

adopted rule. The proponent shall discuss in the preamble the comments received in response to the proposed rule and the decision to accept or reject the comments in revisions to the proposed rule. Preparation will be in accordance with guidance contained in the Federal Register Handbook on Document Drafting.

(c) The original and three copies of the preamble and revised rule will be forwarded to HQDA (DAAG-AMR-R), WASH DC 20314 in the proper format. The Adjutant General will then prepare the required certification and submit the documents to the Office of the Federal Register for publication in the form of an adopted rule.

§ 519.68 Submission of petitions.

Each proponent of a rule will grant to any interested person the right to submit a written petition calling for the issuance, amendment, or repeal of any rule to which §§ 519.64 through 519.67 applies or would apply if issued, as specified in § 519.64. Any such petition will be given full and prompt consideration by the proponent. If compatible with the orderly conduct of public business, the appropriate official may, at his discretion, allow the petitioner to appear in person for the purpose of supporting this petition. After consideration of all relevant matters by the proponent, the petitioner will be advised in writing by the proponent of the disposition of any petition, together with the reasons supporting that disposition. This provision does not apply to comments submitted on proposed rules in § 519.66.

§ 519.69 Cases in which public comment is impractical.

(a) Whenever a rulemaking proponent determines for good cause that inviting public comment regarding a proposed rule would be impractical, unnecessary, or contrary to the public interest, he will prepare a brief statement of the reasons supporting this determination for incorporation in the preamble to the adopted rule. The preamble and adopted rule will then be published in the form outlined in § 519.67 (b) and (c).

(b) Alternatively, the proponent may request The Adjutant General (DAAG-AMR-R) (by letter or disposition form,

as appropriate) to adopt and publish in the FEDERAL REGISTER a separate rule exempting from the prepublication notice provisions of this regulation those specific categories of rules which the rulemaking proponent has determined that public comment would be unnecessary, impractical, or contrary to the public interest. The request to The Adjutant General will contain an explanation of the reasons why the proponent believes that a particular category of rule or rules should not be published in proposed form for public comment. If The Adjutant General agrees that public comment should not be invited with respect to the cited category, he will adopt and publish a separate rule in the FEDERAL REGISTER exempting such rule or rules from the requirements of this regulation. This separate rule will include an explanation of the basis for exempting each particular category from the provisions of this regulation.

PART 525—ENTRY AUTHORIZATION REGULATION FOR KWAJALEIN MISSILE RANGE

Sec.

- 525.1 General.
- 525.2 Background and authority.
- 525.3 Criteria.
- 525.4 Entry authorization (policy).
- 525.5 Entry authorization (procedure).

AUTHORITY: 44 U.S.C. 1681, 50 U.S.C. 797, 18 U.S.C. 1001, and E.O. 11021.

SOURCE: 48 FR 34028, July 27, 1983, unless otherwise noted.

§ 525.1 General.

(a) *Purpose.* This regulation prescribes policies and procedures governing entry of persons, ships, and aircraft into the Kwajalein Missile Range (KMR), Kwajalein Atoll, Marshall Islands.

(b) *Scope.* (1) This regulation is applicable to all persons, ships and aircraft desiring entry into KMR.

(2) The entry authorizations issued under this authority are limited to KMR and do not apply to entry to any other areas of the Marshall Islands.

(3) In addition to the controls covered by this regulation movement within the Kwajalein Missile Range, the territorial sea thereof and airspace

above, is subject to local control by the Commander, Kwajalein Missile Range, and as installation commander.

(4) This regulation is not applicable to entry authorized by the President of the United States pursuant to the United Nations (U.N.) Charter and to Article 13 of the Trusteeship Agreement for the Former Japanese Mandated Islands.

(c) *Explanation of terms*—(1) *Department of Defense*. A department of the executive branch of the U.S. Government which includes the Departments of the Army, the Navy, and the Air Force.

(2) *Entry Authorization*. Authorization by designated authority for a person, a ship, or an aircraft to enter Kwajalein Missile Range, the surrounding territorial sea, and the airspace above.

(3) *National Range Commander*. The Commander, Ballistic Missile Defense Systems Command, is the National Range Commander.

Address: National Range Commander, Kwajalein Missile Range, Ballistic Missile Defense Systems Command, ATTN: BDMSC-R, P.O. Box 1500, Huntsville, Alabama 35807.
Electrical Address: CDRBMDSCOM HUNTSVILLE AL//BMDSC-R//.

(4) *Commander. KMR*. The Commander of the Kwajalein Missile Range is located at Kwajalein Island, Republic of the Marshall Islands.

Address: Commander, Kwajalein Missile Range, P.O. Box 26, APO San Francisco 96555.
Electrical Address: CDRKMR MI //BMDSC-RK//

(5) *Excluded person*. A person who has been notified by the National Range Commander or the Commander, KMR, that authority for said person to enter Kwajalein Missile Range or to remain in Kwajalein Missile Range has been denied or revoked.

(6) *Unauthorized person*. A person who does not hold a currently valid entry authorization for the Kwajalein Missile Range and does not possess entry rights under authority of paragraph 4-1.a.

(7) *Aliens*. Persons who are neither citizens of, nor nationals of, nor aliens to the United States of America.

(8) *Permanent resident aliens*. Persons who are not citizens of the United States of America but who have en-

tered the United States under an immigrant quota.

(9) *Military installation*. A military (Army, Navy, Air Force, Marine Corps, and/or Coast Guard) activity ashore, having a commanding officer, and located in an area having fixed boundaries, within which all persons are subject to military control and to the immediate authority of a commanding officer.

(10) *Public ship or aircraft*. A ship, boat, or aircraft owned by or belonging to a Government and not engaged in commercial activity.

(11) *Kwajalein Missile Range*. Kwajalein Missile Range is defined as all those defense sites in the Kwajalein Atoll, Marshall Islands, including airspace and adjacent territorial waters, to which the United States Government has exclusive rights and entry control by agreement with the Trust Territory of the Pacific Islands and the Republic of the Marshall Islands.

(12) *Territorial waters*. In accordance with title 19, chapter 3, section 101 of the Code of the Trust Territory of the Pacific Islands territorial waters mean, "that part of the sea comprehended within the envelope of all arcs of circles having a radius of three marine miles drawn from all points of the barrier reef, fringing reef, or other reef system of the Trust Territory, measured from the low water line, or, in the absence of such a reef system, the distance to be measured from the low water line of any island, islet, reef, or rocks within the jurisdiction of the Trust Territory."

(13) *Kwajalein Missile Range Airspace*. The air lying above the Kwajalein Atoll, including that above the territorial waters.

(14) *Trust Territory Republic of the Marshall Islands Registry*. Registration of a ship or aircraft in accordance with the laws of the Trust Territory of the Pacific Islands or the Republic of the Marshall Islands.

(15) *U.S. Registry*. Registration of a ship or aircraft in accordance with the laws and regulations of the United States.

(16) *U.S. Armed Forces*. Military personnel of the Department of Defense and the United States Coast Guard.

(17) *Principal*. A resident of Kwajalein Missile Range who is authorized to have his or her dependent(s) reside or visit with him (her) on Kwajalein Missile Range.

(18) *Dependent*.

(i) Spouse of principal.

(ii) Unmarried child of principal less than 21 years of age.

(iii) Sponsored individual meeting the dependency criteria of section 152, Internal Revenue Code (26 U.S.C. 152), and approved by the Commander, Kwajalein Missile Range.

§ 525.2 Background and authority.

(a) *Background*. (1) Certain areas, due to their strategic nature or for purposes of defense, have been subjected to restrictions regarding the free entry of persons, ships, and aircraft. Free entry into the areas listed and defined in this regulation, and military installations contiguous to or within the boundaries of defense site areas, is subject to control as provided for in the Executive Order 11021 of May 7, 1962 and Departments of Interior and Defense Agreement effective July 1, 1963, or other regulations. Such restrictions are imposed for defense purposes because of the unique strategic nature of the area and for the protection of the United States Government military bases, stations, facilities, and other installations, and the personnel, property, and equipment assigned to or located therein. Persons, ships, and aircraft are excluded from KMR unless and until they are granted permission to enter under applicable regulations.

(2) The control of entry into or movement within KMR by persons, ships, or aircraft will be exercised so as to protect fully the physical security of, and insure the full effectiveness of, bases, stations, facilities, other installations, and individuals within KMR. However, unnecessary interference with the free movement of persons, ships, and aircraft is to be avoided.

(3) This regulation will be administered to provide the prompt processing of all applications and to insure uniformity of interpretation and application insofar as changing conditions permit.

(4) In cases of doubt, the determination will be made in favor of the course

of action which will best serve the interests of the United States and national defense as distinguished from the private interests of an individual or group.

(b) *Authority*. (1) The Trust Territory of the Pacific Islands is a strategic area administered by the United States under the provisions of the Trusteeship Agreement for the Former Japanese Mandated Islands, approved by the United Nations April 2, 1947. Congress, by 48 U.S.C. Sec. 1681, gave responsibility for this area to the President. By Executive Order 11021, the President delegated this authority to the Secretary of Interior. By agreement between the Secretary of Interior and Secretary of Defense, the Navy became responsible for all entry control July 1, 1963. With approval of the Secretary of Defense and Director of the Office of Territories, the authority to control entry into KMR was transferred to the Army in July of 1964.

(2) The authority of the Department of the Army to control entry of persons, ships, and aircraft into Kwajalein Missile Range is exercised through the Commander, Ballistic Missile Defense Systems Command, who is the National Range Commander.

(3) Penalties are provided by law for:

(i) Violation of regulations imposed for the protection or security of military or naval aircraft, airports, air facilities, vessels, harbors, ports, piers, waterfront facilities, bases, forts, posts, laboratories, stations, vehicles, equipment, explosives, or other property or places subject to the jurisdiction of, administration of, or in the custody of the Department of Defense (sec. 21 of the Internal Security Act of 1950 (50 U.S.C. 797) and Department of Defense Directive 5200.8 of 29 July 1980.

(ii) Knowingly and willfully making a false or misleading statement or representation in any matter within the jurisdiction of any department or agency of the United States (18 U.S.C. 1001).

§ 525.3 Criteria.

(a) *General*. (1) Entry authorizations may be issued only after the National Range Commander, the Commander, KMR, or a duly authorized subordinate has determined that the presence of the person, ship, or aircraft will not,