

TPA, the TCU Norfolk may conduct negotiations. If TCU Norfolk negotiates a final settlement, however, request for payment will be forwarded to the insurer or TPA for payment.

Concurrence by the insurer or TPA in the amount of the settlement is not necessary.

(c) *When the NAFI is not insured.* When there is no private commercial insurer and the NAFI has made no independent arrangements for negotiations, the TCU Norfolk is responsible for conducting negotiations. When an appropriate settlement is negotiated by the Navy, the recommended award will be forwarded to the NAFI for payment from non-appropriated funds.

■ 8. Section 756.7 is revised to read as follows:

#### § 756.7 Payment.

(a) *Claims that can be settled for less than \$1,500.00.* A claim not covered by insurance (or not paid by the insurer), that can be settled for \$1,500.00 or less, may be adjudicated by the TCU Norfolk or single-service authority and forwarded to the commanding officer of the activity concerned or designee for payment out of funds available to the commanding officer. The TCU Norfolk or single-service authority will obtain the required release from the claimant.

(b) *Claims that cannot be settled for less than \$1,500.00.* A claim negotiated by the Navy, not covered by insurance, that is for more than \$1,500.00 will be forwarded to the appropriate non-appropriated fund headquarters command for payment from its non-appropriated funds.

(c) *When payment is possible under another statute.* In some cases, neither the NAFI nor its insurer may be legally responsible. In those instances when there is no negligence, and payment is authorized under some other statute, such as the Foreign Claims Act, 10 U.S.C. 2734–2736, the claim may be considered for payment from appropriated funds or may be referred to the TCU Norfolk for appropriate action.

(d) *Other claims.* A NAFI's private insurance policy is usually not available to cover losses that result from some act or omission of a mere participant in a non-appropriated fund activity. In the event the NAFI declines to pay the claim, the file shall be forwarded to the TCU Norfolk for determination.

■ 9. Section 756.8 is revised to read as follows:

#### § 756.8 Denial.

Claims resulting from non-appropriated fund activities may be denied only by the TCU Norfolk. The

denial will begin the six-month limitation on filing suit against the United States for claims filed under the FTCA. Denial of a claim shall be in writing and in accordance with subparts A and B of part 750 of this chapter, as appropriate. The TCU Norfolk should not deny claims that have initially been processed and negotiated by a non-appropriated fund activity, its insurer, or TPA, until the activity or its insurer has clearly stated in writing that it does not intend to pay the claim and has elected to defend the claim in court.

■ 10. Section 756.9 is revised to read as follows:

#### § 756.9 Claims by employees.

(a) *Property.* Claims by employees of NAFIs for loss, damage, or destruction of personal property incident to their employment shall be processed and adjudicated in accordance with subparts A or B of part 751 of this chapter, as appropriate. The claims will then be forwarded to the appropriate NAFI for payment from non-appropriated funds.

(b) *Personal injury or death.* (1) Personal injury or death of citizens or permanent residents of the United States employed anywhere, or foreign nationals employed within the United States. Compensation is provided by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901–950) for employees of NAFIs who have suffered injury or death arising out of, and in the course of, their employment (5 U.S.C. 8171). That Act is the exclusive basis for Government liability for such injuries or deaths that are covered (5 U.S.C. 8173). A claim should first be made under that Act if there is a substantial possibility the injury or death is covered under the Act's provisions.

(2) Personal injury or death of foreign nationals employed outside of the continental United States. Employees who are not citizens or permanent residents, and who are employed outside the continental United States, may be protected by private insurance of the NAFI or by other arrangements. When a non-appropriated fund activity has elected not to obtain insurance coverage or to make other arrangements, compensation is separately provided by Federal statute, military regulations, and agreements with foreign countries. See 5 U.S.C. 8172, DoD 1401.1-M, Personnel Policy Manual for Non-appropriated Fund Instrumentalities and BUPERINST 5300.10A, NAF Personnel Manual.

Dated: September 10, 2007.

**T.M. Cruz,**

*Lieutenant, Judge Advocate General's Corps,  
U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. E7-18205 Filed 9-18-07; 8:45 am]

**BILLING CODE 3810-FF-P**

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### 32 CFR Part 757

[USN-2006-0041]

RIN 0703-AA81

#### Affirmative Claims Regulations

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Interim final rule.

**SUMMARY:** This rule reflects administrative changes to the regulations concerning the administrative processing and consideration of claims on behalf of and against the United States. The revisions will ensure the proper administrative processing and consideration of claims on behalf of and against the United States. This rule is being published by the Department of the Navy for guidance and interest of the public in accordance with 5 U.S.C. 552(a)(1).

**DATES:** This rule is effective September 19, 2007. Comments must be received by November 19, 2007.

**ADDRESSES:** You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by any of the following methods: *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

**Mail:** Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

**Instructions:** All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Enrique Mendez, Head, Affirmative and Personnel Claims Branch, Claims and Tort Litigation Division (Code 15), Office of the Judge Advocate General, 1322 Patterson, Avenue SE., Washington Navy Yard, DC 20374, telephone 202–685–4621.

**SUPPLEMENTARY INFORMATION:** Executive Order 12866, "Regulatory Planning and

Review.” It has been determined that the changes to 32 CFR part 757 are not considered a “significant regulatory action.” The rule does not:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector in the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of the recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104-4). It has been certified that 32 CFR part 757 does not contain Federal Mandates that result in expenditures 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 determined 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. This rule implements the processing of the proper administrative processing and consideration of claims on behalf of and against the United States, and does not economically impact the Federal government’s relations with the private sector.

Public Law 96-511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35). This rule does not impose collection of information requirements for purposes of the Paperwork Reduction Act (44 U.S.C. Chapter 35, 5 CFR part 1320).

Executive Order 13132, “Federalism.” It has been certified that 32 CFR part 757 does not have federalism implications as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

- (1) The States;
- (2) The relationship between the National Government and the States; or
- (3) The distribution of power and responsibilities among the various levels of Government.

#### List of Subjects in 32 CFR Part 757

Claims; Health care.

■ Accordingly, 32 CFR part 757 is amended to read as follows:

## PART 757—AFFIRMATIVE CLAIMS REGULATIONS

### Subpart A—Property Damage Claims

■ 1. Section 757.2 is revised to read as follows:

#### § 757.2 Statutory authority.

(a) *General.* All affirmative claims for damage to or loss of Government property in favor of the United States are processed in accordance with the Federal Collections Claims Act (31 U.S.C. 3711), as amended by the Debt Collection Act of 1982, PL 97-365, 96 Stat. 1749 (25 October 1982), PL 101-552, 104 Stat. 2736 (15 November 1990) and the Debt Collection Improvement Act of 1996, PL 104-134, 110 Stat. 1321, 1358 (26 April 1996). Department of Defense Directive designees, the authority granted to the Secretary of Defense under the Federal Claims Collection Act.

(b) *Statute of limitations.* Subject to specific provisions in other statutes, there is a general 3-year statute of limitations on affirmative Government tort claims pursuant to 28 U.S.C. 2415(b).

#### § 757.3 [Amended]

■ 2. Section 757.3 is amended by removing the citation “4 CFR chapter II” wherever it appears and replacing it with “31 CFR Chapter IX.”

■ 3. Section 757.4 is revised to read as follows:

#### § 757.4 Claims that may be collected.

(a) *Against responsible third parties for damage to Government property, or the property of non-appropriated fund activities.* It should be noted, however, that as a general rule, the Government does not seek payment from service members and Government employees for damages caused by their simple negligence while acting within the scope of their employment. Exceptions to this general policy will be made when the incident involves aggravating circumstances.

(b) *For money paid or reimbursed by the government for damage to a rental car in accordance with the Joint Federal Travel regulations (volume 1, paragraph U 3415-C and volume 2, paragraph C 2101-2).* Collection action shall be taken against third parties liable in tort. Collection action shall not be taken against Government personnel who rented the vehicle.

(c) *Other claims.* Any other claim for money or property in favor of the United States cognizable under the Federal Claims Collections Act not specifically listed above.

■ 4. Section 757.5 is amended by revising paragraphs (a), (b), (c), (e)(1)(iii), (e)(1)(iv), (e)(2), (f), first sentence in paragraph (g), and paragraph (k), to read as follows:

#### § 757.5 Assertion of claims and collection procedures.

(a) *General.* The controlling procedures for administrative collection of claims are established in 31 CFR part 901.

(b) *Officials authorized to pursue claims.* The Judge Advocate General; the Deputy Judge Advocate General; any Assistant Judge Advocate General; the Deputy Assistant Judge Advocate General (Claims and Tort Litigation) are authorized to pursue and collect all affirmative claims in favor of the United States, except in countries where another service has single service responsibility in accordance with DoD Directive 5515.8.

(c) *Dollar limitations.* All of the officers listed in § 757.5(b) are authorized to compromise and terminate collection action on affirmative claims of \$100,000.00 or less.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(iii) A description of damage and estimate of repair;

(iv) A description of the incident, including date and place; and

\* \* \* \* \*

(2) See also 31 CFR part 901.

(f) *Full payment.* When a responsible party or insurer tenders full payment or a compromise settlement on a claim, the payment should be in the form of a check or money order made payable to “United States Treasury.” The check or money order shall then be forwarded to the disbursing officer serving the collecting activity for deposit in accordance with the provisions of the Navy Comptroller Manual. For collections for damages to real property, the collection is credited to the account available for the repair or replacement of the real property at the time of recovery. (10 U.S.C. 2782.) For damages to personal property, the money is returned to the general treasury.

(g) *Installment payments.* See 31 CFR 901.8 for specific procedures. \* \* \*

\* \* \* \* \*

(k) *Release.* The Supervisory Attorney, Tort Claims Unit, Norfolk is authorized to execute a release of the claim when all repairs have been completed to the Government’s satisfaction, and when all repair bills have been paid. No prior approval from the Judge Advocate General is required

for this procedure. If repair or replacement is made, a notation shall be made in any investigation or claims file.

■ 5. Amend 757.6 by revising paragraph (d) to read as follows:

**§ 757.6 Waiver, compromise, and referral of claims.**

\* \* \* \* \*

(d) *Litigation reports.* Litigation reports prepared in accordance with 31 CFR part 904 shall be forwarded through the Judge Advocate General (Claims and Tort Litigation) to the Department of Justice along with any case file for further collection action or litigation as required by the Federal Claims Collections Standards.

■ 6. The heading of subpart B is revised to read as follows:

**Subpart B—Medical Care Recovery Act (MCRA) Claims and Claims Asserted Pursuant to 10 U.S.C. 1095**

■ 7. Section 757.11 is revised to read as follows:

**§ 757.11 Scope of Subpart B.**

Subpart B describes the assertion and collection of claims for medical care under the MCRA and 10 U.S.C. 1095. The MCRA states that when the Federal government provides treatment or pays for treatment of an individual who is injured or suffers a disease, the Government is authorized to recover the reasonable value of that treatment from any third party who is legally liable for the injury or disease. Title 10 U.S.C. 1095 provides for the collection from third-party payers for the value of health care services incurred by the Government on behalf of covered beneficiaries.

■ 8. Section 757.12 is revised to read as follows:

**§ 757.12 Statutory authorities.**

(a) *Medical Care Recovery Act*, 42 U.S.C. 2651–2653 (2005).

(b) *Title 10 U.S.C. 1095* (Health Care Services Incurred on Behalf of Covered Beneficiaries: Collection from Third-Party Payers).

(c) *Title 10 U.S.C. 1079a* (CHAMPUS: Treatment of Refunds and Other Amounts Collected).

■ 9. Section 757.13 is revised to read as follows:

**§ 757.13 Responsibility for MCRA actions.**

(a) *JAG designees.* (1) Primary responsibility for investigating, asserting, and collecting Department of the Navy (DON) MCRA claims and properly forwarding MCRA claims to other Federal departments or agencies rests with the following personnel:

(i) Deputy Assistant Judge Advocate General (Claims and Tort Litigation Division) (Code 15); and the  
(ii) Commanding Officer, Naval Legal Service Command Europe and Southwest Asia (NLSC EURSWA), Naples, Italy, in its area of geographic responsibility.

(2) JAG designee may assert and receive full payment on any MCRA claim. Code 15 may agree to compromise or waive claims for \$100,000 or less. NLSC EURSWA may agree to compromise or waive claims for \$40,000.00 or less. NLSC EURSWA claims in excess of \$40,000.00 may be compromised or waived only with Code 15 approval. See Sec. 757.19 for further discussion of waiver and compromise.

(b) *Navy Medical Treatment Facility (MTF).* (1) Naval MTFs are responsible for ensuring potential MCRA/10 U.S.C. 1095 claims are brought to the attention of the appropriate JAG designee.

(2) The MTF reports all potential MCRA/10 U.S.C. 1095 cases by forwarding a copy of the daily injury log entries and admission records to the cognizant JAG designee within 7 days of treatment for which a third party may be liable. The JAG designee makes the determination of liability. Recovery for the costs of MTF care is based on Diagnostic Related Group rates or a Relative Value Unit. Rates are established by the Office of Management and Budget and/or the DoD, and published annually in the **Federal Register**.

(c) *TRICARE Fiscal Intermediary.* The TRICARE fiscal intermediary is required to identify and promptly mail claims involving certain diagnostic codes to the cognizant JAG designee. Claims are asserted for the actual amount that TRICARE paid.

(d) *Department of Justice (DoJ).* Only the DoJ may authorize compromise or waiver of an MCRA/10 U.S.C. 1095 claim in excess of \$100,000.00 or settle an MCRA/10 U.S.C. 1095 claim in which the third party has filed a suit against the United States as a result of the incident which caused the injury and upon which the claim is based.

■ 10. Section 757.14 is amended by revising paragraphs (a), (c), (d)(1), (e) introductory text, and (e)(1), to read as follows:

**§ 757.14 Claims asserted.**

(a) *General.* The DoN asserts MCRA and 10 U.S.C. 1095 claims when medical care is furnished to Navy and Marine Corps active duty personnel, retirees, or their dependents, or any other person when appropriate, and third-party tort or contract liability exists for payment of medical expenses

resulting from an injury or disease. Claims are asserted when the injured party is treated in a MTF or when the DoN is responsible for reimbursing a non-Federal care provider.

\* \* \* \* \*

(c) *Liable parties.* MCRA and 10 U.S.C. 1095 claims may be asserted against individuals, corporations, associations and non-Federal Government agencies subject to the limitation described in § 757.15.

(d) \* \* \*

(1) By using the rate set as described in § 757.13 (b)(2) in bills issued by the MTF; or

(2) \* \* \*

(e) *Alternate theories of recovery.* (1) Often, recovery under the MCRA is not possible because no third-party tort liability exists. For example, if a member, retiree, or dependent is driving a vehicle and is injured in single-car accident, there is no tortfeasor. Title 10 U.S.C. 1095 provides the Government alternate means for recovery as a third-party beneficiary of an insurance contract of the injured party.

\* \* \* \* \*

■ 11. Section 757.15 is amended by revising the introductory text and revising paragraphs (b) and (d) to read as follows:

**§ 757.15 Claims not asserted.**

In some cases, public policy considerations limit the DoN's assertion of claims against apparent third-party tortfeasors or a contract where the Government would be a third party beneficiary. Claims are not asserted against:

\* \* \* \* \*

(b) *Injured service members, dependents, and employees of the United States.* Claims are not asserted directly against a servicemember, the dependent of a servicemember, or an employee of the United States who is injured as a result of his own willful or negligent acts. The United States does assert, however, against policies that cover the injury.

\* \* \* \* \*

(d) *Department of Veterans' Affairs care for service-connected disability.* Claims are not asserted for care provided to a veteran by the Department of Veterans' Affairs when the care is for a service-connected disability. The United States will, however, claim for the reasonable value of care provided an individual before he is transferred to a Department of Veterans' Affairs hospital. This policy does not apply in cases where the MTF referred the patient to the Veterans' Affairs hospital and then paid for the care.

■ 12. Section 757.16 is revised to read as follows:

**§ 757.16 Claims asserted only with OJAG approval.**

(a) *Certain Government contractors.* JAG approval is required before asserting a claim against a Federal government contractor when the contract provides that the contractor will be indemnified or held harmless by the Federal government for tort liability.

(b) *U.S. personnel.* JAG approval is required before asserting MCRA claims directly against servicemembers, their dependents and federal employees and their dependents for injury to another person. No approval is necessary to assert claims against their insurance policies, however, except for injuries caused by servicemembers and federal employees acting "within the scope of their employment." Intra-familial tort immunity would not preclude the Government from asserting any claims for care furnished to a tortfeasor's family members.

■ 13. Section 757.17 is revised to read as follows:

**§ 757.17 Statute of limitations.**

(a) *Federal.* Claims asserted under the MCRA or against an automobile liability insurer through 10 U.S.C. 1095 are founded in tort and must be brought within 3 years after the action "first accrues" (28 U.S.C. 2415b). Normally, a medical care claim "first accrues" on the initial date of treatment.

(b) *Claims Asserted under 10 U.S.C. 1095.* Although legal arguments can be made that claims asserted under 10 U.S.C. 1095 against a no-fault or personal injury protection insurer are founded in contract and can be brought within 6 years (28 U.S.C. 2415a), all claims should be asserted within 3 years of the date when the claim accrued. However, some states require notice of such claims to be filed within a shorter period of time.

■ 14. Section 757.18 is revised to read as follows:

**§ 757.18 Asserting the claim.**

(a) *Initial action by the JAG designee.* When advised of a potential claim, the JAG designee will determine the Federal agency or department responsible for investigating and asserting the claim.

(1) When DoN has reimbursed a non-Federal provider for health care, or when TRICARE has made payment for a Navy health care beneficiary, the JAG designee will assert any resulting claim.

(2) When care is provided in a Federal treatment facility, the status of the injured person will determine the agency that will assert a resulting claim.

Cost of treatment provided or paid for by an MTF is deposited in that MTF's account, regardless of which service is making the collection.

(i) Where DoN members, retirees, or their dependents receive medical treatment from another Federal agency or department, the DoN will assert any claim on behalf of the United States based on information provided by the treating agency or department.

(ii) Similarly, where a DoN MTF provides care to personnel of another Federal agency or department, that other agency or department will assert any claim on behalf of the United States.

(3) If the claim is one which the DoN should assert, the JAG designee will forward all available information to the appropriate department or agency.

(4) If the claim is one which the DoN should assert, the JAG designee will ensure an appropriate investigation into the circumstances underlying the claim is initiated and will provide notice to the injured party and all third parties who may be liable to the injured person and the United States under the MCRA or 10 U.S.C. 1095.

(b) *Investigating the claim.* While there is no prescribed form or content for investigating these claims, the claims file will contain sufficient information on which to base valuation, assertion, settlement, waiver, and/or compromise decisions.

(c) *Notice of claim.* (1) The JAG designee will assert claims by mailing a notice of claim to identified third-party tortfeasors and their insurers or insurers for third-party beneficiary coverage. Many insured tortfeasors fail to notify their insurance companies of incidents. This failure may be a breach of the cooperation clause in the policy and may be grounds for the insurer to refuse to defend the insured or be responsible for any liability. The United States, as a claimant, may preclude such an invocation by giving the requisite notification itself. The purpose of the insurance clause is satisfied if the insurer receives actual notice of the incident, regardless of the informant. This notice should be mailed as soon as it appears an identified third party may be liable for the injuries. The prompt assertion of the claim will ensure that the government is named on the settlement draft. If the United States is not so named, and the claim has been asserted, the insurer settles at its own risk.

(2) The JAG designee will also notify the injured person or his legal representative of the Government's interest in the value of the medical care provided by the United States. This notice will advise that:

(i) The United States may be entitled to recover the reasonable value of medical care furnished or paid by the Federal government;

(ii) The injured person is required to cooperate in the efforts of the United States to recover the reasonable value of medical care furnished or paid for by the Federal government;

(d) *Administering the claim.* (1) After investigating and asserting the claim, the JAG designee will maintain contact with all parties, their legal representatives, and insurers.

(2) An effort should be made to coordinate collection of the Federal government's interest with the injured person's action to collect on a claim for damages.

(i) Attorneys representing an injured person may be authorized to include the Federal government's claim as an item of special damages with the injured person's claim or suit.

(ii) An agreement that the Government's claim will be made a party of the injured person's action should be in writing and state the counsel fees will not be paid by the Government or computed on the basis of the Government's portion of recovery.

(3) If the injured person is not bringing an action for damages or is refusing to include the Federal Government's interest, the JAG designee will pursue independent collection. The United States is specifically allowed to intervene or join in any action at law brought by or through the injured person against the liable third person or brings an original suit in its own name or in the name of the injured person. The JAG designee will ensure all parties are aware that the United States must be a party to all subsequent collection negotiation.

(4) When the Government's interests are not being represented by the injured person or his/her attorney, and independent collection efforts have failed, the JAG designee will refer the claims to the DoJ for possible suit.

(e) *Access to DoN records and information.* (1) Copies of medical records in cases that have potential claims will be sent by the MTFs to the cognizant JAG designee. It is considered a routine use of the records for the JAG designee to release them to an insurance company, if requested, in order to substantiate the claim. However, only the MTF as "keepers of the records" has the authority to make official releases of medical records to anyone else. Records will be protected in accordance with the provisions of the Privacy Act, 5 U.S.C. 552a, and confidentiality of quality assurance medical records, 10 U.S.C. 1102. Non-routine release requires the

authorization from the injured individual or legal representative or an order from a court of competent jurisdiction. A clerk or attorney signed subpoena is not "an order from a court of competent jurisdiction." Subpoenas are processed in accordance with 32 CFR part 725.

(2) Requests for testimony of any Navy employees will be processed in accordance with DoD Directive 5405.2, 32 CFR part 725, and SECNAVINST 5820.8A. If the injured person, or his or her attorney has signed an agreement to protect the Government's interest and is requesting the testimony of a locally available physician who treated the injured person, however, this request falls within an exception to the regulations. See 32 CFR 725.5(g)(3). In this situation, the injured person or the attorney need only ask the JAG designee for assistance in scheduling the testimony of the treating physician and the JAG designee will coordinate with the physician's command to determine availability. Such testimony is limited to factual issues. The definition of factual issues is slightly different under the regulations than it is in civil litigation. Opinions that are formed prior to, or contemporaneously with, the treatment at issue and are routinely required in the course of the proper performance of professional duties constitute essentially factual matters. For example, the physician will have opined at the time of treatment if further treatment will be necessary. The physician may testify to that as factual, not opinion, testimony. Opinions that are formed after treatment and are not required for continuing treatment, especially those that respond to hypothetical questions, are not factual and are considered to be expert testimony. This expert testimony, regardless of who requests it, will be processed in accordance with 32 CFR part 725, and must be forwarded to OJAG Code 14, General Litigation Division. Requests for expert testimony are rarely granted.

■ 15. Section 757.19 is amended by revising paragraphs (a), (b) introductory text, (b)(6), and removing paragraph (c) to read as follows:

#### **§ 757.19 Waiver and compromise.**

(a) General. OJAG Code 15 (Claims and Tort Litigation) may authorize waiver or compromise of any claim that does not exceed \$100,000.00. NLSO EURSWA may agree to compromise or waive claims for \$40,000.00 or less. NLSO EURSWA claims in excess of \$40,000.00 may be compromised or waived only with Code 15 approval.

(b) *Waiver and compromise.* The JAG designee may waive the Federal government's MCRA interest when a responsible third-party tortfeasor cannot be located, is judgment proof, or has refused to pay and litigation is not feasible. Waiver or compromise is also appropriate when, upon written request by the injured person or legal representative, it is determined that collection of the full amount of the claim would result in undue hardship to the injured person. In assessing undue hardship, the following should be considered:

\* \* \* \* \*

(6) Amount of settlement or award from third-party tortfeasor or contract insurer; and

\* \* \* \* \*

■ 16. Section 757.20 is revised to read as follows:

#### **§ 757.20 Receipt and release.**

The JAG designee will execute and deliver appropriate releases to third parties who have made full or agreed upon compromised payments. A copy of the release will be kept in the claims file.

Dated: September 10, 2007.

**T.M. Cruz,**

*Lieutenant, Judge Advocate General's Corps,  
U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. E7-18199 Filed 9-18-07; 8:45 am]

**BILLING CODE 3810-FF-P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 117**

**[Docket No. CGD07-07-203]**

#### **Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Pinellas County, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Seventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Welch Causeway/Tom Stuart (SR 666) Bridge across the Gulf Intracoastal Waterway, mile 122.8, at Madeira Beach, Pinellas County, Florida. This deviation is necessary to expedite repairs to the Welch Causeway Bridge. This deviation allows the bridge to open a single-leaf only with double-leaf openings available upon three hours notice to the bridge tender.

**DATES:** This deviation is effective from 7 a.m. on September 19, 2007 through 5 p.m. on November 30, 2007.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at Commander (dpb), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, Florida 33131 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (305) 415-6744. The Seventh Coast Guard District Bridge Branch maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Lieberum, Bridge Branch, (305) 415-6744 or e-mail [Michael.b.lieberum@uscg.mil](mailto:Michael.b.lieberum@uscg.mil).

**SUPPLEMENTARY INFORMATION:** Coastal Marine Construction has requested a deviation from the regulation published in 33 CFR 117.287(l) that states "the draw of the Welch Causeway (SR 699) bridge, mile 122.8 at Madeira Beach shall open on signal \* \* \*".

A deviation from the aforementioned schedule in 33 CFR 117.287(l) is necessary for worker safety and to expedite repairs to the Welch Causeway Bridge. This deviation will remain in effect from 7 a.m. on September 19, 2007 through 5 p.m. on November 30, 2007.

The Welch Causeway/Tom Stuart Bridge will open a single-leaf only on the hour and half-hour. A double-leaf opening will be available so long as a three hour notice to the bridge tender is provided. Vessels in any situation that endangers life or property will be allowed to pass through the bridge on signal.

In accordance with 33 CFR 117.35, the drawbridge must return to its regular operating schedule on November 30, 2007.

Dated: August 30, 2007.

**Greg Shapley,**

*Chief, Bridge Administration, Seventh Coast Guard District.*

[FR Doc. E7-18403 Filed 9-18-07; 8:45 am]

**BILLING CODE 4910-15-P**

## **DEPARTMENT OF VETERANS AFFAIRS**

### **38 CFR Part 38**

**RIN 2900-AM64**

#### **Government-Furnished Headstone and Marker Regulations**

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Final rule.