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DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 635

RIN 0702-AA75

[Docket No. USA-2016-HQ-0033]

Law Enforcement Reporting

AGENCY: Department of the Army, DoD.

ACTION: Direct final rule.

SUMMARY: The Department of the Army is amending its Law Enforcement Regulation. Specifically, Army is clarifying language for contractors who are required to register as sex offenders on Army installations. This change will allow the Department to collect information from registered sex offenders in accordance with their contract requirements. This ensures contractors meet the government requirements under the terms and conditions of the contract.

DATES: The rule will be effective on December 15, 2016 unless comments are received that would result in a contrary determination. Comments will be accepted on or before December 12, 2016.

ADDRESSES: You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine Brennan, (703) 692-6721.

SUPPLEMENTARY INFORMATION: This direct final rule makes changes to the Department of the Army's Law Enforcement Reporting rule which published in the Federal Register on March 29, 2016 (81 FR 17385).

DoD has determined this rulemaking meets the criteria for a direct final rule because it involves a change that clarifies language for contractors who are required to register as sex offenders on Army installations per the requirements of their contracts. DoD expects no opposition to the changes and no significant adverse comments. However, if DoD receives a significant adverse comment, the Department will withdraw this direct final rule by publishing a notice in the Federal Register. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, DoD will consider whether it warrants a substantive response in a notice and comment process.

Executive Summary

This rule provides policies and procedures for Army's implementation of Law Enforcement Reporting. The authority citation is 28 U.S.C. 534, 42 U.S.C. 10601, 18 U.S.C. 922, 10 U.S.C. 1562, 10 U.S.C. Chap. 47, 42 U.S.C. 16901 et seq., 10 U.S.C. 1565, 42 U.S.C. 14135a.

The Army is clarifying language for contractors who are required to register as sex offenders on Army installations.

This regulatory action imposes no monetary costs to the Agency or public. The benefit to the public is the Army law enforcement community is ensuring the safety and security of the Army installations by ensuring sex offenders required to register are complying with their registration requirements.

Regulatory Procedures

A. Regulatory Flexibility Act

The Department of the Army has certified that the Regulatory Flexibility Act does not apply because the 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.

B. Unfunded Mandates Reform Act

The Department of the Army has determined that the Unfunded Mandates Reform Act does not apply because the 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.

C. National Environmental Policy Act

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

D. Paperwork Reduction Act

It has been certified that this rule does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. OMB has approved these requirements under OMB Control Number 0702-0128.

E. 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 rule does not impair private property rights.

F. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

The Department of the Army has determined that according to the criteria defined in Executive Order 12866 and Executive Order 13563, this rule is not a significant regulatory action.

G. Executive Order 13045 (Protection of Children from Environmental Health Risk and Safety Risks)

The Department of the Army has determined that the criteria of Executive Order 13045 do not apply because this rule does not implement or require actions impacting environmental health and safety risks on children.

H. Executive Order 13132 (Federalism)

The Department of the Army has determined that the criteria of Executive Order 13132 do not apply because this rule 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.

List of Subjects in 32 CFR Part 635

Crime, Law, Law enforcement, Law enforcement officers, Military law.

For reasons stated in the preamble the Department of the Army amends 32 CFR part 635 as follows:

PART 635—LAW ENFORCEMENT REPORTING

1. The authority citation for part 635 continues to read as follows:

Authority: 28 U.S.C. 534, 42 U.S.C. 10601, 18 U.S.C. 922, 10 U.S.C. 1562, 10 U.S.C. Chap. 47, 42 U.S.C. 16901 et seq., 10 U.S.C. 1565, 42 U.S.C. 14135a.

2. Amend §635.6 by revising paragraph (a) to read as follows:

§635.6 Registration of sex offenders on Army installations (inside and outside the Continental United States)

(a) *Sex Offenders on US Army Installations.* Garrison Commander's responsibilities: Garrison Commanders will ensure that sex offenders, as defined in paragraph (b) of this section that reside or are employed on an Army Installation register with the installation PM/DES. This includes service members, civilian employees, accompanying dependent family members, and contractors subject to the incorporation of the sex offender registration requirement into the contract.

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Thomas S. Blair

Chief, Law Enforcement Branch

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