employee in fiscal year 2007, and $49.93 per hour per program employee in fiscal year 2008.

§ 391.3 Overtime and holiday rate.

The overtime and holiday rate for inspection services provided pursuant to §§ 307.5, 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, 362.5 and 381.38 is $55.19 per hour per program employee in fiscal year 2005, $56.40 per hour per program employee in fiscal year 2006, $57.65 per hour per program employee in fiscal year 2007, and $58.93 per hour per program employee in fiscal year 2008.

§ 391.4 Laboratory services rate.

The rate for laboratory services provided pursuant to §§ 350.7, 351.9, 352.5, 354.101, 355.12, and 362.5 is $66.42 per hour per program employee in fiscal year 2005, $67.83 per hour per program employee in fiscal year 2006, $69.31 per hour per program employee in fiscal year 2007, and $70.82 per hour per program employee in fiscal year 2008. 3. In § 391.5, paragraph (a) is revised to read as follows:

§ 391.5 Laboratory accreditation fee.

(a) The annual fee for the initial accreditation and maintenance of accreditation provided pursuant to §§ 318.21 and 381.153 shall be $4,000.00 for fiscal year 2005; $5,200.00 for fiscal year 2006; $5,400.00 for fiscal year 2007; and $5,600.00 for fiscal year 2008.

* * * * *

PART 590—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

4. The authority citation for part 590 continues to read as follows:

Authority: 21 U.S.C. 1031–1056.

5. Section 590.126 is revised to read as follows:

§ 590.126 Overtime inspection service.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day or on a day outside the established schedule, such services are considered as overtime work. The official plant must give reasonable advance notice to the inspector of any overtime service necessary and must pay the Agency for such overtime at an hourly rate of $55.19 per hour per program employee in fiscal year 2005, $56.40 per hour per program employee in fiscal year 2006, $57.65 per hour per program employee in fiscal year 2007, and $58.93 per hour per program employee in fiscal year 2008.

6. In § 590.128, paragraph (a) is revised to read as follows:

§ 590.128 Holiday inspection service.

(a) When an official plant requires inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant must, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and must pay the Agency for such holiday work at an hourly rate of $55.19 per hour per program employee in fiscal year 2005, $56.40 per hour per program employee in fiscal year 2006, $57.65 per hour per program employee in fiscal year 2007, and $58.93 per hour per program employee in fiscal year 2008.

* * * * *

PART 592—VOLUNTARY INSPECTION OF EGG PRODUCTS

7. The authority citation for part 592 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

8. Sections 592.510, 592.520 and 592.530 are revised to read as follows:

§ 592.510 Base time rate.

The base time rate for voluntary inspection services for egg products is $46.78 per hour per program employee in fiscal year 2005, $47.79 per hour per program employee in fiscal year 2006, $48.84 per hour per program employee in fiscal year 2007, and $49.93 per hour per program employee in fiscal year 2008.

§ 592.520 Overtime rate.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day or on a day outside the established schedule, such services are considered as overtime work. The official plant must give reasonable advance notice to the inspection program personnel of any overtime service necessary and must pay the Agency for such overtime at an hourly rate of $55.07 per hour per program employee in fiscal year 2005, $56.75 per hour per program employee in fiscal year 2006, $58.54 per hour per program employee in fiscal year 2007, and $60.43 per hour per program employee in fiscal year 2008.

§ 592.530 Holiday rate.

When an official plant requires inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant must, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and must pay the Agency for such holiday work at an hourly rate of $55.07 per hour per program employee in fiscal year 2005, $56.75 per hour per program employee in fiscal year 2006, $58.54 per hour per program employee in fiscal year 2007, and $60.43 per hour per program employee in fiscal year 2008.

Done in Washington, DC, on: July 15, 2005.

Barbara J. Masters,

Acting Administrator.

[FR Doc. 05–14296 Filed 7–19–05; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 631

RIN 0702–AA50

Armed Forces Disciplinary Control Boards and Off-Installation Liaison and Operations

AGENCY: Department of the Army, DoD.

ACTION: Proposed rule; Request for comments.

SUMMARY: The Department of the Army proposes to revise its part concerning armed forces disciplinary control boards and off-installation liaison and operations. The part prescribes uniform policies and procedures for the establishment, and operation of Armed Forces Disciplinary Control Boards, and off-installation liaison and operations.

DATES: Comments submitted to the address below on or before September 19, 2005 will be considered.

ADDRESSES: You may submit comments, identified by ''32 CFR 631 and RIN 0702–AA50 in the subject line, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-Mail: *james.crumley@hqda-aoc.army.pentagon.mil*. Include 32 CFR 631 and RIN 0702–AA50 in the subject line of the message.
- Mail: Headquarters, Department of the Army, Office of the Provost Marshal General, ATTN: DAPM–MPD–LE, 2800 Army Pentagon, Washington, DC 20310–2800.

FOR FURTHER INFORMATION CONTACT: James Crumley (703) 692–6721.

SUPPLEMENTARY INFORMATION:

A. Background

This rule has previously been published. The Administrative Procedure Act, as amended by the Freedom of Information Act requires that certain policies and procedures and other information concerning the Department of the Army be published in the **Federal Register**. The policies and procedures covered by this part fall into that category.

B. Regulatory Flexibility Act

The Department of the Army has determined that the Regulatory Flexibility Act does not apply because the proposed rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

C. Unfunded Mandates Reform Act

The Department of the Army has determined that the Unfunded Mandates Reform Act does not apply because the proposed rule does not include a mandate that may result in estimated costs to State, local or tribal governments in the aggregate, or the private sector, of $100 million or more.

D. National Environmental Policy Act

The Department of the Army has determined that the National Environmental Policy Act does not apply because the proposed rule does not have an adverse impact on the environment.

E. Paperwork Reduction Act

The Department of the Army has determined that the Paperwork Reduction Act does not apply because the proposed rule does not involve collection of information from the public.

F. Executive Order 12630 (Government Actions and Interference With Constitutionally Protected Property Rights)

The Department of the Army has determined that Executive Order 12630 does not apply because the proposed rule does not impair private property rights.

G. Executive Order 12866 (Regulatory Planning and Review)

The Department of the Army has determined that according to the criteria defined in Executive Order 12866 this proposed rule is not a significant regulatory action. As such, the proposed rule is not subject to Office of Management and Budget review under section 6(a)(3) of the Executive Order.

H. Executive Order 13045 (Protection of Children From Environmental Health Risk and Safety Risks)

The Department of the Army has determined that according to the criteria defined in Executive Order 13045 this proposed rule not apply.

I. Executive Order 13132 (Federalism)

The Department of the Army has determined that according to the criteria defined in Executive Order 13132 this proposed rule does not apply because it will not have a substantial effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Jeffery B. Porter,

Chief, Law Enforcement Policy and Oversight Section.

List of Subjects in 32 CFR Part 631

Alcohol, Business, Discrimination, Health, Investigations, Law enforcement, Military Personnel, Privacy, Safety, Uniform Code of Military Justice.

For reasons stated in the preamble the Department of the Army proposes to revise part 631 to Subchapter I of Title 32 to read as follows:

PART 631—ARMED FORCES DISCIPLINARY CONTROL BOARDS AND OFF-INSTALLATION LIAISON AND OPERATIONS

Subpart A—General

Sec.
631.1 Purpose.
631.2 Applicability.
631.3 Supervision.
631.4 Exceptions.

Subpart B—Armed Forces Disciplinary Control Boards

631.5 General.
631.6 Responsibilities.
631.7 Composition of boards.
631.8 Participation by civil agencies.
631.9 Duties and functions of boards.
631.10 Administration.
631.11 Off-limits establishments and areas.

Subpart C—Off-Installation Operations (Military Patrols and Investigative Activities) and Policy

631.12 Objectives.
631.13 Applicability.
631.14 Policy (for Army only).
631.15 Policy (for Air Force only).
631.16 Policy (for Navy only).
631.17 Policy (for Marine Corps only).
631.18 Operations.
Appendix A to Part 631—Armed Forces Disciplinary Control Board Procedures Guide

Authority: 10 U.S.C. 3012(b)(1)(g).

Subpart A—General

§ 631.1 Purpose.

This part prescribes uniform policies and procedures for the establishment, and operation of the following:

(a) Armed Forces Disciplinary Control Boards (AFDCB).

(b) Off-installation liaison and operations.

§ 631.2 Applicability.

This part applies to the following:

(a) Active U.S. Armed Forces personnel of the Army, Air Force, Navy, and Marine Corps, and the Coast Guard wherever they are stationed.

(b) U.S. Armed Forces Reserve personnel only when they are performing Federal duties or engaging in activities directly related to performing a Federal duty or function.

(c) National Guard personnel only when called or ordered to active duty in a Federal status within the meaning of Title 10, United States Code.

§ 631.3 Supervision.

The following will develop and have staff supervision over AFDCB and off-installation enforcement policies. (1) The Office of the Provost Marshal General (OPMG), Headquarters, Department of the Army (HQDA). This official serves as the proponent for this part, and has primary responsibility for its content.

(2) U.S. Air Force Director of Security Forces and Force Protection, Department of the Air Force.

(3) Director, Naval Criminal Investigative Service.

(4) Commandant of the Marine Corps.

(5) Commandant of the Coast Guard.

(6) Installation commanders are authorized to convene joint service boards within their AR 5–9 area of responsibility.

§ 631.4 Exceptions.

Requests for exceptions to policies contained in this part will be forwarded to HQDA (DAPM–MPD–LE), Washington, DC 20310–2800.

Subpart B—Armed Forces Disciplinary Control Boards

§ 631.5 General.

AFDCBs may be established by installation, base, or station commanders to advise and make recommendations to commanders on matters concerning eliminating conditions, which adversely affect the health, safety, welfare, morale, and discipline of the Armed Forces.

(a) For the Army, routine off-limits actions must be processed by an AFDCB following the procedures in § 631–11.

(b) Coast Guard commanders must have written authorization from the Commandant (G'WP) prior to establishing an AFDCB.

§ 631.6 Responsibilities.

(a) Regional Directors of the Army Installation Management Agency, Air Force commanders, Navy regional commanders, Marine Corps commanders, and Coast Guard commanders will—(1) Determine level and degree of participation by subordinate commanders in joint Service boards, when appropriate.

(2) Resolve differences among subordinate commanders regarding board areas of responsibility, and the designation of sponsoring commanders.

(3) Evaluate board recommendations, and actions from subordinate sponsoring commanders.

(4) Forward recommendations to HQDA, OPMG (DAPM–MPD–LE), WASH DC 20310–2800, regarding circumstances that require Service headquarters action or programs having widespread applicability.

(5) Ensure that subordinate commanders assess the availability of drug abuse paraphernalia in the vicinity of Department of Defense (DOD) installations through their AFDCBs, according to DOD Directive 1010.4. Coast Guard commanders should refer to COMDTINST M1000.6 series, chapter 20, for guidance on Coast Guard substance abuse policies.

(b) Military installation commanders for off-installation enforcement actions will—(1) Conduct off-installation operations as authorized by law and Service policy.

(2) Coordinate off-installation operations with other Service commanders, as applicable, for uniformity of effort, and economy of resources.

(3) Assist Federal, State, and local law enforcement agencies within the limits imposed by law and DOD policy.

(c) Sponsoring commanders will provide administrative support for AFDCB programs to include the following—(1) Promulgating implementing directives, and convening the board.

(2) Providing a recorder for the board.

(3) Providing copies of the minutes of board meetings to other Service commanders who are represented on the board, and to other AFDCBs as appropriate.

(4) Approving or disapproving the minutes, and recommendations of the board, and making appropriate distribution, as required.

(5) Publishing lists of ''off-limits'' establishments and areas.

(6) Ensuring that responsible individuals are notified of any unfavorable actions being contemplated or taken regarding their establishments per Annex A.

(7) Distributing pertinent information to the following—

(i) All units within their jurisdictional area.

(ii) Units stationed in other areas whose personnel frequent their area of jurisdiction.

(8) Ensuring that procedures are established to inform all Service personnel, including those who may be visiting or are in a travel status, of off-limits restrictions in effect within the respective AFDCB's jurisdictional area.

§ 631.7 Composition of boards.

(a) Boards should be structured according to the needs of the command, with consideration given to including representatives from the following functional areas—

(1) Law enforcement.

(2) Legal counsel.

(3) Health.

(4) Environmental protection.

(5) Public affairs.

(6) Equal opportunity.

(7) Fire and safety.

(8) Chaplains' service.

(9) Alcohol and drug abuse.

(10) Personnel and community activities.

(11) Consumer affairs.

(b) Sponsoring commanders will designate a board president, and determine by position which board members will be voting members. Such designations will be included in a written agreement establishing the board.

§ 631.8 Participation by civil agencies.

(a) Civil agencies or individuals may be invited to board meetings as observers, witnesses or to provide assistance where they possess knowledge or information pertaining to problem areas within the board's jurisdiction.

(b) Announcements and summaries of board results may be provided to appropriate civil agencies.

§ 631.9 Duties and functions of boards.

The AFDCBs will—

(a) Meet as prescribed by appendix A of this part.

(b) Receive reports, and take appropriate action on conditions in their area of responsibility relating to any of the following—

(1) Disorders and lack of discipline.

(2) Prostitution.

(3) Sexually transmitted disease.

(4) Liquor violations.

(5) Racial and other discriminatory practices.

(6) Alcohol and drug abuse.

(7) Drug abuse paraphernalia.

(8) Criminal or illegal activities involving cults or hate groups.

(9) Illicit gambling.

(10) Areas susceptible to terrorist activity.

(11) Unfair commercial or consumer practices.

(12) Other undesirable conditions deemed unsafe which may adversely affect the health and well being of military personnel or their families.

(c) Report to all major commanders in the board's area of responsibility—

(1) Conditions cited in paragraph (b) of this section.

(2) Recommended action as approved by the board's sponsoring commander.

(d) Coordinate with appropriate civil authorities on problems or adverse conditions existing in the board's area of jurisdiction.

(e) Make recommendations to commanders in the board's area of jurisdiction concerning off-installation procedures to prevent or control undesirable conditions.

§ 631.10 Administration.

(a) Commanders are authorized to acquire, report, process, and store information concerning persons and organizations, whether or not affiliated with DOD, according to the applicable Service parts of the sponsoring commander, which—

(1) Adversely affect the health, safety, morale, welfare, or discipline of service members regardless of status.

(2) Describes crime conducive conditions where there is a direct Service interest.

(b) Boards will function under the supervision of a president (§ 631.7(b)).

(c) Certain expenses incurred by Service members in the course of an official board investigation or inspection may be reimbursable per appropriate Service finance parts or instructions. Requests for reimbursement will be submitted through the sponsoring commander.

(d) Records of board proceedings will be maintained as prescribed by records management policies, and procedures of the sponsoring commander's Service.

§ 631.11 Off-limits establishments and areas.

(a) The establishment of off-limits areas is a function of Command. It may be used by commanders to help maintain good order and discipline, health, morale, safety, and welfare of service members. Off-limits action is also intended to prevent service

members from being exposed to or victimized by crime-conducive conditions. Where sufficient cause exists, commanders retain substantial discretion to declare establishments or areas temporarily off-limits to personnel of their respective commands in emergency situations. Temporary off-limits restrictions issued by commanders in an emergency situation will be acted upon by the AFDCB as a first priority. As a matter of policy, a change in ownership, management, or name of any off-limits establishment does not, in and of itself, revoke the off-limits restriction.

(b) Service members are prohibited from entering establishments or areas declared off-limits according to this part. Violations may subject the member to disciplinary action per applicable Service parts, and the Uniform Code of Military Justice (UCMJ). Family members of service members and others associated with the Service or installation should be made aware of off-limits restrictions. As a general policy, these establishments will not be visited by Service law enforcement personnel unless specifically determined by the installation commander that visits or surveillance are warranted.

(c) Prior to initiating AFDCB action, installation commanders will attempt to correct adverse conditions or situations through the assistance of civic leaders or officials.

(d) Prior to recommending an off-limits restriction, the AFDCB will send a written notice (certified mail-return receipt requested) to the individual or firm responsible for the alleged condition or situation. The AFDCB will specify in the notice a reasonable time for the condition or situation to be corrected, along with the opportunity to present any relevant information to the board. If subsequent investigation reveals that the responsible person has failed to take corrective action, the board will recommend the imposition of the off-limits restriction.

(e) A specified time limit will not be established when an off-limits restriction is invoked. The adequacy of the corrective action taken by the responsible individual will be the determining factor in removing an off-limits restriction.

(f) A person whose establishment or area has been declared off-limits may at any time petition the president of the board to remove the off-limits restriction. The petition will be in writing and will include a detailed report of action taken to eliminate the condition or situation that caused imposition of the restriction. The president of the AFDCB may direct an investigation to determine the status of corrective actions noted in the petition. The board will either recommend removal or continuation of the off-limits restriction to the local sponsoring commander based on the results of the investigation.

(g) Off-limits procedures to be followed by the boards are in Appendix A of this part. In the United States, off-limits signs will not be posted on civilian establishments by U.S. military authorities.

(h) In areas Outside of the Continental United States (OCONUS), off-limits and other AFDCB procedures must be consistent with existing Status of Forces Agreements (SOFAs).

Subpart C—Off-Installation Operations (Military Patrols and Investigative Activities) and Policy

§ 631.12 Objectives.

The primary objectives of off-installation operations are to—

(a) Render assistance and provide information to Service members.

(b) Preserve the safety, and security of service members.

(c) Preserve good order and discipline among Service members and reduce off-installation incidents and offenses.

(d) Maintain effective cooperation with civil authorities, and community leaders.

§ 631.13 Applicability.

This section is not applicable to the U.S. Coast Guard.

§ 631.14 Army Policy.

(a) Soldiers, military and/or Department of the Army Civilian (DAC) police performing off-installation operations must be thoroughly familiar with applicable agreements, constraints of the Posse Comitatus Act (18 U.S.C. 1385) in the Continental United States (CONUS) and United States-host nation agreements in areas OCONUS.

(b) Military and/or DAC police assigned to off-installation operations have the sole purpose of enforcing parts, and orders pertaining to persons subject to their jurisdiction.

(c) Military and/or DAC police accompanying civilian law enforcement officers remain directly responsible to, and under the command of, U.S. Army superiors. Military and DAC police may come to the aid of civilian law enforcement officers to prevent the commission of a felony or injury to a civilian law enforcement officer.

(d) Regional Directors of the Army Installation Management Agency (IMA), Commander, Army Materiel Command (AMC), and Commander, Army Test and Evaluation Command (ATEC) may authorize subordinate commanders to establish off-installation operations within the limits imposed by higher authority, the Posse Comitatus Act (18 U.S.C. 1385) in CONUS, and United States-host nation agreements in OCONUS areas—

(1) To assist Federal, State, and local law enforcement agencies.

(2) In conjunction with military activities.

(3) To safeguard the health and welfare of Soldiers.

(4) When the type of offenses or the number of Soldiers frequenting an area is large enough to warrant such operations.

(e) The constraints on the authority of Soldiers and/or DAC police to act off-Installation, (Posse Comitatus Act (18 U.S.C. 1385) in CONUS and United States-host nation agreements in OCONUS areas) and the specific scope of off-installation operations will be clearly delineated in all authorizations for off-installation operations. Off-installation operations will be coordinated with the local installation commander through the Staff Judge Advocate (SJA), or higher authority, and appropriate civilian law enforcement agencies.

§ 631.15 Air Force Policy.

(a) Airmen, military and/or Department of the Air Force Civilian (DAFC) police performing off-installation operations must be thoroughly familiar with applicable agreements, constraints of the Posse Comitatus Act (18 U.S.C. 1385) in CONUS and United States-host nation agreements in areas OCONUS.

(b) Military and/or DAFC police assigned to off-installation operations have the sole purpose of enforcing parts, and orders pertaining to persons subject to their jurisdiction.

(c) Military and/or DAFC police accompanying civilian law enforcement officers remain directly responsible to, and under the command of, U.S. Air Force superiors. Military and DAFC police may come to the aid of civilian law enforcement officers to prevent the commission of a felony or injury to a civilian law enforcement officer.

(d) Air Force commanders may authorize subordinate commanders to establish off-installation operations within the limits imposed by higher authority, the Posse Comitatus Act (18 U.S.C. 1385) in CONUS, and United States-host nation agreements in OCONUS areas—(1) To assist Federal, State, and local law enforcement agencies.

(2) In conjunction with military activities.

(3) To safeguard the health and welfare of Airmen.

(4) When the type of offenses or the number of Airmen frequenting an area is large enough to warrant such operations.

(e) The constraints on the authority of Airmen and/or DAFC police to act off-installation, (Posse Comitatus Act (18 U.S.C. 1385) in CONUS and United States-host nation agreements in OCONUS areas) and the specific scope of off-installation operations will be clearly delineated in all authorizations for off-installation operations. Off-installation operations will be coordinated with the local installation commander through the Staff Judge Advocate (SJA), or higher authority, and appropriate civilian law enforcement agencies.

§ 631.16 Navy Policy.

The following policies apply to off-installation operations—

(a) Article 1630–020, MILPERSMAN revised August 2002, and Navy Parts, Article 0922 concerning the establishment and operation of a shore patrol.

(b) In accordance with SECNAV 1620.7A, Navy Absentee Collection Units collect, and process apprehended absentees and deserters, escort apprehended absentees, and deserters to their parent commands or to designated processing activities, escort prisoners between confinement facilities, and provide liaison with civilian law enforcement authorities.

(c) Navy personnel will be thoroughly familiar with all applicable agreements and Implementing standard operating procedures, to include the constraints of the Posse Comitatus Act (18 U.S.C. 1385), in CONUS and United States-host nation agreements in OCONUS areas, as applicable.

(d) *Within CONUS.* (1) Installation Commanders may request authority from their Regional Commander, to establish off-installation operations—

(i) To assist Federal, State, and local law enforcement agencies within the limits imposed by higher authority and the Posse Comitatus Act (18 U.S.C. 1385).

(ii) In conjunction with military operations.

(iii) To safeguard the health, and welfare of Naval personnel.

(iv) When the type of offenses or the number of service members frequenting an area is large enough to warrant such operation.

(2) Constraints on the authority of military personnel to act off-installation (Posse Comitatus Act (18 U.S.C. 1385) and the specific scope of the authority will be clearly delineated in all authorizations for off-installation operations.

(e) Within OCONUS, off-installation operations will be kept at the minimum needed for mission accomplishment. Installation commanders may authorize off-installation operations as required by local conditions and customs, as long as they are conducted in accordance with applicable treaties and SOFAs.

(f) Off-installation operations will be coordinated with the local installation commander through the JAG or higher authority, and local law enforcement authorities.

(g) Security personnel selected for off-installation operations must—

(1) Have mature judgment and law enforcement experience.

(2) Be thoroughly familiar with all applicable agreements and implementing standard operating procedures, to include the constraints of the Posse Comitatus Act (18 U.S.C. 1385), in CONUS and United States Host Nation agreements in OCONUS area, as applicable.

(h) Security personnel accompanying civilian police during off-installation operations do so only to enforce parts and orders pertaining to persons subject to their jurisdiction. Security personnel assigned off-installation operations remain directly responsible to, and under the command of their Navy superiors when accompanying civilian police. Security personnel performing such duties may come to the aid of civilian police in order to prevent the commission of a felony or injury to a civilian police officer.

(i) Civilian police and court liaison may be established with concurrence of the Naval Criminal Investigative Service and is encouraged particularly when the intent is to reduce mishaps.

§ 631.17 Marine Corps Policy.

(a) *Within CONUS.* (1) Commanders may request authority from Headquarters, Marine Corps (Code POS), to establish off-installation operations—

(i) To assist Federal, State, and local law enforcement agencies within the limits imposed by higher authority and the Posse Comitatus Act (18 U.S.C. 1385).

(ii) In conjunction with military operations.

(iii) To safeguard the health, and welfare of Marines.

(iv) When the type of offenses or the number of service members frequenting an area is large enough to warrant such operations.

(2) Constraints on the authority of military personnel to act off-installation (Posse Comitatus Act (18 U.S.C. 1385)) and the specific scope of the authority will be clearly delineated in all authorizations for off-installation operations.

(b) Within OCONUS, off-installation operations will be kept at the minimum needed for mission accomplishment. Installation commanders may authorize off-installation operations as required by local conditions and customs, as long as they are conducted in accordance with applicable treaties and SOFAs.

(c) Off-installation operations will be coordinated with the local installation commander through the SJA, or higher authority, and local law enforcement authorities.

(d) Marines selected for off-installation operations must—

(i) Have mature judgment and law enforcement experience.

(ii) Be thoroughly familiar with all applicable agreements and implementing standard operating procedures, to include the constraints of the Posse Comitatus Act (18 U.S.C. 1385), in CONUS and United States-host nation agreements in OCONUS areas, as applicable.

(e) Marines accompanying civilian police during off-installation operations do so only to enforce parts and orders pertaining to persons subject to their jurisdiction. Marines assigned off-installation operations remain directly responsible to, and under the command of their Marine superiors when accompanying civilian police. Marines performing such duties may come to the aid of civilian police in order to prevent the commission of a felony or injury to a civilian police officer.

(f) Procedures for absentee and deserter collection units to accept an active-duty absentee or deserter from civilian authorities may be established.

(g) Civilian police and civil court liaison may be established.

§ 631.18 Operations.

When an incident of substantial interest to the Service, involving Service property or affiliated personnel, occurs off-installation, the Service law enforcement organization exercising area responsibility will—

(a) Obtain copies of civilian law enforcement reports for processing or forwarding according to applicable Service parts.

(b) Return apprehended persons to representatives of their Service as soon as practicable.

APPENDIX A TO PART 631—ARMED FORCES DISCIPLINARY CONTROL BOARD PROCEDURES GUIDE

A–1. Purpose. This guide prescribes procedures for the establishment, operation, and coordination of AFDCBs. AFDCB proceedings are not adversarial in nature.

A–2. Meetings.

a. The board will meet quarterly. The commander establishing the AFDCB may specify whether the meetings will be open or closed. If not specified, the decision is at the discretion of the president of the board. Normally proceedings are closed, but may be opened to the public when circumstances warrant.

b. Special meetings may be called by the president of the board. Except by unanimous consent of members present, final action will be taken only on the business for which the meeting was called.

c. A majority of voting members constitutes a quorum for board proceedings.

A–3. AFDCB composition. Voting members will be selected per section 631.7.

A–4. Attendance of observers or witnesses.

a. The board may invite individual persons or organization representatives as witnesses or observers if they are necessary or appropriate for the conduct of board proceedings. The below listed authorities may assist in addressing installation or command concerns or issues.

(1) Federal, State, and local judicial, legislative, and law enforcement officials.

(2) Housing part and enforcement authorities.

(3) Health, and social service authorities.

(4) Environmental protection authorities.

(5) Alcoholic beverage control authorities.

(6) Equal employment opportunity authorities.

(7) Consumer affairs advocates.

(8) Chamber of Commerce representatives.

(9) Public works or utility authorities.

(10) Local fire marshal, and public safety authorities.

(11) State and local school board or education officials.

(12) Any other representation deemed appropriate by the sponsoring command such as, news media, union representatives, and so forth.

b. Invited witnesses and observers will be listed in the minutes of the meeting.

A–5. Appropriate areas for board consideration.

a. Boards will study and take appropriate action on all reports of conditions considered detrimental to the good order and discipline, health, morale, welfare, safety, and morals of Armed Forces personnel. These adverse conditions include, but are not limited to, those identified in § 631.9.

b. The board will immediately forward to the local commander reported circumstances involving discrimination based on race, color, sex, religion, age, or national origin.

A–6. Off-limit procedures.

a. Off-limits restrictions should be invoked only when there is substantive information indicating that an establishment or area frequented by Armed Forces personnel presents conditions, which adversely affect their health, safety, welfare, morale, or morals. It is essential that boards do not act arbitrarily. Actions must not be of a punitive nature. Boards should work in close cooperation with local officials and proprietors of business establishments, and seek to accomplish their mission through mutually cooperative efforts. Boards should encourage personal visits by local military, and civilian enforcement or health officials to establishments considered below standard. AFDCBs should point out unhealthy conditions or undesirable practices to establishment owners or operators to produce the desired corrective action.

b. In cases involving discrimination, the board should not rely solely on letters written by the Equal Opportunity Office, and Military Affairs Committee or investigations of alleged racial discrimination.

c. If the board decides to attempt to investigate or inspect an establishment, the president or a designee will prepare, and submit a report of findings, and recommendations at the next meeting. This procedure will ensure complete, and documented information concerning questionable adverse conditions.

d. When the board concludes that conditions adverse to Armed Forces personnel do exist, the owner or manager will be sent a letter of notification (Annex A). This letter will advise him or her to raise standards by a specified date, and, if such conditions or practices continue, off-limits proceedings will be initiated. Any correspondence with the individuals responsible for adverse conditions, which may lead to off-limits action, will be by certified mail.

e. If a proprietor takes remedial action to correct undesirable conditions previously noted, the board should send a letter of appreciation (Annex B) recognizing this cooperation.

f. If undesirable conditions are not corrected, the proprietor will be invited to appear before the AFDCB to explain why the establishment should not be placed off-limits (Annex C). Any proprietor may designate in writing a representative to appear before the board in his or her behalf.

g. In cases where proprietors have been invited to appear before the board, the president of the board will perform the following—

(1) Prior to calling the proprietor—

(a) Review the findings and decision of the previous meeting.

(b) Call for inspection reports.

(c) Allow those present to ask questions and discuss the case.

(2) When the proprietor or his or her representative is called before the board—

(a) Present the proprietor with a brief summary of the complaint concerning the establishment.

(b) Afford the proprietor an opportunity to present matters in defense.

(c) Invite those present to question the proprietor. After the questioning period, provide the proprietor an opportunity to make a final statement before being dismissed.

(3) Deliberations on recommended actions will be in closed session, attended only by board members.

h. The board should recommend an off-limits restriction only after the following:

(1) The letter of notification (Annex A) has been sent.

(2) An opportunity for the proprietor to appear before the board has been extended.

(3) Further investigation indicates that improvements have not been made.

i. The minutes will indicate the AFDCB's action in each case. When a recommendation is made to place an establishment off-limits, the minutes will show the procedural steps followed in reaching the decision.

j. Recommendations of the AFDCB will be submitted to the sponsoring commander for consideration. The recommendations will then be forwarded to other installation commanders who are represented on the board (Annex D). If no objection to the recommendations is received within 10 days, the sponsoring commander will approve or disapprove the recommendations and forward the decision to the AFDCB president.

k. Upon approval of the AFDCB's recommendations, the president will write the proprietor that the off-limits restriction has been imposed (Annex E).

l. A time limit should not be specified when an off-limits restriction is revoked. The adequacy of the corrective action taken by the proprietor of the establishment must be the determining factor in removing the off-limits restriction.

m. Military authorities may not post off-limits signs or notices on private property.

n. In emergencies, commanders may temporarily declare establishments or areas off-limits to service members subject to their jurisdiction. The circumstances for the action will be reported as soon as possible to the commander sponsoring the board. Detailed justification for this emergency action will be provided to the board for its deliberations.

o. Appropriate installation commanders will publish a list of off-limits establishments and areas using command and media channels.

A–7. Removal of off-limits restrictions.

a. Removal of an off-limits restriction requires AFDCB action. Proprietors of establishments declared off-limits should be advised that they may appeal to the appropriate AFDCB at any time. In their appeal they should submit the reason why the restriction should be removed. A letter of notification for continuance of the off-limits restriction should be sent to the proprietor if the AFDCB does not remove the off-limits restriction (Annex F). The proprietor may appeal to the next higher commander if not satisfied with continuance after exhausting all appeals at the local sponsoring commander level. Boards should make at least quarterly inspections of off-limits establishments. A statement that an inspection has been completed should be included in AFDCB minutes.

b. When the board learns that the proprietor has taken adequate corrective measures, the AFDCB will take the following actions:

(1) Discuss the matter at the next meeting and make an appropriate recommendation.

(2) Forward a recommendation for removal of the off-limits restriction to the sponsoring commander. If approved, a letter removing

the restriction (Annexes G & H) will be sent to the proprietor.

(3) The minutes will reflect action taken.

A–8. Duties of the AFDCB president.

The president of the AFDCB will—

a. Schedule and preside at all AFDCB meetings.

b. Provide an agenda to each voting member at least 72 hours prior to the meeting.

c. Ensure records, minutes, and correspondence are prepared, distributed, and maintained per § 631.10(d).

A–9. Commanders.

The installation commander, and commanders within an AFDCB's area of responsibility must be thoroughly acquainted with the mission and services provided by AFDCBs. AFDCB members should keep their respective commanders informed of command responsibilities pertaining to AFDCB functions and actions.

A–10. Public affairs.

a. Due to the sensitive nature of the subject matter, there will not be a media release in connection with AFDCB meetings. However, any AFDCB proceeding, which is open to the public, will also be open to representatives of the news media. Representatives of the news media will be considered observers, and will not participate in matters considered by the AFDCB. Members of the news media may be invited to participate in an advisory status in coordination with the public affairs office.

b. News media interviews and releases will be handled through the public affairs office according to applicable Service parts.

A–11. Minutes.

a. Minutes will be prepared in accordance with administrative formats for minutes of meetings prescribed by the Service of the sponsoring commander (Annex I). The written minutes of AFDCB meetings will constitute the official record of the AFDCB proceedings. Verbatim transcripts of board meetings are not required. The reasons for approving or removing an off-limits restriction, to include a complete address of the establishment or area involved, should be indicated in the order of business. In addition, the AFDCB's action will be shown in the order or sequence of actions taken. A change in the name of an establishment or areas in an off-limits restriction will also be included.

b. Distribution of the minutes of AFDCB meetings will be limited to the following—

(1) Each voting member, sponsoring command, and commands and installations represented by the board.

(2) Each civilian and military advisory member, if deemed appropriate.

(3) Civilian and Government agencies within the State in which member installations are located having an interest in the functions of the board, if appropriate.

c. AFDCB minutes are subject to release and disclosure in accordance with applicable Service parts and directives.

d. Minutes and recommendations of the board will be forwarded to the sponsoring commander for approval.

Annex A—Letter of Notification

(Letterhead)

(Appropriate AFDCB)

Proprietor

Dear Sir: This letter is to inform you that it has come to the attention of the Armed Forces Disciplinary Control Board (AFDCB) that certain conditions reported at your establishment may adversely affect the (health, safety, or welfare) of members of the Armed Forces.

The AFDCB is initiating action to determine whether your establishment (area) should be placed off-limits to members of the Armed Forces if (cite conditions) are not corrected by (date).

A representative of the AFDCB will visit your establishment to determine if steps have been taken to correct the conditions outlined above.

Sincerely,

John J. Smith
Colonel, U.S. Army, President, Armed Forces, Disciplinary Control Board.

(**Note:** Use certified mail, return receipt requested if mailed.)

Annex B—Letter of Appreciation

(Letterhead)

(Appropriate AFDCB)

Proprietor

Dear Sir: This is in reference to my letter of (date) concerning the conditions(s) reported at your establishment which adversely affected the health and welfare of members of the Armed Forces.

The Board appreciates your action(s) to correct the condition(s) previously noted and does not contemplate further action with respect to this specific matter.

Your continued cooperation is solicited.

Sincerely,

John J. Smith
Colonel, U.S. Army, President, Armed Forces Disciplinary Control Board.

Annex C—Letter of Invitation

(Letterhead)

Proprietor

Dear Sir: This is in reference to my letter of (date) concerning the condition reported at your establishment which adversely affects the (health, safety, or welfare) of members of the Armed Forces. Information has been received by the board which indicates you have not taken adequate corrective action to eliminate the reported condition.

Reports presented to the Armed Forces Disciplinary Control Board (AFDCB) indicate (list and describe conditions).

You are advised that the AFDCB will initiate action to determine whether your establishment should be declared off-limits to members of the Armed Forces.

You may appear in person, with or without counsel, before the AFDCB at its next scheduled meeting on (date, time, and place). At that time you will have the opportunity to refute the allegation(s), or to inform the board of any remedial action(s) you have taken or contemplate taking to correct the condition. It is requested that you inform the President, of the AFDCB if you plan to attend.

Any questions regarding this matter may be addressed to the President, Armed Forces Disciplinary Control Board, (address). Every effort will be made to clarify the matter for you.

Sincerely,

John J. Smith
Colonel, U.S. Army, President, Armed Forces, Disciplinary Control Board.

(**Note:** Send certified mail, return receipt requested if mailed.)

Annex D—AFDCB Off-Limits Approval Letter

(Letterhead)

Office Symbol

MEMORANDUM FOR (Commanders of Supported Installations)
SUBJECT: Establishments or Areas Recommended for Off-Limits Designation

1. On (date), the Armed Forces Disciplinary Control Board (AFDCB) recommended imposition of the following off-limits restrictions: (name and address of establishment)

2. Commanders furnishing AFDCB representatives are requested to provide any comments within 10 days as to whether (name of establishment or area) should be placed off-limits.

3. A copy of the AFDCB minutes and recommendation is enclosed.

FOR THE (SPONSORING) COMMANDER:

Sincerely,

John J. Smith
Colonel, U.S. Army, President, Armed Forces, Disciplinary Control Board.

Encl

Annex E—Letter of Declaration of Off-Limits

Proprietor

Dear Sir: This letter is to inform you that your establishment has been declared off-limits to members of the Armed Forces effective (date). Members of the Armed Forces are prohibited from entering your establishment (premises) as long as this order is in effect. This action is being taken because of (state the conditions) which are detrimental to the (health or welfare) of members of the Armed Forces.

This restriction will remain in effect indefinitely in accordance with established Armed Forces policy. Removal of the restriction will be considered by the Armed Forces Disciplinary Control Board upon presentation of information that satisfactory corrective action has been taken.

Correspondence appealing this action may be submitted to the President, Armed Forces Disciplinary Control Board, (cite address).

Sincerely,

John J. Smith
Colonel, U.S. Army, President, Armed Forces Disciplinary Control Board.

Annex F—AFDCB Letter of Notification of Continuance of Off-Limits Restrictions After Appearance before the AFDCB

(Letterhead)

Proprietor

Dear Sir: The Armed Forces Disciplinary Control Board (AFDCB) did not favorably

consider your request for removal of the off-limits restriction now in effect at your establishment.

This decision does not preclude further appeals or appearances before the AFDCB at any of its scheduled meetings. Correspondence pertaining to this matter should be addressed to the President, Armed Forces Disciplinary Control Board, (cite address).

Sincerely,

John J. Smith
Colonel, U.S. Army, President, Armed Forces Disciplinary Control Board.

Annex G—AFDCB Letter of Removal of Off-Limits Restriction

(Letterhead)

Proprietor

Dear Sir: This letter is to inform you that the off-limits restriction against (name of establishment) is removed effective (date). Members of the Armed Forces are permitted to patronize your establishment as of that date.

The corrective actions taken in response to the concerns of the Armed Forces Disciplinary Control Board are appreciated.

Sincerely,

John J. Smith
Colonel, U.S. Army, President, Armed Forces Disciplinary Control Board.

Annex H—AFDCB Notification of Removal of Off-Limits Restriction

(Letterhead)

Proprietor

Dear Sir: This letter is to inform you that your request for removal of the off-limits restriction now in effect at (name of establishment) was favorably considered by the Armed Forces Disciplinary Control Board (AFDCB).

This restriction will be removed effective (date). Members of the Armed Forces will be permitted to patronize your establishment as of that date.

The corrective actions taken in response to the concerns of the AFDCB are appreciated.

Sincerely,

John J. Smith
Colonel, U.S. Army, President, Armed Forces Disciplinary Control Board.

Annex I—Format for AFDCB Meeting Minutes

(Letterhead)

MEMORANDUM FOR

SUBJECT: Armed Forces Disciplinary Control Board

1. Pursuant to authority contained in AR 190–24/AFI 31–213/ OPNAVINST 1620.2A/ MCO 1620.2C/and COMDTINST 1620.1D, Armed Forces Disciplinary Control Boards and Off-Installation Liaison and Operations, the (area) Armed Forces Disciplinary Control Board convened at (place), (date)

2. The following voting members were present: (List names, titles, and addresses.)

3. The following military members were present: (List names, titles, and addresses.)

4. The following civilian advisory members were present: (List names, titles, and addresses.)

5. Order of business:

a. Call to order.

b. Welcome.

c. Introduction of members and guests.

d. Explanation of purpose of board.

e. Reading of minutes.

f. Unfinished or continuing business.

g. New business (subparagraph as necessary).

h. Recommendations.

(1) List of areas and establishments being placed in an off-limits restriction. Include complete name and address (or adequate description of an area) of any establishment listed.

(2) List of areas and establishments being removed from off-limits restrictions. Include complete name and address (or adequate description of an area) of any establishment listed.

(3) Other matters or problems of mutual concern.

i. Time, date, and place for next board meeting.

j. Adjournment of the board.

(Board Recorder's Name)
(Rank, Branch of Service)
Recorder, Armed Forces Disciplinary Control Board

Approved:
(Board President's Name)
(Rank, Branch of Service)
President, Armed Forces Disciplinary Control Board.

(**Note:** The minutes of the board proceedings will be forwarded by official correspondence from the board president to the sponsoring commander for approval of the board's recommendations. By return endorsement, the sponsoring commander will either approve or disapprove the board's recommendations.)

[FR Doc. 05–14213 Filed 7–19–05; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD07–05–063]

RIN 1625–AA09

Drawbridge Operation Regulations; Boot Key Harbor, Marathon, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the regulations governing the operation of the Boot Key Harbor bridge, mile 0.13, between Marathon and Boot Key, Monroe County, Florida. Due to the amount of vehicle traffic and the lack of openings during the proposed time period, this proposed action would improve the movement of vehicular traffic while not unreasonably interfering with the movement of vessel traffic. This proposed rule would allow the bridge to open on the hour between the hours of 7 a.m. to 7 p.m. At all other times, the bridge will open on demand following a 10-minute notification to the bridge tender. The draw shall open as soon as practicable for the passage of tugs with tows, public vessels of the United States and vessels in a situation where a delay would endanger life or property.

DATES: Comments and related material must reach the Coast Guard on or before August 19, 2005.

ADDRESSES: You may mail comments and related material to Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, FL, 33131–3050, who maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander (obr), Seventh Coast Guard District, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Gwin Tate, Project Officer, Seventh Coast Guard District, Bridge Branch, at (305) 415–6747.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD07–05–063, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Bridge Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.