

Lafayette Centre, 1120–20th Street, NW., Ninth Floor, Washington, DC 20036–3457.

(2) The requester shall submit his appeal in writing within thirty (30) days of the date of denial, or within ninety (90) days of such request if the appeal is from a failure of the Privacy Officer to make a determination. The letter of appeal should include, as applicable:

(i) Reasonable identification of the record to which access was sought or the amendment of which was requested.

(ii) A statement of the OSHRC action or failure to act being appealed and the relief sought.

(iii) A copy of the request, the notification of denial and any other related correspondence.

(b) *Final decisions.* The Chairman shall make his final decision not later than thirty (30) working days from the date of the request, unless he extends the time for good cause to be shown by him but not to exceed ninety (90) days from the date of the request. Any record found on appeal to be incomplete, inaccurate, irrelevant, or untimely, shall within thirty (30) working days of the date of such findings be appropriately amended.

(c) *Decision requirements.* The decision of the Chairman constitutes the final decision of OSHRC on the right of the requester to inspect, copy, change or update a record. The decision on the appeal shall be in writing and, in the event of a denial, shall set forth the reasons for such denial and state the individual's right to obtain judicial review in a district court of the United States. An indexed file of the agency's decisions on appeal shall be maintained by the Privacy Officer.

(d) *Submission of statement of disagreement.* If the final decision does not satisfy the requester, then any statement of reasonable length, provided by that individual, setting forth a position regarding the disputed information, shall be accepted and included in the relevant record.

#### **§ 2400.10 Schedule of fees.**

(a) *Policy.* The purpose of this section is to establish fair and equitable fees to permit reproduction of records for concerned individuals.

(b) *Reproduction*—(1) For the fees associated with reproduction of records, refer to Appendix A to part 2201, Schedule of Fees.

(2) OSHRC shall not normally furnish more than one copy of any record.

(c) *Limitations.* No fee shall be charged to any individual for the

process of retrieving, reviewing, or amending records.

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## **DEPARTMENT OF DEFENSE**

### **Office of the Secretary**

#### **32 CFR Part 281**

[DOD–2006–OS–132]

RIN 0790–AG47

#### **Settling Personnel and General Claims and Processing Advance Decision Requests**

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies policy and assigns responsibilities for settling personnel and general claims and for processing requests for an advance decision. The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense (DoD). Later, the General Accounting Office Act of 1996 codified many of these delegations to the Secretary of Defense and others and transferred to the OMB Director the authority of the Comptroller General to waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding \$1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members and DoD employees to the Secretary of Defense. The Secretary of Defense further delegated his claims settlement and waiver authorities to the General Counsel. This rule implements the reassignment of the Comptroller General's former duties within the Department of Defense with little impact on the public.

On Thursday, November 14, 2002, the Department of Defense published appropriate proposed rules with request for public comments. Formatting and editorial changes were made to create this final document, including acknowledging that the Coast Guard is now part of the Department of Homeland Security rather than the Department of Transportation. Although these changes were made in 2003, the request for publication of these regulations was inadvertently misplaced until now.

*Effective Date:* September 29, 2006.

#### **FOR FURTHER INFORMATION CONTACT:**

Michael Hipple, 703–696–8510.

**SUPPLEMENTARY INFORMATION:** On Thursday, November 14, 2002, (67 FR 68964), the Department of Defense published 32 CFR part 281 along with parts 282, 283, and 284 as proposed rules with request for public comments. No public comments were received on part 281. Formatting and editorial changes were made to create this final document. A decision was made in 2003 to publish the final rules for parts 281 and 282 at the same time. Addressing internal comments and coordinating editorial changes throughout the Department of Defense on part 282 took until June 2004. In the interim, the request for final publication of part 281 was inadvertently misplaced.

#### **Executive Order 12866, “Regulatory Planning and Review”**

It has been determined that 32 CFR part 281 is not economically significant regulatory actions and will not significantly affect a substantial number of small entities.

#### **Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)**

It has been certified that 32 CFR part 281 does not contain a Federal mandate that may 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.

#### **Public Law 96–354, “Regulatory Flexibility Act” (5 U.S.C. 601)**

It has been certified that 32 CFR part 281 is not subject to the “Regulatory Flexibility Act” (5 U.S.C. 601) because, if promulgated, they would not have a significant economic impact on a substantial number of small entities. These rules affect members of the Uniformed Services, Federal employees and transportation carriers. 32 CFR part 281 establishes policies and assigns responsibilities for settling these claims. The same minimal requirements for submitting a claim are applicable to members and transportation carriers.

#### **Public Law 96–511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)**

It has been certified that these parts do not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

#### **Executive Order 13132, “Federalism”**

It has been certified that these parts do not have federalism implications, as set forth in Executive Order 13132. These parts do not have substantial direct effects on: The States; the relationship between the National

Government and the States; or the distribution of power and responsibilities among various levels of government.

#### List of Subjects in 32 CFR Part 281

Administrative practice and procedure, Armed Forces, Claims.

■ Accordingly, 32 CFR chapter 1, subchapter M is amended to add part 281 to read as follows:

#### PART 281—SETTLING PERSONNEL AND GENERAL CLAIMS AND PROCESSING ADVANCE DECISION REQUESTS

Sec.

281.1 Purpose.

281.2 Applicability and scope.

281.3 Definitions.

281.4 Policy.

281.5 Responsibilities.

Appendix to Part 281—Claims Description.

**Authority:** 10 U.S.C. 2575, 2771, 4712, 9712; 24 U.S.C. 420; 31 U.S.C. 3529, 3702; 32 U.S.C. 714; 37 U.S.C. 554.

##### § 281.1 Purpose.

This part establishes policy and assigns responsibilities for settling personnel and general claims (under 31 U.S.C. 3702; 10 U.S.C. 2575, 2771, 4712, and 9712; 24 U.S.C. 420; 37 U.S.C. 554, and 32 U.S.C. 714) and for processing requests for an advance decision under 31 U.S.C. 3529.

##### § 281.2 Applicability and scope.

This part applies to:

(a) The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, 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”).

(b) The Coast Guard, when it is not operating as a Service in the Navy under agreement with the Department of Homeland Security, and the Commissioned Corps of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA), under agreements with the Departments of Health and Human Services and Commerce (hereafter referred to collectively as “the non-DoD Components”).

##### § 281.3 Definitions.

**Armed Forces.** The Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.

**Claim.** A demand for money or property under 31 U.S.C. 3702; 10

U.S.C. 2575, 2771, 4712, and 9712; 24 U.S.C. 420; 37 U.S.C. 554, and 32 U.S.C. 714.

**Secretary concerned.** The Secretary of the Army, addressing matters concerning the Army. The Secretary of the Navy, addressing matters concerning the Navy, the Marine Corps, and the Coast Guard when it is operating as a Service in the Navy. The Secretary of the Air Force, addressing matters concerning the Air Force. The Secretary of Homeland Security, addressing matters concerning the Coast Guard when it is not operating as a Service in the Navy. The Secretary of Health and Human Services, addressing matters concerning the PHS. The Secretary of Commerce, addressing matters concerning the NOAA.

**Settlement.** A claim and the amount due that is administratively determined to be valid.

**Uniformed Services.** The Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, and the Commissioned Corps of the PHS and the NOAA.

##### § 281.4 Policy.

It is DoD policy that:

(a) The claim settlement and advance decision authorities that, by statute or delegation, are vested in the Department of Defense or the Secretary of Defense shall be exercised by the officials designated in this part. The appendix to this part describes the claims included under these functional authorities.

(b) Claims shall be settled and advance decisions shall be rendered in accordance with pertinent statutes and regulations, and after consideration of other relevant authorities.

##### § 281.5 Responsibilities.

(a) The *General Counsel of the Department of Defense* shall:

(1) Settle claims that the Secretary of Defense is authorized to settle under 31 U.S.C. 3702; 10 U.S.C. 2575, 2771, 4712, and 9712; 24 U.S.C. 420; 37 U.S.C. 554, and 32 U.S.C. 714.

(2) Consider, and grant or deny, a request under 31 U.S.C. 3702 to waive the time limit for submitting certain claims.

(3) Render advance decisions under 31 U.S.C. 3529 that the Secretary of Defense is authorized to render, and oversee the submission of requests for an advance decision arising from the activity of a DoD Component that are addressed to officials outside the Department of Defense.

(4) Develop overall claim settlement and advance decision policies; and promulgate procedures for settling claims, processing requests for an advance decision (including overseeing

the submission of requests for an advance decision arising from the activity of a DoD Component that are addressed to officials outside the Department of Defense), and rendering advance decisions. Procedures for settling claims shall include an initial determination process and a process to appeal an initial determination.

(b) The *Heads of the DoD Components* shall:

(1) Establish procedures within their organization for processing claims and for submitting requests for an advance decision arising from its activity in accordance with this part and responsibilities promulgated under paragraph (a)(4) of this section.

(2) Pay claims under 10 U.S.C. 2771 and 32 U.S.C. 714, if applicable.

(3) Ensure compliance with this part and policies and responsibilities promulgated under (a)(4) of this section.

(c) The *Heads of the Non-DoD Components*, concerning claims arising from that Component's activity under 31 U.S.C. 3702, 10 U.S.C. 2575, 10 U.S.C. 2771 or 37 U.S.C. 554, shall:

(1) Establish procedures within their organization for processing claims and for submitting requests for an advance decision in accordance with this part and responsibilities promulgated under paragraph (a)(4) of this section.

(2) Pay claims under 10 U.S.C. 2771, if applicable.

Appendix to Part 281—Claims Description

The Secretary of Defense is authorized to perform the claim settlement and advance decision functions for claims under the following statutes:

(a) 31 U.S.C. 3702, concerning claims in general when there is no other settlement authority specifically provided for by law.<sup>1</sup>

(b) 10 U.S.C. 2575, concerning the disposition of unclaimed personal property on a military installation.

(c) 10 U.S.C. 2771, concerning the final settlement of accounts of deceased members of the armed forces (but not the National Guard).<sup>2</sup>

<sup>1</sup> This includes claims involving Uniformed Services members' pay, allowances, travel, transportation, payment for unused accrued leave, retired pay, and survivor benefits, and claims for refunds by carriers for amounts collected from them for loss or damage to property they transported at Government expense; also included are other claims arising from the activity of a DoD Component. However, the Director of the Office of Personnel Management performs these functions for claims involving civilian employees' compensation and leave; and the Administrator of General Services performs these functions for claims involving civilian employees' travel, transportation, and relocation expenses.

<sup>2</sup> Claims under this statute are actually settled under the authority in 31 U.S.C. 3702 because there is no specific settlement authority in the statute.

(d) 24 U.S.C. 420, 10 U.S.C. 4712, and 10 U.S.C. 9712, concerning the disposition of the effects of a deceased person who was subject to military law at a place or command under the jurisdiction of the Army or Air Force or of deceased residents of the Armed Forces Retirement Home.

(e) 37 U.S.C. 554, concerning the sale of personal property of members of the Uniformed Services who are in a missing status.

(f) 32 U.S.C. 714, concerning the final settlement of accounts of deceased members of the National Guard.<sup>2</sup>

Dated: September 25, 2006.

**L.M. Bynum,**

*OSD Federal Register Liaison Officer, DOD.*

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 283

[DOD-2006-OS-133]

RIN 0790-AG90

#### Waiver of Debts Resulting From Erroneous Payments of Pay and Allowances

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies policy and assigns responsibilities for considering applications for the waiver of debts resulting from erroneous payments of pay and allowances (including travel and transportation allowances) to or on behalf of members of the Uniformed Services and civilian Department of Defense (DoD) employees. The Legislative Branch Appropriations Act of 1996 transferred to the Director of the Office of Management and Budget (OMB) the Comptroller General's authority to settle claims. The OMB Director subsequently delegated some of these authorities to the Department of Defense. Later, the General Accounting Office Act of 1996 codified many of these delegations to the Secretary of Defense and others and transferred to the OMB Director the authority of the Comptroller General to waive uniformed service member and employee debts arising out of the erroneous payment of pay or allowances exceeding \$1,500. The OMB Director subsequently delegated the authority to waive such debts of uniformed service members and DoD employees to the Secretary of Defense. The Secretary of Defense further delegated his claims settlement

and waiver authorities to the General Counsel. This rule implements the reassignment of the Comptroller General's former duties within the Department of Defense with little impact on the public.

On Thursday, November 14, 2002, the Department of Defense published appropriate proposed rules with request for public comments. Formatting and editorial changes were made to create this final document, including acknowledging that the Coast Guard is now part of the Department of Homeland Security rather than the Department of Transportation. Although these changes were made in 2003, a decision was made at that time to hold publication of these regulations so accompanying rules would be published at the same time. Addressing internal comments and coordinating numerous editorial changes throughout the Department of Defense on the accompanying rulemaking took until 2006.

**DATES:** *Effective Date:* September 29, 2006.

**FOR FURTHER INFORMATION CONTACT:** Michael Hipple, 703-696-8510.

**SUPPLEMENTARY INFORMATION:** On Thursday, November 14, 2002 (67 FR 68964), the Department of Defense (DoD) published 32 CFR part 283 along with parts 281, 282, and 284 as proposed rules with request for public comments. No public comments were received on part 283. Formatting and editorial changes were made to create this final document. A decision was made in 2003 to publish the final rules for parts 283 and 284 at the same time. Addressing internal comments and coordinating numerous editorial changes throughout the Department of Defense on part 284 took until 2006.

#### Executive Order 12866, "Regulatory Planning and Review"

It has been determined that 32 CFR part 283 is not economically significant regulatory actions and will not significantly affect a substantial number of small entities.

#### Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104-4)

It has been certified that 32 CFR part 283 does not contain a Federal mandate that may 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.

#### Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)

It has been certified that 32 CFR part 283 is not subject to the "Regulatory

Flexibility Act" (5 U.S.C. 601) because, if promulgated, they would not have a significant economic impact on a substantial number of small entities. These rules affect members of the Uniformed Services, Federal employees and transportation carriers. 32 CFR part 283 establishes policies and provide procedures for considering applications for waiver of debts resulting from erroneous pay and allowances to or on behalf of members and civilian DoD employees.

#### Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that these parts do not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

#### Executive Order 13132, "Federalism"

It has been certified that these parts do not have federalism implications, as set forth in Executive Order 13132. These parts do not have substantial direct effects on: the States; The relationship between the National Government and the States; or the distribution of power and responsibilities among various levels of government.

#### List of Subjects in 32 CFR Part 283

Administrative practice and procedure, Armed Forces, Waivers.

■ Accordingly, 32 CFR part 283 is added to read as follows:

#### PART 283—WAIVER OF DEBTS RESULTING FROM ERRONEOUS PAYMENTS OF PAY AND ALLOWANCES

Sec.

283.1 Purpose.

283.2 Applicability and scope.

283.3 Definitions.

283.4 Policy.

283.5 Responsibilities.

#### § 283.1 Purpose.

This part establishes policy and assigns responsibilities for considering applications for the waiver of debts resulting from erroneous payments of pay and allowances (including travel and transportation allowances) to or on behalf of members of the Uniformed Services and civilian DoD employees under 10 U.S.C. 2774, 32 U.S.C. 716, 5 U.S.C. 5584.

#### § 283.2 Applicability and scope.

This part applies to:

(a) The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of Inspector General of the Department of