procedures in the State, to authorize stream buffer zone variances for coal refuse disposal activities only where such activities will not cause or contribute to the violation of applicable State or Federal water quality standards, and will not adversely affect water quality and quantity, or other environmental resources of the stream.

(xxx) By July 1, 1998, Pennsylvania shall amend the Pennsylvania program, or provide a written description of an amendment together with a timetable for enactment which is consistent with established administrative or legislative procedures in the State, to clarify, in the regulations to be developed to implement the provisions of section 6.2 of the Coal Refuse Disposal Act (as is required by Section 3.2(b) of the Coal Refuse Disposal Act), that preexisting discharges that are encountered must be treated to the State effluent standards at Chapter 90, subchapter D at 90.102.

(yyy) By July 1, 1998, Pennsylvania shall amend the Pennsylvania program, or provide a written description of an amendment together with a timetable for enactment which is consistent with established administrative or legislative procedures in the State, to clarify that Subsection 6.2(h) of the Coal Refuse Disposal Act pertains to preexisting discharges that are not encountered'.

(zzz) By July 1, 1998, Pennsylvania shall amend the Pennsylvania program, or provide a written description of an amendment together with a timetable for enactment which is consistent with established administrative or legislative procedures in the State, to be no less effective than 30 CFR 816.116(b)(5), by limiting the application of the revegetation standards under Subsection 6.2(k) of its Coal Refuse Disposal Act, to areas that were previously disturbed by mining and that were not reclaimed to the State reclamation standards.

(aaaa) By July 1, 1998, Pennsylvania shall amend the Pennsylvania program, or provide a written description of an amendment together with a timetable for enactment which is consistent with established administrative or legislative procedures in the State, to clarify that under Subsection 6.2(1) of its Coal Refuse Disposal Act, a special authorization for coal refuse disposal operations will not be granted, when such an authorization would result in the site being reclaimed to lesser standards than could be achieved if the moneys paid into the Fund, as a result of a prior forfeiture on the area, were used to reclaim the site to the standards approved in the original permit under which the bond moneys were forfeited.

(bbbb) By July 1, 1998, Pennsylvania shall amend the Pennsylvania program, or provide a written description of an amendment together with a timetable for enactment which is consistent with established administrative or legislative procedures in the State, by adding implementing rules no less effective than 30 CFR 785.13, and no less stringent than SMCRA Section 711 and which clarify that experimental practices are only approved as part of the normal permit approval process and only for departures from the environmental protection performance standards, and that each experimental practice receive the approval of the Secretary.

[FR Doc. 98–15762 Filed 6–12–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 212

[DoD Instruction 1000.15]

RIN 0790–AG53

Private Organizations on DoD Installations

AGENCY: Assistant Secretary of Defense for Force Management Policy, DoD.

ACTION: Final rule.

SUMMARY: The revision of this part will ensure that private organizations operating on DoD installations do so in accordance with parameters established for their authorization and support. Private organizations are self-sustaining, non-Federal entities which operate on DoD installations outside the scope of any official capacity as officers, employees, or agents of the Federal Government.

EFFECTIVE DATE: October 23, 1997.

FOR FURTHER INFORMATION CONTACT: Martin S. Thomas III, LTC, USA, (703) 614–3112.

SUPPLEMENTARY INFORMATION: The Department of Defense published a proposed rule on February 24, 1998 (63 FR 9167). No material comments were received.

Executive Order 12866, "Regulatory Planning and Review"

I, Francis M. Rush, Jr., Acting Assistant Secretary of Defense for Force Management Policy, hereby determine that 32 CFR part 212 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 sector 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 this Executive Order.

Public Law 96–354, "Regulatory Flexibility Act" (5 USC 601)

I, Frank M. Rush, Jr., Acting Assistant Secretary of Defense for Force Management Policy, hereby certify 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. The primary effect of this rule will not be on small businesses, but on private organizations operating on DoD installations as the procedures for their authorization and support have been redefined and reestablished in this final rule.

Public Law 104–13, "Paperwork Reduction Act of 1995" (44 USC Chapter 35)

I, Francis M. Rush, Jr., Acting Assistant Secretary of Defense for Force Management Policy, hereby certify that 32 CFR part 212 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 32 CFR Part 212

DoD installations, Federal building and facilities, Private organizations.

Accordingly, 32 CFR part 212 is revised to read as follows:

PART 212—PRIVATE ORGANIZATIONS ON DOD INSTALLATIONS

Sec.
212.1 Reissuance and purpose.
212.2 Applicability.
212.3 Definitions.
212.4 Policy.
212.5 Responsibilities.
212.6 Procedures.

Authority: 5 U.S.C. 301.

§ 212.1 Reissuance and purpose.

This part:

(a) Revises 32 CFR part 212.

(b) Implements policy in DoD Directive 5124.5.[1]

(c) Updates responsibilities and procedures to define and reestablish parameters for private organizations located on DoD installations for their authorization and support.

§ 212.2 Applicability.

This part applies to:

(a) The Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Defense Agencies, and DoD Field Activities (hereafter referred to collectively as the ''DoD Components'').

(b) Private organizations authorized to operate on DoD installations.

§ 212.3 Definitions.

(a) *DoD Installation.* A location, facility, or activity owned, leased, assigned to, controlled, or occupied by a DoD Component.

(b) *Private Organizations.* Self-sustaining and non-Federal entities, incorporated or unincorporated, which are operated on DoD installations with the written consent of the installation commander or higher authority, by individuals acting exclusively outside the scope of any official capacity as officers, employees, or agents of the Federal Government.

§ 212.4 Policy.

It is DoD policy under DoD Directive 5124.5 that procedures be established for the operation of private organizations on DoD installations to prevent the official sanction, endorsement, or support by DoD Components except as in 32 CFR part 84. Private organizations are not entitled to sovereign immunity and privileges accorded to Federal entities and instrumentalities. Private organizations are not Federal entities and are not to be treated as such, in order to avoid conflicts of interest and unauthorized expenditures of appropriated, commissary surcharge, or nonappropriated funds.

§ 212.5 Responsibilities.

(a) The *Assistant Secretary of Defense for Force Management Policy,* under the *Under Secretary of Defense for Personnel and Readiness,* shall be responsible for all policy matters and OSD oversight for the monitoring of private organizations on DoD installations.

(b) The *Heads of the DoD Components* shall implement this part, shall be kept aware of all private organizations located on installations under their jurisdictions, and ensure that periodic reviews of private organizations are conducted to:

(1) Ensure for each such private organization that the membership provisions and purposes on the basis of which the organization was permitted on the installation continue to apply, thereby justifying continuance on the installation. Substantial changes to those conditions shall necessitate further review, documentation, and approval for continued permission to remain on the installation.

(2) Furnish reports to the Assistant Secretary of Defense for Force Management Policy on private organizations covered by this part as required.

§ 212.6 Procedures.

(a) To prevent the appearance of an official sanction or support by the Department of Defense, a private organization covered by this part shall not utilize the following in its title or letterhead:

(1) The name or seal of the Department of Defense or the acronym ''DoD.''

(2) The name, abbreviation, or seal of any DoD Component or instrumentality.

(3) The seal, insignia, or other identifying device of the local installation.

(4) Any other name, abbreviation, seal, logo, insignia, or the like, used by any DOD Component to identify any of its programs, locations, or activities.

(b) Activities of private organizations covered by this part shall not in any way prejudice or discredit the DoD Components or the other Agencies of the Federal Government.

(c) The nature, function, and objectives of a private organization covered by this part shall be delineated in a written constitution, by-laws, charter, articles of agreement, or other authorization documents acceptable to the head of the DoD installation. That documentation shall also include:

(1) Description of membership eligibility in the private organization.

(2) Designation of management responsibilities, to include the accountability for assets, satisfaction of liabilities, disposition of any residual assets on dissolution, and other matters that show responsible financial management.

(3) Documentation indicating an understanding by all members as to whether they are personally liable if the assets are insufficient to discharge all liabilities.

(d) A private organization covered by this part that offers programs or services similar to either appropriated or nonappropriated fund activities on a DoD installation shall not compete with, but may, when specifically authorized in the approval document, supplement those activities.

(e) Private organizations covered by this part shall be self-sustaining, primarily through dues, contributions, service charges, fees, or special assessment of members. There shall be no financial assistance to a private organization from a nonappropriated fund instrumentality in the form of contributions, repairs, services, dividends, or other donations of money or other assets. Fundraising and membership drives are governed by 32 CFR part 84.

(f) The DoD Components may provide logistical support to private organizations with appropriated Federal Government resources in accordance with 32 CFR part 84. In conformance with DoD Directive 1015.1,[2] nonappropriated fund instrumentalities funds or assets shall not be directly or indirectly transferred to private organizations.

(g) Personal and professional participation in private organizations by DoD employees is governed by 32 CFR part 84.

(h) Neither appropriated fund activities nor nonappropriated fund instrumentalities may assert any claim to the assets, or incur or assume any obligation of any private organization covered by this part except as may arise out of contractual relationships. Property abandoned by a private organization on its disestablishment or departure from the installation, or donated by it to the installation, may be acquired by the DoD installation under the terms of applicable agreements, statutes, and DoD policy.

(i) Adequate insurance, as defined by the Service concerned, shall be secured by the organization to protect against public liability and property damage claims or other legal actions that may arise as a result of activities of the organization or one or more of its members acting in its behalf, or the operation of any equipment, apparatus or device under the control and responsibility of the private organization.

(j) Private organizations shall be responsible for ensuring applicable fire and safety regulations, environmental laws, local, state, and Federal tax codes,

[1] Copies may be obtained, if needed, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

[2] See footnote to § 212.1(b).

and any other applicable statutes and regulations are complied within the operation of the private organization.

(k) Income shall not accrue to individual members except through wages and salaries as employees of the private organization or as award recognition for service rendered to the private organization or military community. The head of a DoD installation concerned may approve the operation of private organizations, such as investment clubs, in which the investment of members' personal funds result in a return on investment directly and solely to the individual members.

(l) No person because of race, color, creed, sex, age, disability or national origin shall be unlawfully denied membership, unlawfully excluded from participation, or otherwise subjected to unlawful discrimination by any private organization on a DoD installation covered by this part. DoD installations will publicly disseminate information on procedures for individuals to follow at the local installation when unlawful discrimination by private organizations is suspected.

(m) Applicable laws on labor standards for employment shall be observed.

(n) This part does not apply to the following organizations, which are governed by DoD Directives and Instructions as referenced:

(1) Scouting organizations operating at U.S. military installations located overseas (DoD Instruction 1015.9).[3]

(2) American National Red Cross (DoD Directive 1330.5).[4]

(3) United Service Organizations, Inc. (DoD Directive 1330.12).[5]

(4) United Seamen's Service (DoD Directive 1330.16).[6]

(5) Financial Institutions on DoD Installations (32 CFR part 231).

(o) Certain unofficial activities may be conducted on DoD installations, but need not be formally authorized because of the limited scope of their activities, membership or funds. Examples are office coffee funds, flower funds, and similar small, informal activities and funds. DoD Components shall establish the basis upon which such informal activities and funds shall operate.

Dated: June 9, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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[3] See footnote to § 212.1(b).

[4] See footnote to § 212.1(b).

[5] See footnote to § 212.1(b).

[6] See footnote to § 212.1(b).

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 234

Conduct on the Pentagon Reservation

AGENCY: Department of Defense, Washington Headquarters Services.

ACTION: Final rule.

SUMMARY: This document revises DoD policy concerning conduct on the Pentagon Reservation. The revisions are intended to ensure that DoD regulations are consistent with the statutory authority on which they are based, and to promote the safer, more efficient, and more secure operation of the Pentagon Reservation.

EFFECTIVE DATE: June 15, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas R. Brooke, Office of General Counsel, Washington Headquarters Services, 1155 Defense Pentagon Room 1D197, Washington, DC 20301–1155, telephone (703) 693–7374.

SUPPLEMENTARY INFORMATION: On January 8, 1996, the Department of Defense published an interim final rule in the **Federal Register** (61 FR 541). Comments from the public were invited, but none were received. In the two years since the interim final rule was published, the Department has identified six sections requiring minor changes and has recognized the need to add one additional section.

The first change is the combination of the definitions of firearm and weapon in § 234.1. Because there is no functional reason to keep the definitions separate, they have been combined under the definition of weapon.

The second change is the incorporation of § 234.3 into § 234.17. Section 234.17 is the main provision addressing the use of vehicles on the Pentagon Reservation. As such, it is the natural place for the regulations to note that, in general, traffic and the use of vehicles are governed by state law. Also, to remove any ambiguity as to the application of state traffic laws, the following sentence has been added: ''Violating a provision of State law is prohibited.''

The third change is the amendment of the language of § 234.8. The interim language is awkward in that it reads in part, ''[D]amage to []private property is prohibited.'' The meaning of the provision is conveyed more straightforwardly in the final version, which prohibits ''destroying or damaging private property.'' Also, the word ''willfully'' has been added to distinguish between intentional and accidental acts. This distinction is consistent with the statutory authority for the regulations, which provides a criminal penalty only for willful violations of the regulations. Finally, the section's prohibition against the ''creation of any hazard to persons or things'' has been deleted because the subject is already addressed in the previous section, at § 234.7(d).

The fourth change is an amendment to the language of § 234.10. Because certain implements used for construction and other lawful purposes fall under this regulation's definition of ''weapons,'' paragraph (b) of that section, has been amended to allow the exemption of weapons used in support of a ''security, law enforcement, or other lawful purpose.''

The fifth change, for the sake of clarity and accuracy, is the replacement of the word ''use'' in § 234.11, referring to alcoholic beverages, with the term ''consumption.''

The sixth change, to remove any ambiguity as to the application of certain parking-related Department of Defense regulations and state laws, is the addition of the following clause in § 234.18, which addresses the enforcement of parking regulations: ''violating such provisions is prohibited.''

Finally, a new § 234.5 has been added. Section 40b.3 of the former regulations governing conduct at the Pentagon required compliance with official signs and the lawful directions of police officers. The provision covering directions from police officers was incorporated into the interim final version of § 234.6, but the officials signs provision was mistakenly left out of the interim final regulations. The final version of § 234.5 restores that provision. The language of the section is almost identical to the General Services Administration official signs provision found at 41 CFR part 101–20.304.

It has been certified that this rule is not a significant rule as defined under section 3(f)(1) through 3(f)(4) of Executive Order 12866. Further, it has been certified that this rule will not have a significant economic impact on a substantial number of small entities because it affects only those entities and persons who are on the Pentagon Reservation. Finally, it has been certified that this rule does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 32 CFR Part 234

Alcohol abuse, Drug testing, Federal buildings and facilities, Security measures, Traffic regulations.