

DEPARTMENT OF DEFENSE**Office of the Secretary****32 CFR Part 50**

[Docket ID: DOD–2015–OS–0075]

RIN 0790–AJ39

Personal Commercial Solicitation on DoD Installations

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Proposed rule.

SUMMARY: This rule establishes policy, assigns responsibilities, and provides procedures for personal commercial solicitation on DoD installations, and identifies prohibited practices that may cause withdrawal of personal commercial solicitation privileges on DoD installations and establishes notification requirements when privileges are withdrawn.

DATES: Comments must be received by November 1, 2016.

ADDRESSES: You may submit comments, identified by docket number or Regulatory Information Number (RIN) number and title, by any of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

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://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Jane Westbay, 703–588–0953.

SUPPLEMENTARY INFORMATION: DoD is establishing regulations governing access to DoD installations for purposes of commercial solicitation. This rule is needed to establish the procedures applicable to requests for personal commercial solicitors on DoD installations and identifies prohibited practices that may cause withdrawal of permission for such access.

Section 577 of Public Law 109–163, “The National Defense Authorization

Act for Fiscal Year 2006,” requires DoD to prescribe regulations on policies and procedures for personal commercial solicitation on DoD installations. In addition, Public Law 109–290, “Military Personnel Financial Services Protection Act,” specifies requirements for engaging military personnel in the sale of insurance, financial, and investment products.

This rule informs commercial companies, agencies, and agents about the procedures for personal commercial solicitation activities on DoD installations. These procedures include the limitations on commercial solicitation by educational institutions, associations, and companies offering life insurance products and securities on DoD installations. The supervision of installation personal commercial solicitation activities; prohibited practices; advertising and commercial sponsorship; financial education programs; overseas life insurance registration procedures; and denial, suspension, and withdrawal of installation solicitation privileges are also discussed in this rule.

In recent years, some financial educational institutions have attempted to gain access to installations for marketing purposes, even though they are not approved to operate as an educational institution (or school) on the installation. By including them as a regulated commercial solicitor, DoD aims to prevent circumvention of the system, which will ultimately help protect Service members from unscrupulous advertising and business practices that may harm them.

This rule has minimal administrative costs to DoD for overseas life insurance registration as well as quarterly solicitation privileges reporting. There is no cost to the public and no cost to solicitors. The rule prevents circumvention of the system that is in place by prohibiting new commercial solicitors from advertising on an installation through a separate agreement with an organization that is already authorized to operate on the installation (e.g., a college or university enters into a partnership with a non-Federal entity that operates on an installation and tries to distribute marketing material on that installation through the non-Federal entity). The benefit of this rule is that it offers protection from unscrupulous solicitation practices to Service members on DoD installations, worldwide.

Regulatory Procedures

Executive Order 12866, “Regulatory Planning and Review” and Executive Order 13563, “Improving Regulation and Regulatory Review”

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that this rule is not 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 section of 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 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 these Executive Orders.

“Unfunded Mandates Reform Act” (2 U.S.C. Ch. 25)

Section 1532 of title 2, U.S. Code, of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) requires agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately \$141 million. This rule will not mandate any requirements for State, local, or tribal governments, nor will it affect private sector costs.

“Regulatory Flexibility Act” (5 U.S.C. 601)

The Department of Defense certifies that this proposed 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. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

“Paperwork Reduction Act” (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 50 does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, “Federalism”

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This proposed rule will not have a substantial effect on State and local governments.

List of Subjects in 32 CFR Part 50

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

Accordingly, 32 CFR part 50 is proposed to be revised to read as follows:

PART 50—PERSONAL COMMERCIAL SOLICITATION ON DOD INSTALLATIONS

Sec.

- 50.1 Purpose.
- 50.2 Applicability.
- 50.3 Definitions.
- 50.4 Policy.
- 50.5 Responsibilities.
- 50.6 Procedures.

Appendix A to Part 50—Life Insurance Products and Securities

Appendix B to Part 50—Overseas Life Insurance Registration Program

Authority: Section 577 of Public Law 109–163, Public Law 109–290.

§ 50.1 Purpose.

This part:

(a) Establishes policy, assigns responsibilities, and provides procedures for personal commercial solicitation on DoD installations in accordance with the authority in Section 577 of Public Law 109–163, “The National Defense Authorization Act for Fiscal Year 2006.”

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

§ 50.2 Applicability.

(a) Applies to Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint 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 within the DoD (referred to collectively in this part as the “DoD Components.”)

(b) Applies to all personal commercial solicitation on DoD installations, whether conducted individually or in conjunction with meetings on DoD installations involving private, nonprofit, tax-exempt organizations or educational institutions providing educational programs and services through the DoD Voluntary Education Program. Attendance at these meetings is voluntary and the time and place of such meetings are subject to the discretion of the installation commander or his or her designee.

(c) Does 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 requested by the resident and authorized by the installation commander.

§ 50.3 Definitions.

These terms and their definitions are for the purpose of this part.

Agency. A business entity which represents one or more insurers or companies and is engaged in the business of selling, soliciting, or negotiating insurance, securities, or other products.

Agent. An individual who receives remuneration as a salesperson, registered representative, or whose remuneration is dependent on volume of sales of a product or products.

Agreement. A formal contract or arrangement, either written or verbal, that is sometimes enforceable by law.

Armed Forces Disciplinary Control Boards. Advisory boards established by installation commanders to make recommendations on matters which may negatively affect the health, safety, morals, welfare, morale, or discipline of Armed Forces personnel. Such boards ensure the establishment and maintenance of the highest degree of liaison and coordination between military commands and appropriate civil authorities.

Combatant Command. A military command which has a broad, continuing mission and which is composed of forces from two or more Military Departments (unified combatant command) or a single Military Department (specified combatant command).

Commercial sponsorship. The act of providing assistance, funding, goods, equipment (including fixed assets), or

services to Morale, Welfare, and Recreation (MWR) programs or events by an individual, agency, association, company, corporation, or other entity for a specified period of time in return for public recognition or advertising promotions. Commercial sponsorship is either unsolicited or solicited.

Company. An insurer or business entity selling insurance, securities, or other products.

Denial. Refusal to grant requested action.

Disinterested third-party. An impartial person who does not have a vested interest in the outcome of the situation for which he or she is being consulted.

DoD installation. A base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Secretary of Defense or the Secretary of a Military Department, including any leased facility, or, in the case of an activity in a foreign country, under the operational control of the Secretary of Defense or the Secretary of a Military Department, without regard to the duration of operational control. Such term does not include any facility used primarily for civil works or flood control projects.

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

Education advisor. A professionally qualified subject matter expert or program manager in the Office of Personnel Management Education Services Series 1740 occupational group or possessing equivalent qualifications, and assigned to the installation education center. Synonymous with: Education Services Specialist, Education Services Officer, Voluntary Education Director, Navy College Office Director, and Education and Training Section Chief.

Educational institution. A college, university, or other institution of higher education.

Financial services. Those services commonly associated with financial institutions in the United States, such as electronic banking (e.g., automatic teller machines); 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 consumer-related banking services.

Installation solicitation authorization documentation. A document issued by the installation commander that provides proof of authorization to engage in personal commercial solicitation on the installation.

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 business entity licensed by the appropriate governmental agency to act as an indemnitor, surety, or contractor which issues insurance, annuity or endowment contracts, or other contracts of insurance by whatever name called.

Investment. Something in which money is spent with the goal of making a profit.

Life insurance product. Any product, including individual and group life insurance, funding agreements, and annuities, that provides insurance for which the probabilities of the duration of human life or the rate of mortality is an element or condition of insurance.

Market. Promote or advertise.

MWR. The collection of DoD recreation, leisure, and entertainment programs and services provided on military installations to enhance mission readiness, provide community support, and engage authorized DoD personnel in activities that positively influence behavior and contribute to readiness and resilience.

Non-federal entity. A self-sustaining person or organization, established, operated, and controlled by an individual or individuals acting outside the scope of any official capacity as officers, employees, or agents of the Federal Government. Non-federal entities may include elements of State, interstate, Indian tribal, and local government, as well as private organizations.

Non-government, non-commercial organization. An organization that is neither an official agency of local, State, or federal government nor engaged in commerce or work intended for commerce.

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

On-base financial institution. Banks or credit unions 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.

Overseas. Areas other than the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, the Commonwealth of Northern Mariana Islands, and American Samoa.

PAS official. An official within DoD that is designated by statute to be appointed from civilian life by the President, by and with the advice and consent of the Senate.

Personal commercial solicitation. Personal contact, to include meetings, meals, or telecommunications, for the purpose of seeking private business or trade.

Plain language. Communication an audience can understand the first time they read or hear it.

Promotional item. Item for distribution that is printed with an advertiser's name, logo, message, or offer.

Quasi-military association. An association that may be partly associated with the military but is not a military organization.

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

Show cause. An opportunity for an aggrieved party to present facts on an informal basis for the consideration of the installation commander or the commander's designee.

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

Voluntary Education Program. The DoD entity that regulates and oversees implementation of continuing, adult, or postsecondary education programs of study on DoD installations.

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

§ 50.4 Policy.

It is DoD policy that:

(a) This part will establish uniform rules for conducting all personal commercial solicitation on DoD installations to safeguard and promote the welfare of DoD personnel as consumers. Agents, agencies, and companies failing to follow the policy in this part may be restricted or denied the opportunity to solicit on installations.

(b) Life insurance agents must register annually with the DoD to sell their products on DoD installations overseas.

(c) Educational institutions authorized to provide education, guidance, and training opportunities or

participate in education fairs on DoD installations, must comply with federal law, DoD Instruction 1322.19, "Voluntary Education Programs in Overseas Areas" (available at <http://www.dtic.mil/whs/directives/corres/pdf/132219p.pdf>); DoD Instruction 1322.25, "Voluntary Education Programs" (available at <http://www.dtic.mil/whs/directives/corres/pdf/132225p.pdf>), responsible Military Department policies and regulations, and this part.

(d) Installation commanders will approve or prohibit any personal commercial solicitation covered by this part. Nothing in this part limits an installation commander's inherent authority to deny access to vendors or to establish time and place restriction on personal commercial solicitation activities at the installation.

(e) Nothing in this part limits the authority of the installation commander or other appropriate authority to request or institute administrative or criminal action against any person, including those who violate the conditions and restrictions upon which installation entry is authorized.

§ 50.5 Responsibilities.

(a) Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), and in accordance with DoD Directive 5124.09, "Assistant Secretary of Defense for Readiness and Force Management (ASD(R&FM))" (available at <http://www.dtic.mil/whs/directives/corres/pdf/512409p.pdf>), the Assistant Secretary of Defense for Manpower and Reserve Affairs (ASD(M&RA)):

(1) Identifies and publishes procedures implementing the policies in this part.

(2) Maintains the current master file on agents, agencies, and companies whose personal commercial solicitation privileges have been withdrawn at any DoD installation.

(3) Develops and maintains a list of all State insurance commissioner points of contact for DoD matters and forwards this list to the Military Departments.

(4) Reviews and approves applications for the Overseas Life Insurance Registration Program, as outlined in Appendix B of this part.

(b) The DoD Component heads:

(1) Ensure implementation of this part on installations under their authority and compliance with its provisions.

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

(3) Submit the Solicitation Privileges Report, listing all agents, agencies, and

companies whose personal commercial solicitation privileges have been withdrawn at installations under the Component's authority, to the ASD(M&RA), in accordance with this part.

§ 50.6 Procedures.

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

(1) The solicitor is licensed under applicable federal, State, or municipal laws where the installation is located and has complied with installation regulations pursuant to Section 8 of Public Law 109-290, "Military Personnel Financial Services Protection Act."

(2) The solicitor is entering the installation to attend a specific prearranged appointment with an individual, either in family quarters or another designated business appointment area.

(3) Agents must identify themselves as working for a specific agency or company when scheduling their appointments with DoD personnel. Insurance agents must identify their agency and insurers. Securities agents must identify their registered brokers, dealers, or investment advisors.

(4) Each scheduled meeting is conducted only in family quarters or in other areas designated by the installation commander.

(5) The solicitor agrees to provide each person solicited a copy of DD Form 2885, "Personal Commercial Solicitation Evaluation," (located on the DoD Forms Management Program Web site at www.dtic.mil/whs/directives/forms/index.htm) during the initial appointment. Completion of the evaluation by the solicited person is voluntary. If completed, evaluations should be sent to the installation commander or his or her designated representative.

(6) The solicitor agrees to provide DoD personnel with a written reminder that free legal advice is available from the Office of the Staff Judge Advocate prior to accepting a financial commitment.

(7) If overseas, solicitors also observe the applicable laws of the host country. Upon request, the solicitor must present documentation to the installation commander that the agency or company the solicitor represents, and its agents, meet the applicable licensing requirements of the host country.

(b) *Educational institutions.* (1) Marketing firms or companies that own, operate, or represent educational institutions will not have access to DoD installations. The privilege is reserved only for educational institution representatives meeting the requirements in paragraphs (b)(2) and (b)(3) of this section.

(2) Educational institutions wishing to provide education, guidance, and training opportunities or participate in educational fairs on a DoD installation must obtain access approval from the installation education advisor, who will review and analyze requests on behalf of the installation commander. The installation education advisor and installation commander, in consultation with the installation's servicing ethics counselor, will approve requests in accordance with Sections 3-200, 3-206, and 3-211 of DoD 5500.07-R, "Joint Ethics Regulation (JER)" (available at <http://www.dtic.mil/whs/directives/corres/pdf/550007r.pdf>) and Enclosure 3 of DoD Instruction 1322.25.

(3) Only educational institutions participating in the Voluntary Education Program at DoD installations worldwide (to include enduring and contingency locations) may conduct or provide any type of education programs and services at those locations. The educational institutions must obtain access approval through the installation education advisor, or, for overseas locations, the contracting officer representative.

(c) *Associations.* The recent growth and general acceptability of quasi-military associations offering various insurance plans to Service members is acknowledged. Regardless of the manner in which insurance is offered to Service members (e.g., for profit; not-for-profit, under Internal Revenue Service regulations; outside the supervision of insurance laws of either a State or the Federal Government), the management of the association is responsible for complying fully with the policies contained in this part.

(d) *Life insurance products and securities.* (1) Life insurance products and securities offered and sold to DoD personnel will meet the prerequisites described in Appendix A of this part and comply with all applicable requirements set forth in Public Law 109-290.

(2) Installation commanders may permit insurers and their agents to solicit on DoD installations if the requirements of paragraph (a) of this section are met. Installation commanders will verify the agent's license status and complaint history with the appropriate regulatory

authorities before granting the agent permission to solicit on the installation.

(3) Before approving life insurance products and securities agents' requests for permission to solicit, installation commanders will review the Solicitation Privileges Report at www.militaryonesource.mil. In overseas areas, the DoD Components will limit life insurance solicitation to those insurers registered under the provisions of Appendix B of this part.

(4) Installation commanders will make disinterested third-party insurance counseling available to any DoD personnel desiring counseling. Financial counselors will encourage DoD personnel to seek legal assistance or other advice from a disinterested third party before entering a contract for life insurance products or securities.

(e) Supervision of installation personal commercial solicitation activities. Installation commanders will:

(1) Designate authorized business appointment areas on the installation. Use of these areas will be extended to all solicitors on an equitable basis. The installation commander may develop and publish local policy for the reservation and use of this area, especially where space and other considerations limit availability.

(2) Post installation personal commercial solicitation regulations in an easily accessible location for those conducting and receiving personal commercial solicitation on the installation.

(3) Provide the following to anyone conducting personal commercial solicitation activities on the installation:

(i) A copy of installation personal commercial solicitation regulations.

(ii) A warning that failure to follow installation personal commercial solicitation regulations may result in the loss of personal commercial solicitation privileges.

(4) The installation commander will investigate alleged violations of this part and installation personal commercial solicitation regulations, or questionable solicitation practices. Submitted DD Form 2885s are used as a means to monitor solicitation activities on the installation and bring potential violations to the attention of the command.

(f) *Prohibited practices.* (1) The following personal commercial solicitation practices are prohibited on all DoD installations:

(i) Soliciting recruits, trainees, and transient personnel in a group setting or mass audience or solicitation of any DoD personnel in a captive audience where attendance is not voluntary.

(ii) Meeting with or soliciting DoD personnel during their normally scheduled duty hours.

(iii) Soliciting in barracks, day rooms, unit areas, transient personnel housing, or other areas where the installation commander has not authorized solicitation.

(iv) Gaining access to DoD installations with DoD or uniform service identification cards or DoD vehicle decals, for the purpose of soliciting, without presenting installation solicitation authorization documentation.

(v) Procuring, attempting to procure, supplying, or attempting to supply non-public listings of DoD personnel for purposes of personal commercial solicitation, except for releases made in accordance with 32 CFR part 285.

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

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

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

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

(x) Soliciting to DoD personnel who are junior in rank or grade, or to the family members of such personnel, except as authorized in Sections 2–205 and 5–409 of DoD 5500.07–R.

(xi) Entering an unauthorized or restricted area.

(xii) 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 Instruction 1330.09, “Armed Services Exchange Policy” (available at <http://www.dtic.mil/whs/directives/corres/pdf/133009p.pdf>); DoD Instruction 1330.17, “DoD Commissary Program” (available at <http://www.dtic.mil/whs/directives/corres/pdf/133017p.pdf>); DoD Instruction 1015.10, “Military Morale, Welfare, and Recreation (MWR) Programs” (available at <http://www.dtic.mil/whs/directives/corres/pdf/101510p.pdf>); and DoD Instruction 1000.15, “Procedures and Support for Non-Federal Entities Authorized to Operate on DoD Installations” (available at <http://www.dtic.mil/whs/directives/corres/pdf/100015p.pdf>). This does not apply to

normal home enterprises that comply with applicable State and local laws and installation rules.

(xiii) Soliciting door to door or without an appointment.

(xiv) Using the following without authorization for personal commercial solicitation or advertising on the installation:

(A) Personal addresses or telephone numbers.

(B) Official positions, titles, or organization names, except as authorized in DoD 5500.07–R. Military grade and military service as part of an individual’s name (e.g., Captain Smith, U.S. Marine Corps) may be used in the same manner as conventional titles, such as “Mr.,” “Mrs.,” or “Honorable.”

(xv) Contacting DoD personnel by way of a government telephone, government fax machine, government computer, or any other government communication device unless a pre-existing relationship exists between the parties (e.g., the DoD member is a current client or requested to be contacted) and the DoD member has not asked for contact to be terminated.

(2) In addition to the solicitation prohibitions listed in paragraph (f)(1) of this section, the DoD Components will prohibit:

(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, acting as an agent or in any official or business capacity, with or without compensation.

(ii) Agents from:

(A) Participating in any Military Department-sponsored education or orientation program.

(B) Using any title that states or implies any type of endorsement from the U.S. Government, the Military Departments, or any State or federal agency or government entity (e.g., “Battalion Insurance Counselor,” “Unit Insurance Advisor,” “Servicemen’s Group Life Insurance Conversion Consultant”).

(C) Using desk space for anything other than a specific prearranged appointment. During such appointment, the agent will not be permitted to display desk signs or other materials announcing his or her name or agency or company affiliation.

(D) Using an installation daily bulletin, marquee, newsletter, Web page, or other official notice to announce his or her presence or availability.

(g) Denial, suspension, and withdrawal of installation solicitation privileges.

(1) The installation commander will deny, suspend, or withdraw permission for an agency or company or its agents to conduct personal commercial solicitation activities on the installation if such action is in the best interests of the command. The grounds for taking these actions may include, but are not limited to:

(i) Failure to meet the licensing and other regulatory requirements prescribed throughout this part, or violations of the State law where the installation is located. Commanders will request that appropriate State officials determine whether an agency, company or agent violated State law.

(ii) Engaging in any prohibited practice in paragraph (f) of this section.

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

(iv) Knowing and willful violations of 15 U.S.C. 1601 with regard to use of consumer credit and personal property leases.

(v) Knowing and willful violations of Public Law 109–290 with regard to financial services.

(vi) Personal misconduct while on the installation.

(vii) Possession or any attempt to obtain supplies of or use direct deposit forms or any other form or device used by Military Departments to direct a Service member’s pay to a third party. This includes using a Service member’s “MyPay” account or other similar internet medium for the purpose of establishing a direct deposit for the purchase of insurance or other investment products.

(viii) Failure to incorporate and abide by the standards of fairness policies contained in DoD Instruction 1344.09, “Indebtedness of Military Personnel” (available at <http://www.dtic.mil/whs/directives/corres/pdf/134409p.pdf>).

(2) Personal commercial solicitation privileges may be immediately suspended while an investigation is conducted, at the discretion of the installation commander. Upon suspending solicitation privileges, the installation commander will promptly inform the agent and the agency or company the agent represents, in writing.

(3) The installation commander will determine whether to suspend or withdraw personal commercial solicitation privileges to the agent alone or extend it to the agency or company the agent represents. This decision is based on the circumstances of the particular case, including, but not limited to:

(j) The nature and frequency of the violations.

(ii) Whether other agents of the agency or company have engaged in such practices.

(iii) Any other matters showing the culpability of an agent, the agency, or the company.

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

(5) In a withdrawal action, the commander will:

(i) Allow the agent, agency, or company an opportunity to show cause as to why the action should not be taken.

(ii) Make a final decision regarding withdrawal based upon the entire record in each case.

(6) The installation commander will report to his or her Military Department concerns or complaints involving the quality or suitability of products or concerns or complaints involving marketing methods used to sell those products.

(7) The installation commander will report any withdrawal of insurance product or securities solicitation privileges to the appropriate regulatory authorities.

(8) The installation commander will inform their Military Department of any withdrawal or reinstatement of an agent, agency, or company's personal commercial solicitation privileges and, if warranted, may recommend extending that action to other DoD installations.

(i) The Secretary of the Military Department concerned will inform the USD(P&R) immediately of the withdrawal or reinstatement and may extend the action to other military installations in that Department.

(ii) USD(P&R) will maintain a list of companies, agencies, and agents whose privileges have been withdrawn on any or all DoD installations. At a minimum, USD(P&R) will request review of the Solicitation Privileges Report from the Military Departments during the last month of each fiscal quarter. This list may be viewed at

www.militaryonesource.mil. Following consultation with the Military Department concerned, the USD(P&R) may order restrictive actions extended to other Military Departments.

(9) Withdrawal of privileges may be permanent or for a set period of time. If for a set period, the agent, agency, or company may reapply for permission to solicit through the installation

commander or Military Department originally imposing the restriction when that period expires. The installation commander or Military Department reinstating permission to solicit will notify the USD(P&R) and appropriate State and federal regulatory agencies when such suspensions or withdrawals are lifted.

(10) 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.

(h) *Advertising and commercial sponsorship.* (1) The DoD expects commercial enterprises soliciting DoD personnel to observe the highest business ethics in advertisements in unofficial military publications when describing goods, services, commodities, and the terms of the sale (including guarantees, warranties, etc.).

(2) The advertising of credit terms will conform to the provisions of 15 U.S.C. 1601 as implemented by Federal Reserve Board Regulation Z, in accordance with 12 CFR part 226.

(3) Personal commercial solicitors may provide commercial sponsorship to DoD MWR programs or events in accordance with DoD Instruction 1015.10. 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. Additionally, commercial sponsors may not use sponsorship to advertise products or services not specifically agreed to in the sponsorship agreement.

(4) Commercial sponsorship program personnel must obtain concurrence of the installation education advisor prior to accepting sponsorship from educational institutions. The installation educational advisor will ensure that all educational institutions desiring to serve as an MWR program or event sponsor meet the minimum eligibility requirements to enter into a Voluntary Education Partnership memorandum of understanding (MOU) with the DoD, as set forth in Enclosure 3 of DoD Instruction 1322.25, although such an MOU does not need to be in place. Additionally, if an educational institution enters into a partnership or agreement with a non-federal entity through an arrangement such as sponsorship or donation, the educational institution is not authorized to market on the installation or provide promotional items through that partnership or agreement. Only

educational institutions participating in an education fair and granted access to the installation in accordance with DoD Instruction 1322.25 may provide promotional items on the installation during the education fair event.

(5) The installation commander may permit organizations to display sales literature in designated locations, subject to command policies. In accordance with Volume 5 of DoD 7000.14-R, "Department of Defense Financial Management Regulations (FMRS)" (available at http://comptroller.defense.gov/Portals/45/documents/fmr/Volume_05.pdf) distribution of competitive literature or forms by off-base financial institutions is prohibited on installations where on-base financial institutions exist.

(i) *Financial education programs.* (1) The Military Departments will develop and disseminate information and provide educational programs for Service members on their personal financial affairs, including such subjects as insurance, government benefits, savings, budgeting, and other financial education and assistance requirements, as outlined in DoD Instruction 1342.22, "Military Family Readiness" (available at <http://www.dtic.mil/whs/directives/corres/pdf/134222p.pdf>). In addition, the installation commander will:

(i) Ensure that all instructors are qualified as appropriate for the subject matter presented. See paragraphs (i)(3) and (i)(4) of this section for guidance on using on-base financial institutions or other non-government organization resources for financial education purposes.

(ii) Make qualified personnel and facilities available for individual counseling on loans and consumer credit transactions in order to encourage thriftiness and financial responsibility and promote a better understanding of the wise use of credit, as prescribed in Chapter 34 of Volume 5 of DoD 7000.14-R.

(iii) Encourage Service members to seek advice from a legal assistance officer, the installation financial counselor, their own lawyers, or a financial counselor before making a substantial loan or credit commitment.

(iv) Provide advice and guidance to DoD personnel who have a complaint pursuant to DoD Instruction 1344.09 or who allege a criminal violation of its provisions, including referral to the appropriate regulatory agency for processing of the complaint.

(2) On-base financial institutions must provide financial counseling services as an integral part of their financial services offerings.

(3) Representatives of and materials provided by on-base financial institutions may be used to provide the financial education programs and information required by this part, subject to the following conditions:

(i) If the on-base financial institution sells insurance products or securities or has any affiliation with an agency or company that sells or markets insurance or other financial products, the installation commander will consider that agency's or company's history of complying with this part before authorizing the on-base financial institution to provide financial education.

(ii) On-base financial institution educators must agree to use appropriate disclaimers in their presentations and other educational materials. The disclaimers must clearly indicate that the educators do not endorse or favor any commercial supplier, product, or service or promote the services of a specific financial institution.

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

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

(ii) The limitation in paragraph (i)(4)(i) of this section does not apply to educational programs and information regarding the Survivor Benefits Program. It also does not apply to government benefits provided by tax-exempt organizations pursuant to 26 U.S.C. 501(c) or by organizations providing government benefits under a contract with the government.

(iii) Expert educators in personal financial affairs from non-government, non-commercial organizations may provide the financial education programs and information required by this part. The presentations and materials used by the educators must contain appropriate disclaimers demonstrating no endorsement of the organization by DoD or the Military Departments concerned. Such expert educators and their materials must be approved by a Presidentially appointed, Senate-confirmed (PAS) official of the Military Department concerned. The initial approval will last for three years; reauthorization for additional three-year periods is subject to review by such a PAS official that a continued need exists for the organization's services. The Military Department will use the following criteria when considering whether to permit a non-government, non-commercial organization to present

a financial education program or provide materials on personal financial affairs:

(A) The organization must qualify as a tax-exempt organization in accordance with paragraph (c)(3) or (c)(23) of 26 U.S.C. 501.

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

(C) Non-government organization educators must agree to use appropriate disclaimers in their presentations and other educational materials which clearly indicate that they and the DoD do not endorse or favor any commercial supplier, product, or service or promote the services of a specific financial institution.

(iv) Presentations by approved non-government, non-commercial organizations will be conducted only at the express request of the installation commander.

(v) Any educational institutions providing financial education programs must be approved by the installation education advisor and meet the criteria outlined in Enclosure 3 of DoD Instruction 1322.25 for offering educational programs on base.

Appendix A to Part 50—Life Insurance Products and Securities

(a) Life insurance product content prerequisites. In addition to the required disclosures listed in Section 10 of Public Law 109–290, the following prerequisites apply to the sale of life insurance products to Service members and their families on DoD installations:

(1) Life insurance agencies and companies must provide a written description for each product or service they intend to market.

(i) Descriptions must be written in plain language and must fully disclose the fundamental nature of the policy.

(ii) All forms to be used must be approved by and filed with the insurance department of the State where the installation is located, where applicable.

(iii) Life insurance products marketed on overseas installations must conform to the standards prescribed by the laws of the State where the agency or company is domiciled.

(2) Life insurance products offered and sold worldwide, other than certificates or other evidence of insurance issued by a self-insured association, must:

(i) Comply with the insurance laws of the State or country in which the installation is located and the requirements of this part.

(ii) Contain no restrictions by reason of the insured's military service or military occupational specialty, unless such restrictions are clearly indicated on the face of the contract.

(iii) Plainly indicate any extra premium charges imposed by reason of the insured's military service or military occupational specialty.

(iv) Contain no variation in the amount of death benefit or premium based on the length of time the contract has been in force, unless all such variations are clearly described in the contract.

(3) Life insurance policies must be written in plain language and use type font large enough to be easily read; all provisions of the policy must be in a font type that is at least as large as the font used for the majority of the policy. The policies must inform Service members of:

(i) The availability and cost of government-subsidized Servicemen's Group Life Insurance.

(ii) The address and phone number where consumer complaints are received by the State Insurance Commissioner for the State in which the insurance product is being sold. For policies sold overseas, the disclosure must include the address and phone number where the state insurance commissioner for the State which has issued the agent a resident license or where the agency or company is domiciled receives consumer complaints, as applicable.

(iii) That the U.S. Government has in no way sanctioned, recommended, or encouraged the sale of the product being offered.

(4) To comply with paragraphs (a)(2)(ii), (a)(2)(iii), and (a)(2)(iv) of this appendix, an appropriate reference stamped on the first page of the contract will draw the attention of the policyholder to any restrictions by reason of the insured's military service or military occupational specialty. The reference will describe any 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.

(5) Variable life insurance products may be offered by appropriately licensed insurance agents or securities dealers, provided the products meet the criteria of the appropriate insurance regulatory agency and the Securities and Exchange Commission.

(6) Life insurance products will not be marketed or sold disguised as investments. If there is a savings component to a life insurance product, the agent will 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 also must show the total amount per year allocated to life insurance premiums. The customer must receive a copy of this document signed by the insurance agent.

(b) *Sale of securities.* In addition to requirements listed in Section 5 of Public Law 109–290, the following applies to the sale of securities on DoD installations:

(1) All securities must be registered with the Securities and Exchange Commission in accordance with the Securities Act of 1933, and all sales must comply with Securities and Exchange Commission regulations and the regulations of the Financial Industry Regulatory Authority.

(2) Where the accredited insurer's policy permits, an overseas accredited life insurance

agent, if qualified to engage in security activities as a registered representative of a broker or dealer registered with the Financial Industry Regulatory Authority and the Securities and Exchange Commission, may offer life insurance products 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 will be made in accordance with DoD 7000.14-R.

(2) For personnel in pay grades E-4 and below to obtain financial counseling, at least 7 calendar days must elapse between the signing of a life insurance application and the certification of a military pay allotment for any supplemental commercial life insurance. Installation finance officers are responsible for ensuring this 7-day period is monitored and enforced. The purchaser's commanding officer may grant a waiver of the requirement for a 7-day period for good cause, such as the purchaser's imminent deployment or permanent change of station.

Appendix B to Part 50—Overseas Life Insurance Registration Program

(a) *Registration criteria.* (1) *Initial registration.* (i) Insurers must demonstrate continuous successful operation in the life insurance business for not less than 5 years as of December 31 of the year preceding the date of filing the application.

(ii) Insurers must be listed in A.M. Best's Rating and Criteria Center and be assigned a financial strength rating of B+ (Very Good) or better, or an equivalent ranking from an independent insurance ranking agency, for the business year preceding the government's fiscal year for which registration is sought.

(2) *Re-registration.* (i) Insurers must demonstrate continuous successful operation in the life insurance business, as described in paragraph (a)(1)(i) of this appendix.

(ii) Insurers must retain an A.M. Best financial strength rating of B+ or better, as described in paragraph (a)(1)(ii) of this appendix.

(iii) Insurers must demonstrate a record of compliance with the policies found in this part.

(2) *Waiver provisions.* Waivers of the initial registration or re-registration provisions will be considered for those insurers demonstrating substantial compliance with paragraphs (a)(1) and (a)(2) of this appendix.

(b) *Application instructions—(1) Annual application deadline.* Insurers must apply by June 30 of each year for life insurance solicitation privileges on overseas U.S. military installations for the next fiscal year beginning October 1. Applications emailed, faxed, or postmarked after June 30 will not be considered.

(2) *Application prerequisites.* (i) An application letter signed by the President, Vice President, or designated official of the insurance agency or company will be forwarded to the USD(P&R), Attention: MWR and Resale Policy Directorate, 4000 Defense Pentagon, Washington, DC 20301-4000. The

insurance agency or company must meet the registration criteria in paragraphs (a)(1) or (a)(2) of this appendix, or must obtain a waiver, provided for in paragraph (a)(2) of this appendix, to satisfy application prerequisites.

(ii) The application letter will contain the following information, submitted in the order listed (where criteria are not applicable, the letter will so state):

(A) The overseas Combatant Commands (*i.e.*, United States European Command, United States Pacific Command, United States Central Command, United States Southern Command and United States Africa Command) where the agency or company presently solicits, or plans to solicit, on U.S. military installations.

(B) A statement that the agency or company complies with the applicable laws of the country or countries in which it proposes to solicit. This includes all national, provincial, city, or county laws or ordinances of any country, as applicable.

(C) A statement that the products for sale conform to the standards prescribed in paragraphs (a)(1) through (a)(6) of Appendix A and those products 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 agency or company will 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 agency or company will use only agents licensed by the appropriate State and registered by the overseas command concerned to sell to DoD personnel on DoD installations.

(F) A statement that the agency's or company's agents are appointed in accordance with the prerequisites established in paragraph (c) of this appendix.

(G) Any explanatory or supplemental comments that will assist in evaluating the application.

(iii) If requested by the MWR and Resale Policy Directorate, the agency or company will provide additional facts or statistics beyond those normally involved in registration.

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

(c) *Agent requirements.* (1) An agent must possess a current State license. A Combatant Commander may waive this requirement for a registered agent continuously residing and successfully selling life insurance in foreign areas who, through no fault of his or her own and due to State or other jurisdiction law (or regulation) governing domicile or licensing requirements, forfeits eligibility for a State license. The request for a waiver will contain the name of the State or other jurisdiction that would not renew the agent's license.

(2) Agents may represent only one registered commercial insurance agency or company. This principle may be waived by the overseas Combatant 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 sales experience in

the United States or its territories (including Guam and the Northern Mariana Islands), generally within the 5 years preceding the date of initial application, in order to be approved for overseas solicitation.

(4) The overseas Combatant Commanders may exercise further agent control procedures as necessary.

(5) Once registered in an overseas area, an agent may not change affiliation from the staff of one agency or company to another and retain his or her registration, unless the previous agency or company agrees in writing to retaining the registration. Overseas Combatant Commanders have final authority to determine whether the agent may retain his or her registration or will have to re-register.

(d) *Announcement of registration.* (1) The DoD will announce approved Overseas Life Insurance Registration applicants as soon as practicable by notice to each applicant and by a list released annually in September to the appropriate overseas Combatant Commanders. Approval does not constitute DoD endorsement of the insurer or its products. Any advertising by insurers or verbal representation by their agents which suggests such endorsement is prohibited.

(2) In the event registration is denied, specific reasons for the denial will be provided to the applicant.

(i) The applicant will 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 in writing and accompanied by substantiating data or information in rebuttal of the specific reasons upon which the denial was based.

(ii) Action by USD(P&R) on a request for reconsideration is final.

(iii) An applicant that is presently registered as an insurer will have 90 calendar days from final action denying registration in which to close operations.

(3) Upon receiving a registration approval letter, each insurance agency or company will send the applicable overseas Combatant Commander a verified list of agents currently registered for overseas solicitation. Where applicable, the agency or company also will include the names and prior military affiliation of new agents for whom original registration and permission to solicit on the installation is requested. The DoD will furnish issuance for agent registration procedures in overseas areas to these insurers.

(4) Material changes affecting the corporate status and financial condition of the agency or company that occur during the fiscal year of registration must be reported to USD(P&R) at the address in paragraph (b)(2)(i) of this appendix as they occur.

(i) USD(P&R) reserves the right to terminate registration if such material changes appear to substantially affect the financial and operational standards described in paragraphs (a)(1) and (a)(2) of this appendix, on which registration was based.

(ii) Failure to report such material changes may result in termination of registration, regardless of how it affects the standards.

(5) If an analysis of information furnished by the agency or company indicates that

unfavorable trends are developing that could adversely affect the agency's or company's future operations, USD(P&R) may opt to bring such matters to the attention of the agency or company and request a statement as to what action, if any, is considered to deal with such unfavorable trends.

Dated: August 29, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016-21092 Filed 9-1-16; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2016-0675]

RIN 1625-AA87

Security Zone; Potomac River and Anacostia River, and Adjacent Waters; Washington, DC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a series of security zones in the National Capital Region (NCR) on specified waters of the Potomac River and Anacostia River, and adjacent waters during increased security events. This action is necessary to prevent terrorist acts and incidents immediately before, during, and after events held within the NCR, whenever such an event exists, as determined by the Captain of the Port Maryland-National Capital Region. This rule prohibits vessels and persons from entering the security zone and requires vessels and persons in the security zone to depart the security zone, unless specifically exempt under the provisions in this rule or granted specific permission from the Coast Guard Captain of the Port Maryland-National Capital Region. The proposed regulations will enhance the safety and security of persons and property within the Nation's Capital, while minimizing, to the extent possible, the impact on commerce and legitimate waterway use.

DATES: Comments and related material must be received by the Coast Guard on or before November 1, 2016.

ADDRESSES: You may submit comments identified by docket number USCG-2016-0675 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the "Public Participation and Request for

Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Ronald L. Houck, at Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410-576-2674, email Ronald.L.Houck@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

The Coast Guard has given each Coast Guard COTP the ability to implement comprehensive port security regimes designed to safeguard human life, vessels, and waterfront facilities while still sustaining the flow of commerce. A security zone is a tool available to the Coast Guard that may be used to control vessel movements in specified waters, which the Coast Guard has determined need additional security measures during certain situations. The COTP has made a determination that it is necessary to establish a series of security zones within the NCR. The purpose of this rulemaking is to enhance public and maritime safety and security in order to safeguard life, property, and the environment on specified navigable waters of the Potomac River and Anacostia River and adjacent waters during increased security events taking place in close proximity to navigable waterways within the COTP's Area of Responsibility.

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231.

III. Discussion of Proposed Rule

Whenever an event that requires increased security is taking place the proposed security zones will help ensure the safety and security of persons and property on or near the navigable waters of the United States. Accordingly, the COTP Maryland-National Capital Region proposes to establish a series of security zones to protect high-ranking United States officials, foreign dignitaries, and the public; mitigate potential terrorist acts;

and enhance public and maritime safety and security in order to safeguard life, property, and the environment on specified waters of the Potomac River, Anacostia River and adjacent waters. The security zones would cover specified navigable waters within the NCR. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the event. No vessel or person would be permitted to enter the security zone without obtaining permission from the COTP or a designated representative. The COTP Maryland-National Capital Region will notify the maritime community, via Broadcast Notice to Mariners (BNM), of the location and duration of the security zone as the increased security event dictates. The security zone established for a specific increased security event will consist of one or more of the security zones categorized below.

Security zone one includes all navigable waters of the Potomac River, from shoreline to shoreline, bounded to the north by the Francis Scott Key (US-29) Bridge, at mile 113, and bounded to the south by a line drawn from the Virginia shoreline at Ronald Reagan Washington National Airport, at 38°51'21.3" N., 077°02'00.0" W., eastward across the Potomac River to the District of Columbia shoreline at Hains Point at position 38°51'24.3" N., 077°01'19.8" W., including the waters of the Boundary Channel, Pentagon Lagoon, Georgetown Channel Tidal Basin, and Roaches Run. Events that typically require enforcement of the zone include activities associated with the U.S. Presidential Inauguration and State funerals for former Presidents of the U.S.

Security zone two includes all navigable waters of the Anacostia River, from shoreline to shoreline, bounded to the north by the John Philip Sousa (Pennsylvania Avenue) Bridge, at mile 2.9, and bounded to the south by a line drawn from the District of Columbia shoreline at Hains Point at position 38°51'24.3" N., 077°01'19.8" W., southward across the Anacostia River to the District of Columbia shoreline at Giesboro Point at position 38°50'52.4" N., 077°01'10.9" W., including the waters of the Washington Channel. Events that typically require enforcement of the zone include activities associated with the U.S. Presidential Inauguration and State funerals for former Presidents of the U.S.

Security zone three includes all navigable waters of the Potomac River, from shoreline to shoreline, bounded to the north by a line drawn from the