

Section 202, Public Law 104-4, “Unfunded Mandates Reform Act”

It has been determined that this part does not involve a Federal Mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, “Federalism”

It has been determined that this part does not have federalism implications. This part does not have substantial direct effects 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.

List of Subjects in 32 CFR Part 152

Military law.

■ Accordingly, 32 CFR part 152 is revised to read as follows:

PART 152—REVIEW OF THE MANUAL FOR COURTS-MARTIAL

Sec.

152.1 Purpose.

152.2 Applicability.

152.3 Policy.

152.4 Responsibilities.

152.5 Implementation.

Appendix A to Part 152—Guidance to the
Joint Service Committee (JSC)

Authority: E.O. 12473; 10 U.S.C. 47.

§ 152.1 Purpose.

This part:

(a) Implements the requirement established by the President in Executive Order 12473 that the Manual for Courts-Martial (MCM), United States, 1984, and subsequent editions, be reviewed annually.

(b) Formalizes the Joint Service Committee (JSC) and defines the roles, responsibilities, and procedures of the JSC in reviewing and proposing changes to the MCM and proposing legislation to amend the Uniform Code of Military Justice (UCMJ) (10 U.S.C., Chapter 47).

(c) Provides for the designation of a Secretary of a Military Department to serve as the Executive Agent for the JSC.

§ 152.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard by agreement with the Department of Homeland Security when it is not operating as a Service of the Department of the Navy), the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense

Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter collectively referred to as “the DoD Components”).

§ 152.3. Policy.

To assist the President in fulfilling his responsibilities under the UCMJ, and to satisfy the requirements of Executive Order 12473, the Department of Defense shall review the Manual for Courts-Martial annually, and, as appropriate, propose legislation amending the UCMJ to ensure that the MCM and the UCMJ fulfill their fundamental purpose as a comprehensive body of military criminal law and procedure. The role of the JSC furthers these responsibilities. Under the direction of the General Counsel of the Department of Defense, the JSC is responsible for reviewing the MCM and proposing amendments to it and, as necessary, to the UCMJ.

§ 152.4. Responsibilities.

(a) The General Counsel to the Department of Defense shall:

(1) Administer this part, to include coordination on and approval of legislative proposals to amend the UCMJ, approval of the annual review of the MEM, and coordination of any proposed changes to the MCM under OMB Circular A-19.¹

(2) Designate the Secretary of a Military Department to serve as the joint Service provider for the JSC. The joint Service provider shall act on behalf of the JSC for maintaining the JSC’s files and historical records, and for publication of the updated editions of the MCM to be distributed throughout the Department of Defense, as appropriate.

(3) Invite the Secretary of Homeland Security to appoint representatives to the JSC.

(4) Invite the Chief Judge of the United States Court of Appeals for the Armed Forces to provide a staff member to serve as an advisor to the JSC.

(5) Invite the Chairman of the Joint Chiefs of Staff to provide a staff member from the Chairman’s Office of Legal Counsel to serve as an advisor to the JSC.

(6) Ensure that the Associate Deputy General Counsel (Military Justice and Personnel Policy), Office of the General Counsel, Department of Defense, shall serve as the General Counsel’s representative to the JSC in a non-voting capacity. In addition, the United States Court of Appeals for the Armed Forces (USCAAF) and the Legal Counsel to the

Chairman of the Joint Chiefs of Staff shall be invited to provide a staff member to serve as an advisor to the JSC in a non-voting capacity.

(b) The Secretaries of the Military Departments shall ensure that the Judge Advocates General of the Military Departments and the Staff Judge Advocate to the Commandant of the Marine Corps appoint representatives to the JSC.

(c) The JSC shall further the DoD policy established in section 3 of this part and perform additional studies or other duties related to the administration of military justice, as the General Counsel of the Department of Defense may direct. (See DoD Directive 5105.18, “DoD Committee Management Program”.²) The membership of the JSC shall consist of one representative of each of the following, who shall comprise the JSC Voting Group:

(1) The Judge Advocate General of the Army.

(2) The Judge Advocate General of the Navy.

(3) The Judge Advocate General of the Air Force.

(4) The Staff Judge Advocate to the Commandant of the Marine Corps; and

(5) By agreement with the Department of Homeland Security, the Chief Counsel, United States Coast Guard.

(d) The JSC Working Group (WG) shall assist the JSC Voting Group in fulfilling its responsibilities under this part. The WG consists of non-voting representatives from each of the Services and may include the representatives from the USCAAF, and the Office of the Legal Counsel to the Chairman of the Joint Chiefs of Staff.

(e) The JSC chairmanship rotates biennially among the Services in the following order: The Army, the Air Force, the Marine Corps, the Navy, and the Coast Guard. Due to its size and manning constraints, a Coast Guard’s request not to be considered for JSC chairmanship shall be honored. The Military Service of the JSC Chairman shall provide an Executive Secretary for the JSC.

§ 152.5. Implementation.

The foregoing policies and procedures providing guidelines for implementation of this part, as well as those contained in the appendix, are intended exclusively for the guidance of military personnel and civilian employees of the Department of Defense, and the United States Coast Guard by agreement of the Department of Homeland Security. These guidelines are intended to improve the internal

¹ Available at <http://www.whitehouse.gov/omb/circulars/index.html>.

² Available at <http://www.dtic.mil/whs/directives>.