DefenseLink, Publications.

(d) *Prohibited practices.* The following commercial solicitation practices shall be prohibited on all DoD installations:

(1) Solicitation in a "mass" or "captive audience" of any personnel, civilian or military, to include recruits, trainees, and transient personnel.

(2) Making appointments with or soliciting military and DoD civilian personnel who are in an "on-duty" status.

(3) Soliciting without appointment in areas utilized for the housing or processing of transient personnel, in barracks areas used as quarters, in unit

areas, in family quarters areas, and in areas provided by installation commanders for interviews by appointment.

(4) Use of official military identification cards or DoD vehicle decals by active duty, retired or reserve members of the Military Services to gain access to DoD installations for the purpose of soliciting. When entering the installation for the purpose of solicitation, solicitors with military identification cards and/or DoD vehicle decals must present documentation issued by the installation authorizing solicitation.

(5) Procuring, attempting to procure, supplying, or attempting to supply listings of DoD personnel for purposes of commercial solicitation, except for releases made in accordance with DoD Directive 5400.7.²

(6) Offering unfair, improper, or deceptive inducements to purchase or trade.

(7) Using promotional incentives to facilitate transactions or to eliminate competition.

(8) Using manipulative, deceptive, or fraudulent devices, schemes, or artifices, including misleading advertising and sales literature. All financial products, which contain insurance features, must clearly explain the insurance features of those products.

(9) Using oral or written representations to suggest or give the appearance that the Department of Defense sponsors or endorses any particular company, its agents, or the goods, services, and commodities it sells.

(10) DoD personnel making personal commercial solicitations or sales to DoD personnel who are junior in rank or grade except as authorized in DoD Directive 5500.7.³

(11) Entering into any unauthorized or restricted area.

(12) Using any portion of installation facilities, including quarters, as a showroom or store for the sale of goods or services, except as specifically authorized by DoD Directives 1330.9³ and 1330.17⁴ and DoD Instructions 1015.10⁵ and 1000.15⁶. This does not apply to normal home enterprises that comply with applicable State and local laws and installation rules.

(13) Soliciting door to door.

(14) Unauthorized advertising of addresses or telephone numbers of commercial sales activities conducted

on the installation, or the use of military rank and/or titles for the purpose of personal commercial solicitation.

(15) Contacting DoD personnel by calling a government telephone, faxing to a government fax machine or by sending e-mail to a government computer, unless a pre-existing relationship exists between the parties.

(e) *Denial, suspension and withdrawal of installation solicitation privileges.* (1) The installation commander shall deny, suspend or withdraw permission for a company and its agents, to conduct commercial activities on the base if such action is in the best interests of the command. The grounds for taking these actions may include, but are not limited to, the following:

(i) Failure to meet the licensing and other regulatory requirements prescribed in this subpart, including paragraphs (a) and (b) of this section.

(ii) Commission of any of the practices prohibited in paragraph (d)(6) and paragraph (d) of this section.

(iii) Substantiated complaints and/or adverse reports regarding the quality of goods, services, and/or commodities and the manner in which they are offered for sale.

(iv) Knowing and willful violations of Pub. L. 90-321.

(v) Personal misconduct by a company's agent or representative while on the installation.

(vi) The possession of or any attempt to obtain supplies of allotment forms used by the Military Departments, or possession or use of facsimiles thereof.

(vii) Failure to incorporate and abide by the Standards of Fairness policies contained in DoD Directive 1344.9.⁷

(2) The installation commander may determine that circumstances dictate the immediate suspension of solicitation privileges while an investigation is conducted. Upon suspending solicitation privileges, the commander shall promptly inform the agent and the company the agent represents, as well as the Office of the PDUSD(P&R), in writing.

(3) In suspending or withdrawing solicitation privileges, the commander shall determine whether to limit it to the agent alone or extend it to the company the agent represents. This decision shall be based on the circumstances of the particular case, including, but not limited to, the nature of the violations, frequency of violations, the extent to which other agents of the company have engaged in such practices, and any other matters

tending to show the individual's and the company's culpability.

(4) If the investigation determines an agent or company does not possess a valid license or has failed to meet other State or Federal regulatory requirements, the installation commander shall notify the appropriate regulatory authorities.

(5) In a withdrawal action, the commander shall afford the individual or company an opportunity to present facts on an informal basis for the consideration of the installation commander. The installation commander shall make a final decision regarding withdrawal based upon the entire record in each case.

(6) The installation commander shall inform the Military Department concerned of any denial, suspension or withdrawal of solicitation privileges and the Military Department shall inform the Office of the PDUSD(P&R). If warranted, the installation commander may recommend to the Military Department concerned that the action taken be extended to other DoD installations. The Military Department may extend the action to other military installations in the Military Department. The PDUSD(P&R), following consultation with the Military Department concerned, may order the action extended to other Military Departments.

(7) All suspensions or withdrawals of privileges shall be for a set period of time, at the end of which the individual or company may reapply for permission to solicit through the installation commander or Military Department originally imposing the restriction. The Office of the PDUSD(P&R) shall be notified when such suspensions or withdrawals are lifted.

(8) The Secretaries of the Military Departments may direct the Armed Forces Disciplinary Control Boards in all geographical areas in which the grounds for withdrawal action have occurred to consider all applicable information and take action the Boards deem appropriate.

(9) Nothing in this subpart limits the authority of the installation commander or other appropriate authority from requesting or instituting other administrative and/or criminal action against any person including those who violate the conditions and restrictions upon which installation entry is authorized.

(f) *Advertising and commercial sponsorship.* (1) The Department of Defense expects voluntary observance of the highest business ethics by commercial enterprises soliciting DoD personnel through advertisements in

² See footnote 1 to paragraph § 50.8.

³ See footnote 1 to paragraph § 50.8.

⁴ See footnote 1 to paragraph § 50.8.

⁵ See footnote 1 to paragraph § 50.8.

⁶ See footnote 1 to paragraph § 50.8.

⁷ See footnote 1 to paragraph § 50.8.

unofficial military publications in describing goods, services, commodities, and the terms of the sale (including guarantees, warranties, and the like).

(2) The advertising of credit terms shall conform to the provisions of 15 U.S.C. 1601 as implemented by Federal Reserve Board Regulation Z.

(3) Solicitors may provide commercial sponsorship to DoD MWR programs or events in accordance with DoD Instruction 1015.10.⁸ However, sponsorship may not be used as a means to obtain personal contact information for any participant at these events without written permission from the individual participant. In addition, commercial sponsors may not use sponsorship to advertise products and/or services not specifically agreed to in the sponsorship agreement.

(4) The Commander may permit organizations to display sales literature in designated locations subject to command policies. Distribution of competitive literature or forms by off-base banks and/or credit unions is prohibited on installations where an authorized on-base bank and/or credit union exists.

(g) *Educational programs.* (1) The Military Departments shall develop and disseminate information and provide educational programs for members of the Military Services on their personal financial affairs, including such subjects as 15 U.S.C. 1601 insurance, Government benefits, savings, and budgeting. The services of representatives of authorized on-base banks and credit unions may be used for this purpose. Under no circumstances shall commercial agents, including representatives of loan, finance, insurance or investment companies be used for this purpose. Presentations shall only be conducted at the express request of the installation commander.

(2) The Military Departments shall also make qualified personnel and facilities available for individual counseling on loans and consumer credit transactions in order to encourage thrift and financial responsibility and promote a better understanding of the wise use of credit, as prescribed in DoD Directive 1344.9.⁹

(3) Military members shall be encouraged to seek advice from a legal assistance officer, the installation finance counselor, their own lawyer or a financial counselor, before making a substantial loan or credit commitment.

(4) Each Military Department shall provide advice and guidance to military

personnel who have a complaint under 15 U.S.C. 1601 or who allege a criminal violation of its provisions, including referral to the appropriate regulatory agency for processing of the complaint.

(5) Banks and credit unions operating on DoD installations are required to provide financial counseling services as an integral part of their financial services offerings. Representatives of and materials provided by authorized banks and/or credit unions located on military installations may be used to provide the educational programs and information required by this subpart subject to the following conditions:

(i) If the bank or credit union operating on a DoD installation has any affiliation with a company that sells or markets insurance or other financial products, the installation commander shall consider that company's history of complying with this subpart prior to requesting the on-base financial institution provide financial education.

(ii) All prospective educators must agree to use appropriate disclaimers in their presentations and on their educational materials, which clearly indicate that they do not endorse or favor any commercial supplier, product or service or promote the services of a specific financial institution.

(6) Use of other non-governmental organizations to provide financial education programs is limited as follows:

(i) Under no circumstances shall commercial agents, including employees or representatives of commercial loan, finance, insurance or investment companies, be used.

(ii) The limitation in paragraph (g)(6)(i) of this section does not apply to educational programs and information regarding the Survivor Benefits Program and other governmental benefits provided by tax-exempt organizations under 26 U.S.C. 501(c)(23) or by any organization providing such a benefit pursuant to a contract with the Government.

(iii) Educators from non-governmental, non-commercial organizations expert in personal financial affairs and their materials may, with appropriate disclaimers, provide the educational programs and information required by this subpart if approved by a Presidentially-appointed, Senate-confirmed civilian official of the Military Department concerned. Presentations by approved organizations shall be conducted only at the express request of the installation commander. The following criteria shall be used when considering whether to permit a non-governmental, non-commercial organization to present an educational

program or provide materials on personal financial affairs:

(A) The organization must qualify as a tax-exempt organization under section 501(c)(3) or 501(c)(23) of 26 U.S.C.

(B) If the organization has any affiliation with a company that sells or markets insurance or other financial products, the approval authority shall consider that company's history of complying with this subpart.

(C) All prospective educators must use appropriate disclaimers in their presentations and on their educational materials, which clearly indicate that they and the Department of Defense do not endorse or favor any commercial supplier, product, or service or promote the services of a specific financial institution.

§ 50.12 Information requirements.

(a) The reporting requirements concerning the withdrawal of solicitation privileges have been assigned Reporting Control Symbol (RCS) DD-P&R(AR)2182.

(b) The information collected on the DD Form 2885, "Personal Commercial Solicitation Evaluation" has been assigned Report Control Symbol (RCS) DD-P&R(AR)XXXX.

(c) These reporting requirements have been assigned in accordance with DoD Publication 8910.1-M.¹⁰

Appendix A to Part 50—Life Insurance Products and Securities

A. Life Insurance Product Content Prerequisites

1. Companies must provide DoD personnel a separate written description for each product or service they intend to market to DoD personnel on DoD installations. These descriptions must be written in a manner that DoD personnel can easily understand, and fully disclose the fundamental nature of the policy.

2. Insurance products, other than certificates or other evidence of insurance issued by a self-insured association, offered and sold worldwide to personnel on DoD installations, must:

a. Comply with the insurance laws of the State or country in which the installation is located and the requirements of this Instruction.

b. Contain no restrictions by reason of military service or military occupational specialty of the insured, unless such restrictions are clearly indicated on the face of the contract.

c. Plainly indicate any extra premium charges imposed by reason of military service or military occupational specialty.

d. Contain no variation in the amount of death benefit or premium based upon the length of time the contract has been in force, unless all such variations are clearly described therein.

⁸ See footnote 1 to paragraph § 50.8.

⁹ See footnote 1 to paragraph § 50.8.

¹⁰ See footnote 1 to paragraph § 50.8.

3. To comply with paragraphs A.1.a. through A.1.d. of this appendix, an appropriate reference stamped on the first page of the contract shall draw the attention of the policyholder to any restrictions by reason of military service or military occupational specialty, extra premium charges and any variations in the amount of death benefit or premium based upon the length of time the contract has been in force.

4. Variable life insurance products may be offered provided they meet the criteria of the appropriate insurance regulatory agency and the Securities and Exchange Commission.

5. Insurance products shall not be sold disguised as investments. If there is a savings component to an insurance product, the agent shall provide the customer written documentation, which clearly explains how much of the premium goes to the savings component per year broken down over the life of the policy. This document must also show the total amount per year allocated to insurance premiums. The customer must be provided a copy of this document that is signed by the insurance agent.

B. Sale of Securities

1. All securities must be registered with the Securities and Exchange Commission.

2. All sales of securities must comply with the appropriate Securities and Exchange Commission regulations.

3. All securities representatives must apply to the commander of the installation on which they desire to solicit the sale of securities for permission to solicit.

4. Where the accredited insurer's policy permits, an overseas accredited life insurance agent—if duly qualified to engage in security activities either as a registered representative of the National Association of Securities Dealers or as an associate of a broker or dealer registered with the Securities and Exchange Commission—may offer life insurance and securities for sale simultaneously. In cases of commingled sales, the allotment of pay for the purchase of securities cannot be made to the insurer.

C. Use of the Allotment of Pay System

1. Allotments of military pay for life insurance products shall be made in accordance with DoD Publication 7000.14-R.¹¹

2. For personnel in pay grades E-1, E-2, and E-3, at least 7 calendar days shall elapse for counseling between the signing of a life insurance application and the certification of an allotment. The purchaser's commanding officer may grant a waiver of this requirement for good cause, such as the purchaser's imminent permanent change of station.

D. Associations—General

The recent growth and general acceptability of quasi-military associations offering various insurance plans to military personnel are acknowledged. Some associations are not organized within the supervision of insurance laws of either a State or the Federal Government. While some are organized for profit, others function as nonprofit associations under Internal

Revenue Service regulations. Regardless of the manner in which insurance is offered to members, the management of the association is responsible for complying fully with the policies contained in this part.

Appendix B to Part 50—Overseas Life Insurance Registration Program

A. Registration Criteria

1. Initial registration.

a. Insurers must demonstrate continuous successful operation in the life insurance business for a period of not less than 5 years on December 31 of the year preceding the date of filing the application.

b. Insurers must be listed in Best's Life-Health Insurance Reports and be assigned a rating of B+ (Very Good) or better for the business year preceding the Government's fiscal year for which registration is sought.

2. Re-registration.

a. Insurers must demonstrate continuous successful operation in the life insurance business, as described in paragraph A.1.a. of this appendix.

b. Insurers must retain a Best's rating of B+ or better, as described in paragraph A.1.b. of this appendix.

c. Insurers must demonstrate a record of compliance with the policies found in this Instruction.

3. *Waiver provisions.* Waivers of the initial registration or re-registration provisions shall be considered for those insurers demonstrating substantial compliance with the aforementioned criteria.

B. Application Instructions

1. *Applications Filed Annually.* Insurers must apply by June 30th of each year for solicitation privileges on overseas U.S. military installations for the next fiscal year beginning October 1st. Applications e-mailed, faxed or postmarked after June 30, shall not be considered.

2. *Application prerequisites.* A letter of application, signed by the President, Vice President, or designated official of the insurance company shall be forwarded to the Principal Deputy Under Secretary of Defense (Personnel and Readiness), Attention: Morale, Welfare and Policy Directorate, 4000 Defense, The Pentagon, Washington, DC 20301-4000. The registration criteria in paragraph A.1.a. or b. of this appendix, must be met to satisfy application prerequisites. The letter shall contain the information set forth in the following paragraphs, submitted in the order listed. Where not applicable, state in the letter.

a. The overseas commands (*e.g.*, U.S. European Command, U.S. Pacific Command, U.S. Central Command, U.S. Southern Command) where the company is presently soliciting, or planning to solicit on U.S. military installations.

b. A statement that the company has complied with, or shall comply with, the applicable laws of the country or countries wherein it proposes to solicit. "Laws of the country" means all national, provincial, city, or county laws or ordinances of any country, as applicable.

c. A statement that the products to be offered for sale conform to the standards prescribed in appendix A of this part and

contain only the standard provisions such as those prescribed by the laws of the State where the company's headquarters are located.

d. A statement that the company shall assume full responsibility for the acts of its agents with respect to solicitation. If warranted, the number of agents may be limited by the overseas command concerned.

e. A statement that the company shall only use agents who have been licensed by the appropriate State and registered by the overseas command concerned to sell to DoD personnel on DoD installations.

f. Any explanatory or supplemental comments that shall assist in evaluating the application.

g. If the Department of Defense requires facts or statistics beyond those normally involved in registration, the company shall make separate arrangements to provide them.

h. A statement that the company's general agent and other registered agents are appointed in accordance with the prerequisites established in section C. of this appendix.

3. If a company is a life insurance company subsidiary, it must be registered separately on its own merits.

C. Agent Requirements

The overseas Combatant Commanders shall apply the following principles:

1. An agent must possess a current State license. This requirement may be waived for a registered agent continuously residing and successfully selling life insurance in foreign areas, who, through no fault of his or her own, due to State law (or regulation) governing domicile requirements, or requiring that the agent's company be licensed to do business in that State, forfeits eligibility for a State license. The request for a waiver shall contain the name of the State or jurisdiction that would not renew the agent's license.

2. The general agents and agents may represent only one registered commercial insurance company. This principle may be waived by the overseas commander if multiple representations are in the best interest of DoD personnel.

3. An agent must have at least 1 year of successful life insurance underwriting experience in the United States or its territories, generally within the 5 years preceding the date of application, in order to be approved for overseas solicitation.

4. The overseas commanders may exercise further agent control procedures as deemed necessary.

5. An agent, once registered in an overseas area, may not change affiliation from the staff of one general agent to another and retain registration.

D. Announcement of Registration

1. Registration by the Department of Defense upon annual applications of insurers shall be announced as soon as practicable by notice to each applicant and by a list released annually in September to the appropriate overseas commanders. Approval does not constitute DoD endorsement of the insurer or its products. Any advertising by insurers or verbal representation by its agents, which suggests such endorsement, is prohibited.

¹¹ See footnote 1 to paragraph § 50.8.

2. In the event registration is denied, specific reasons for the denial shall be submitted to the applicant.

a. The insurer shall have 30 days from the receipt of notification of denial of registration (sent certified mail, return receipt requested) in which to request reconsideration of the original decision. This request must be accompanied by substantiating data or information in rebuttal of the specific reasons upon which the denial was based.

b. Action by the PDUSD(P&R) or designee on a request for reconsideration is final.

c. An applicant that is presently registered as an insurer shall have 90 calendar days from final action denying registration in which to close out operations.

3. Upon receiving an annual letter approving registration, each company shall send to the applicable overseas Combatant Commander a verified list of agents currently registered for overseas solicitation. Where applicable, the company shall also include the names and prior military affiliation of new agents for whom original registration and permission to solicit on base is requested. Insurers initially registered shall be furnished instructions by the Department of Defense for agent registration procedures in overseas areas.

4. Material changes affecting the corporate status and financial conditions of the company that may occur during the fiscal year of registration must be reported to MWR Policy at the address in paragraph B.2. of this appendix, as they occur.

a. The Office of the PDUSD(P&R) reserves the right to terminate registration if such material changes appear to substantially affect the financial and operational criteria described in section A of this appendix on which registration was based.

b. Failure to report such material changes may result in termination of registration regardless of how it affects the criteria.

5. If an analysis of information furnished by the company indicates that unfavorable trends are developing that may possibly adversely affect its future operations, the Office of the PDUSD(P&R) may, at its option, bring such matters to the attention of the company and request a statement as to what action, if any, is contemplated to deal with such unfavorable trends.

Dated: April 14, 2005.

Jeannette Owings-Ballard,
OSD Federal Register Liaison Officer,
Department of Defense.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01-05-028]

RIN 1625-AA09

Drawbridge Operation Regulations; Housatonic River, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the drawbridge operating regulations governing the operation of the U.S. 1 Bridge, mile 3.5, across the Housatonic River at Stratford, Connecticut. Under this temporary rule only one of the two-bascule leafs at the bridge would open for the passage of vessel traffic from June 18, 2005 through December 30, 2005, except holidays. Two-leaf, full bridge openings, would be provided upon a three-day advance notice. This temporary rulemaking is necessary to facilitate rehabilitation repairs at the bridge.

DATES: Comments and related material must reach the Coast Guard on or before May 19, 2005.

ADDRESSES: You may mail comments and related material to Commander (obr), First Coast Guard District Bridge Branch, 408 Atlantic Avenue, Boston, Massachusetts, 02110, or deliver them to the same address between 6:30 a.m. and 3 p.m., Monday through Friday, except, Federal holidays. The telephone number is (617) 223-8364. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, (212) 668-7195.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01-05-028), indicate the specific section of this document to which each comment applies, and give the reason for each

comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

If, as we anticipate we make this temporary final rule effective less than 30 days after publication in the **Federal Register**, we will explain in that publication, as required by 5 U.S.C. (d)(3), our good cause for doing so.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background

The U.S. 1 Bridge has a vertical clearance in the closed position of 32 feet at mean high water and 37 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.207(a).

The owner of the bridge, the Connecticut Department of Transportation, requested a temporary change to the drawbridge operation regulations to facilitate rehabilitation maintenance at the bridge.

Under this temporary rule only one of the two-bascule leafs at the U.S. 1 Bridge would open for the passage of vessel traffic from June 18, 2005 through December 30, 2005.

The Monday through Friday closures to facilitate vehicular commuter traffic in the existing operation regulations, 7 a.m. to 9 a.m. and 4 p.m. to 5:45 p.m., would continue to be in effect during this temporary rule.

Two-leaf openings would be provided on the following holidays: the Fourth of July, Friday July 1 through Monday July 4; Labor Day, Friday September 2 through Monday September 5; Thanksgiving, Thursday November 24 through Sunday November 27; and Christmas, Saturday December 24 through Monday December 26, 2005.

In addition, full two leaf bridge opening would also be provided at any time, except during the closed periods for vehicular commuter traffic, after at least a three-day advance notice is given