

his discretion, depart from this guide as appropriate.

(c) *Special duties.* The Prosecution shall perform all other functions, consistent with 32 CFR part 9, and Military Order of November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," as may be directed by the Appointing Authority or the General Counsel of the Department of Defense.

§ 12.5 Policies.

(a) *Prohibition on Prosecutors serving as Defense Counsel.* Judge advocates assigned to the Office of the Chief Prosecutor shall be deemed unavailable for service as Defense Counsel under 32 CFR 9.4(c)(3)(i).

(b) *Prohibition on certain disclosures.* All Prosecutors must strictly comply with 32 CFR 9.6(d)(5) and 9.9 to ensure they do not improperly disclose classified information, national security information, or state secrets to any person not specifically authorized to receive such information.

(c) *Statements to the media.* Consistent with DoD Directive 5122.5¹, the Assistant Secretary of Defense for Public Affairs shall serve as the sole release authority for DoD information and audiovisual materials regarding military commissions. Personnel assigned to the Office of the Chief Prosecutor may communicate with news media representatives regarding cases and other matters related to military commissions only when approved by the Appointing Authority or the General Counsel of the Department of Defense.

Dated: June 24, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03-16380 Filed 6-26-03; 12:40 pm]

BILLING CODE 5001-08-P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 13

Responsibilities of the Chief Defense Counsel, Detailed Defense Counsel, and Civilian Defense Counsel

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes the responsibilities of the Office of the Chief Defense Counsel and components thereof.

EFFECTIVE DATE: April 30, 2003.

FOR FURTHER INFORMATION CONTACT:

Office of Military Commission Spokesperson, (703) 693-1115.

SUPPLEMENTARY INFORMATION: Although exempt from administrative procedures for rule making, publication of the final rule in the *Federal Register* is deemed appropriate under 5 U.S.C. 552(a)(1)(C). Certifications follow:

Administrative Procedures Act (Sec. 1, Pub. L. 89-544)

It has been certified that 32 CFR part 13 is as a military function of the United States and exempt from administrative procedures for rule making.

Executive Order 12866, "Regulatory Planning and Review"

It has been certified that 32 CFR part 13 pertains to military functions other than procurement and import-export licenses and is exempt from Office of Management and Budget review under Section 3, Para (d)(2).

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104-4)

It has been certified that 32 CFR part 13 does not contain a Federal Mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)

It has been determined 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.

Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 13 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 44).

Federalism (Executive Order 13132)

It has been certified that 32 CFR part 13 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 13

Military law.

■ Accordingly, 32 CFR part 13 is added to Subtitle A, Chapter I, Subchapter B to read as follows:

PART 13—RESPONSIBILITIES OF THE CHIEF DEFENSE COUNSEL, DETAILED DEFENSE COUNSEL, AND CIVILIAN DEFENSE COUNSEL

Sec.

13.1 Purpose.

13.2 Authority.

13.3 Office of the Chief Defense Counsel.

13.4 Duties and responsibilities of the defense.

13.5 Policies.

Authority: 10 U.S.C. 113(d) and 140(b).

§ 13.1 Purpose.

This part establishes the responsibilities of the Office of Chief Defense Counsel and components thereof.

§ 13.2 Authority.

This part is issued pursuant to 32 CFR 9.7(a) and in accordance with Military Order of November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," (3 CFR, 2001 comp., p. 918, 66 FR 57833) and 10 U.S.C. 113(d) and 140(b). The provisions of 32 CFR part 10 are applicable to this part.

§ 13.3 Office of the Chief Defense Counsel.

(a) *General.* The Office of the Chief Defense Counsel shall be a component of the Office of Military Commissions and shall be comprised of the Chief Defense Counsel, Defense Counsel, and other such persons properly under the supervision of the Chief Defense Counsel.

(b) *Chief Defense Counsel.* (1) The Chief Defense Counsel shall be a judge advocate of any United States armed force and shall be designated by the General Counsel of the Department of Defense.

(2) The Chief Defense Counsel shall report directly to the Deputy General Counsel (Personnel and Health Policy) of the Department of Defense.

(3) The Chief Defense Counsel shall supervise all defense activities and the efforts of Detailed Defense Counsel and other office personnel and resources pursuant to 32 CFR part 9, and Military Order of November 13, 2001, "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism," ensuring proper supervision and management of all personnel and resources assigned to the Office of the Chief Defense Counsel and facilitating the proper representation of all Accused referred to trial before a military commission appointed pursuant to 32 CFR part 9, and Military Order of

¹ Available at <http://www.dtic.mil/whs/directives>.