Subpart E—Indexing, Public Inspection, and Federal Register Publication of Department of the Navy Directives and Other Documents Affecting the Public

§ 701.61 Purpose.

This subpart implements 5 U.S.C. 552(a) (1) and (2) and provisions of Department of Defense Directive 5400.7 May 13, 1988 (32 CFR part 286, 55 FR 53104); Department of Defense Directive 5400.9, December 23, 1974 (32 CFR part 336, 40 FR 49111); and the Regulations of the Administrative Committee of the Federal Register (1 CFR chaps. I and II) by delineating responsibilities and prescribing requirements, policies, criteria, and procedures applicable to:

(a) Publishing the following Department of the Navy documents in the FEDERAL REGISTER:

(1) Certain classes of regulatory, organizational policy, substantive, and procedural documents required to be published for the guidance of the public;

(2) Certain classes of proposed regulatory documents required to be published for public comment prior to issuance; and

(3) Certain public notices required by law or regulation to be published;

(b) Making available, for public inspection and copying, certain classes of documents having precedential effect on decisions concerning members of the public;

(c) Maintaining current indexes of documents having precedential effect on decisions concerning members of the public, and publishing such indexes or making them available by other means;

(d) Receiving and considering petitions of members of the public for the issuance, revision, or cancellation of regulatory documents of some classes; and

(e) Distributing the FEDERAL REGISTER for official use within the Department of the Navy.

§ 701.62 Scope and applicability.

This subpart prescribes actions to be executed by, or at the direction of, Navy Department (as defined in §700.104c of this chapter) components and specified headquarters activities for apprising members of the public of Department of the Navy regulations, policies, substantive and procedural rules, and decisions which may affect them, and for enabling members of the public to participate in Department of the Navy rulemaking processes in matters of substantial and direct concern to the public. This subpart complements subpart A, which implements Navy-wide requirements for furnishing documents to members of the public upon request. That a document may be published or indexed and made available for public inspection and copying under this instruction does not affect the possible requirement under subpart A for producing it for examination, or furnishing a copy, in response to a request made under that subpart.

§ 701.63 Policy.

In accordance with the spirit and intent of 5 U.S.C. 552, the public has the right to maximum information concerning the organization and functions of the Department of the Navy. This includes information on the policies and the substantive and procedural rules used by the Department of the Navy in its dealings with the public. In accordance with Department of Defense policy described in 32 CFR part 336, 40 FR 4911, moreover, the public is encouraged to participate in Department of the Navy rulemaking when the proposed rule would substantially and directly affect the public.

§ 701.64 Publication of adopted regulatory documents for the guidance of the public.

(a) Classes of documents to be published. Subject to the provisions of 5 U.S.C. 552(b) which exempt specified matters from requirements for release to the public [see subpart B of this part], the classes of Department of the Navy documents required to be published on a current basis in the FEDERAL REGISTER are listed below.

(1) Naval organization and points of contact—description of the central and
field organization of the Department of
the Navy and the locations at which,
the members or employees from whom,
and the methods whereby, the public
may obtain information, make submitt-
als or requests, or obtain decisions;
(2) Methods and procedures for business
with the public—statements of the general
course and methods by which Depart-
ment of the Navy functions affecting
members of the public are channeled
and determined, including the nature
and requirements of all formal and in-
formal procedures available;
(3) Procedural rules and forms—rules of
procedure for functions affecting mem-
bers of the public, descriptions of forms
available or the places at which forms
may be obtained, and instructions as to
the scope and contents of all papers, re-
ports, or examinations required to be
submitted under such rules of proce-
dures; and
(4) Substantive rules and policies—sub-
stantive rules of general applicability
adopted as authorized by law, and
statements of general policy or inter-
pretations of general applicability for-
mulated and adopted by the Depart-
ment of the Navy. Such rules are com-
monly contained in directives, manu-
als, and memorandums.

(i) “General applicability” defined. The
definition prescribed in 1 CFR 1.1 per-
tains to the classes of documents con-
templated in §701.64(b)(4).
(ii) Internal personnel rules and inter-
nal practices. In addition to other ex-
ceptions listed in 5 U.S.C. 552(b) and
subpart B of this part, particular atten-
tion is directed to the exemption pertain-
ting to internal personnel rules and internal practices.
(iii) Local regulations. It is unnec-
essary to publish in the FEDERAL REG-
ISTER a regulation which is essentially
local in scope or application, such as a
directive issued by a base commander
in the implementation of his responsi-
bility and authority under subpart G of
part 700 of this title for guarding the
security of the installation or control-
ling the access and conduct of visitors
or tradesmen. However, such publica-
tion may be authorized under extraor-
dinary circumstances, as determined
by the Chief of Naval Operations or the
Commandant of the Marine Corps, as
appropriate, with the concurrence of
the Judge Advocate General.

(iv) Incorporation by reference. With
the approval of the Director of the Fed-
eral Register given in the limited in-
cstances authorized in 1 CFR part 51 and
32 CFR 336.5(c), the requirement for
publication in the FEDERAL REGISTER
may be satisfied by reference in the FEDERAL REGISTER to other publica-
tions containing the information which
must otherwise be published in the FEDERAL REGISTER. In general, matters
eligible for incorporation by reference are
restricted to materials in the na-
ture of published data, criteria, stand-
ards, specifications, techniques, illustra-
tions, or other published information
which are reasonably available to
members of the class affected.

(b) Public inspection. When feasible,
Department of the Navy and Depart-
ment of Defense documents published
in the FEDERAL REGISTER should be
made available for inspection and
copying, along with available indexes
of such documents, in the same loca-
tions used for copying of the docu-
ments contemplated in §701.65.

§701.65 Availability, public inspection,
and indexing of other documents af-
fecting the public.

(a) Discussion. Section 552(a) of title
5, United States Code, requires the De-
partment of the Navy to make avail-
able for public inspection and copying
documents which have precedential
significance on those Department of
the Navy decisions which affect the
public. These documents must be kept
readily available for public inspection
and copying at designated locations,
unless they are promptly published and
copies are offered for sale. Addi-
tionally, documents issued after July 4,
1967, are required to be indexed on a
current basis. These indexes, or supple-
ments thereto, must be published at
least quarterly in accordance with the
provisions of this paragraph. In deter-
mining whether a particular document
is subject to the requirements of this
paragraph, consideration should be
given to the statutory purposes and
legal effect of the provisions.

(1) Statutory purposes. In general, the
purpose of the requirement to provide
members of the public with essential