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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 9, 10, 11, 12, 13, 14, 15, 16, and 17

[Docket ID: DOD-2017-OS-0062]

RIN 0790-AJ58

Military Commissions

AGENCY: Office of the General Counsel, DoD.

ACTION: Final rule.

SUMMARY: The Department of Defense is removing its regulations regarding procedures for the conduct of military commissions to try certain terror suspects for war crimes because the subchapter, which contains eleven parts, is outdated and no longer in force.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Gerald Dziecichowicz at 703-693-9958.

SUPPLEMENTARY INFORMATION: On November 13, 2001, President George W. Bush issued the Military Order titled “Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,” which authorized the use of military commissions to try certain terror suspects for war crimes. Pursuant to section 4 of that order, the Secretary of Defense issued policies and procedures for the conduct of those proceedings, which were codified at 32 CFR chapter I, subchapter B. In 2006, the Supreme Court essentially invalidated that military commissions process. Congress subsequently passed several laws reshaping and reauthorizing the use of military commissions, which required the Secretary of Defense to issue new policies and procedures. These updated directives are publicly available and posted to a department

website. Accordingly, this subchapter, which contains eleven parts, is outdated, no longer in force, and should be removed from the Code of Federal Regulations.

It has been determined that publication of this CFR subchapter removal for public comment is impracticable, unnecessary, and contrary to public interest because it is based on removing outdated policies and procedures.

As this repeal removes information that is now obsolete from the CFR, there is no cost savings to the public for the repeal of this subchapter.

List of Subjects in 32 CFR Parts 9, 10, 11, 12, 13, 14, 15, 16, and 17

Military law.

SUBCHAPTER B—[REMOVED AND RESERVED]

Accordingly, by the authority of 5 U.S.C. 301, title 32, subtitle A, chapter I of the Code of Federal Regulations is amended by removing and reserving subchapter B, consisting of parts 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, and 20.

Dated: December 4, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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