

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system of records should address written inquiries to the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060-6221 or the Privacy Act Office of the DLA field activity involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Written requests for information should contain name, Social Security Number (SSN), mailing address and telephone number.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Office, Headquarters, Defense Logistics Agency, ATTN: DGA, 8725 John J. Kingman Road, Suite 1644, Fort Belvoir, VA 22060-6221.

RECORD SOURCE CATEGORIES:

Data is supplied by the individual and public safety personnel. Data for child identification badges is provided by the parent.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Docket ID: DOD-2009-OS-0061]

U.S. Court of Appeals for the Armed Forces Proposed Rules Changes

AGENCY: Department of Defense.

ACTION: Notice of Proposed Changes to the Rules of Practice and Procedure of the United States Court of Appeals for the Armed Forces and Implementation of a New Electronic Filing Program.

SUMMARY: This notice announces the following proposed changes to Rules 19(a)(5), 20(e), 21(c)(2), 37(a), 37(b)(2), and 40(b)(3) of the Rules of Practice and Procedure, United States Court of Appeals for the Armed Forces and implementation of a new electronic filing program for public notice and comment. On April 30, 2009, at 74 FR 19947, the Department of Defense published a notice of this same title. The **SUMMARY** section stated that "new

language is in bold print" but the notice did not contain bold print. This notice identifies those changes made.

DATES: Comments on the proposed changes must be received within 30 days of the date of this corrected notice.

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

- *Federal eRulemaking Portal:* <http://www.regulations.gov>.

- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, OSD Mailroom 3C843, Washington, DC 20301-1160.

Instructions: All submissions received must include the agency name and docket number or 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 personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT:

William A. DeCicco, Clerk of the Court, telephone (202) 761-1448.

Dated: May 12, 2009.

Morgan E. Frazier,

*Alternate OSD Federal Liaison Officer,
Department of Defense.*

Rule 19(a)(5):

Amend Rule 19 (a)(5) by:

A. Removing the existing paragraphs (A) and (B) which currently read:
“(A) Article 62, UCMJ, appeals. In cases involving a decision by a Court of Criminal Appeals on appeal by the United States under Article 62, UCMJ, 10 USC § 862, a supplement to the petition establishing good cause in accordance with Rule 21 shall be filed no later than 20 days after the issuance by the Clerk of a notice of docketing of such a petition for grant of review. See Rule 10(c). An appellee's answer to the supplement to the petition for grant of review shall be filed no later than 10 days after the filing of such supplement. A reply may be filed by the appellant no later than 5 days after the filing of the appellee's answer.

(B) Other appeals. In all other appeal cases, a supplement to the petition establishing good cause in accordance with Rule 21 shall be filed no later than 30 days after the issuance by the Clerk of a notice of docketing of a petition for grant of review. See Rule 10(c). An appellee's answer to the supplement to the petition for grant of review may be filed no later than 30 days after the

filing of such supplement. See Rule 21(e). A reply may be filed by the appellant no later than 10 days after the filing of the appellee's answer.”

B. And by adding new paragraphs (A) and (B) in their place, to read as follows:

(A) In all cases where the petition is filed by counsel, a supplement to the petition establishing good cause in accordance with Rule 21 shall be filed contemporaneously with the petition. Motions for enlargement of time to file the supplement, while disfavored, will be granted for good cause shown. An appellee's answer to the supplement to the petition, except for cases on appeal by the United States under Article 62, UCMJ, 10 U.S.C. § 862 (2000), may be filed no later than 20 days after the filing of the supplement. See Rule 21(e). A reply may be filed by the appellant no later than 5 days after the filing of appellee's answer. An appellee's answer to the supplement in a case under appeal by the United States under Article 62, UCMJ, may be filed no later than 10 days after the filing of the supplement; an appellant may file a reply no later than 5 days after the filing of appellee's answer.

(B) In all cases where the petition is filed by the appellant, a supplement to the petition shall be filed by counsel no later than 20 days after the issuance by the Clerk of a notice of docketing of the petition. See Rule 10(c). An appellee's answer to the supplement to the petition and an appellant's reply may be filed in accordance with the time limits contained in Rule 19(a)(5)(A).

Comment: The changes will accelerate the case disposition process. The accelerated time limits are accompanied with a provision to obtain extensions for good cause shown to address concerns that there may be circumstances where additional time may be justified.

Rule 20(e):

Amend Rule 20(e) by:

A. Removing the existing paragraph (e) which currently reads:

“(e) Upon issuance by the Clerk under Rule 10(c) of a notice of docketing of a petition for grant of review counsel for the appellant shall file a supplement to the petition in accordance with the applicable time limit set forth in Rule 19(a)(5)(A) or (B), and the provisions of Rule 21.”

B. And by adding new paragraph (e) in its place, to read as follows:

(e) Upon issuance by the Clerk under Rule 10(c) of a notice of docketing of a petition for grant of review filed personally by an appellant, counsel for the appellant shall file a supplement to the petition in accordance with the applicable time limit set forth in Rule

19(a)(5)(B), and the provisions of Rule 21.

Comment: This change is a conforming amendment to bring Rule 20(e) into alignment with the change in Rule 19(a)(5).

Rule 21(c)(2):

Amend Rule 21(c)(2) by:

A. Removing the existing paragraph (c)(2) which currently reads:

“(2) *Answer/reply in other appeals.*

An appellee’s answer to the supplement to the petition for grant of review in all other appeal cases may be filed no later than 30 days after the filing of the supplement; *see* Rule 21(e); (remainder of paragraph is unchanged).”

B. And by adding new paragraph (c)(2) in its place, to read as follows:

(2) *Answer/reply in other appeals.* An appellee’s answer to the supplement to the petition for grant of review in all other appeal cases may be filed no later than 20 days after the filing of the supplement; *see* Rule 21(e); (remainder of paragraph is unchanged).

Comment: This change conforms Rule 21(c)(2) to the change in Rule 19(a)(5).

Rules 37(a) and 37(b)(2):

Amend Rules 37(a) and 37(b)(2) by:

A. Removing the existing paragraphs 37(a) and 37(b)(2) which currently read:

“(a) Printing. Except for records of trial and as otherwise provided by Rules 24(f) and 27(a)(4), all pleadings and other papers relative to a case shall be typewritten and double-spaced, printed on one side only on white unglazed paper, 8.5 by 11 inches in size, securely fastened in the top left corner.

(b)(2) An original and 7 legible copies of all pleadings or other papers relative to a case shall be filed.”

B. And by adding new paragraphs 37(a) and 37(b)(2) in their place, to read as follows:

(a) Printing. Except for records of trial and as otherwise provided by Rules 24(f) and 27(a)(4) or any order of the Court regarding the electronic filing of pleadings, all pleadings and other papers relative to a case shall be typewritten and double-spaced, printed on one side only on white unglazed paper, 8.5 by 11 inches in size, securely fastened in the top left corner.

(b)(2) Except for electronically filed pleadings, an original and 7 legible copies of all pleadings or other papers relative to a case shall be filed.

Comment: These changes are proposed to account for orders of the Court pertaining to electronic filing of pleadings.

Rule 40(b)(3):

Amend Rule 40(b)(3) by:

A. Removing the existing paragraph 40(b)(3) which currently reads:

“(3) *Time allowed.* Each side will normally be allotted 30 minutes to present oral argument.”

B. And by adding new paragraph 40(b)(3) in its place, to read as follows:

(3) *Time allowed.* Each side will normally be allotted 20 minutes to present oral argument.

Comment: This change is proposed to bring the rule into conformance with recent court practice.

And also by adding the following:

Proposed Order on Electronic Filing

Effective (date), the following pleadings may be filed on paper or electronically in accordance with the guidelines attached to this Order:

(a) petitions for grant of review filed by counsel under Rule 18(a)(1);

(b) supplements to petitions for grant of review filed under Rule 21;

(c) answers (including 10-day letters to the Clerk) and replies filed under Rule 21(c); and

(d) motions filed under Rule 30 that concern the pleadings described in paragraphs (a)–(c), and replies thereto, when such motions are filed prior to the Court’s action granting or denying a petition for grant of review.

It is further ordered that the Orders pertaining to electronic filing issued on May 8, 2003 (58 M.J. 282) and August 5, 2004 (60 M.J. 308) are hereby rescinded, effective (date).

Proposed Guidelines for Electronic Filing of Pleadings

1. Scope

The United States Court of Appeals for the Armed Forces adopts the following provisions to govern the filing of the documents described in paragraphs (a)–(d) of the order (hereinafter collectively referred to as “petition documents”):

a. This Order applies to all petition documents filed electronically on or after (date). An appendix to the supplement to the petition for grant of review (containing the decision of the Court of Criminal Appeals, matters submitted pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982) and other required matter) is included in this requirement to be filed electronically unless it consists of more than 50 pages. In such a case, the appendix may be submitted on paper and the supplement submitted electronically. In lieu of submitting an appendix in excess of 50 pages on paper, counsel may submit it in a CD or DVD format and note in the supplement that it is being filed in that format under separate cover. Record matters in the form of video media on CD-ROM or

DVD may be submitted in a separate volume of the appendix that is filed in accordance with Rule 21(b).

b. A petition for grant of review filed personally by an appellant shall be filed on paper as provided under Rule 20(a). All subsequent petition documents filed by counsel in such a case may be filed on paper or electronically except as provided in section 1.c of these guidelines.

c. This Order does not provide for electronic filing of documents concerning other matters, such as documents concerning certified cases; mandatory review cases; writ-appeal petitions; petitions for extraordinary relief; petitions for new trial; and petitions for reconsideration. In a case arising under Article 67(a)(3), UCMJ, (petitions for grant of review), the Order permits electronic filing only with respect to documents filed before the Court issues an order granting or denying review.

2. Electronic Filing Address

Counsel shall file petition and motion documents at the following e-mail address: (to be filed in)@armfor.uscourts.gov.

For questions or help concerning the electronic filing of pleadings, counsel should contact the Clerk’s Office at (202) 761–1448.

3. Procedure

a. The electronic filing of a petition document shall be deemed filed as of the date and time of the transmission of the electronic mail message.

b. The electronic mail message shall contain the following in the subject block: (1) The name of the case; (2) the docket number if a docket number has been assigned; and (3) the words “electronic filing.” A description of what is being attached will be included in the body of the electronic mail message.

c. The pleading shall be attached to the electronic mail message in Portable Document Format (PDF), and, when printed, shall be in compliance with the Rules of Practice and Procedure of the Court.

d. Counsel shall send an electronic copy of the message and all attachments to opposing counsel to accomplish service of the pleading under Rule 39. This may be accomplished by listing opposing counsel as a “cc” recipient of the electronic message.

e. The pleading attached to an electronic filing shall contain the conformed signature (“/s/”) or digital signature of the attorney of record. This will comply with Rule 38.

f. If a pleading is filed electronically in accordance with this Order, the party is not required to prepare and file printed copies under Rules 37(a) and 37(b)(2). The Court will send a reply electronic message to the sender indicating receipt of the electronic filing.

g. Classified material and material under seal will not be filed electronically. If such matters need to be filed, they will be submitted to the Court on paper as a supplemental filing to the document in which they would otherwise appear. In such cases, counsel will include in the text of the electronic mail message a notation that classified or sealed material is being separately submitted. The classified or sealed material will be appropriately packaged, marked and delivered, and will include a notation that it accompanies an electronic filing in the case. All classified material will be handled in accordance with Rule 12.

h. Counsel must refrain from including and shall redact the following personal data identifiers from documents filed with the Court:

- Social security numbers
- Names of minors
- Dates of birth
- Financial account numbers
- Home addresses.

i. Upon the entry of an order granting or denying an electronically filed petition for grant of review, the Clerk will electronically transmit a copy of the order to counsel.

Comment: Appellate courts are increasingly providing for electronic filing of pleadings. This proposal will permit electronic filing of pleadings at the petition stage of cases before the Court. By making the program optional, the rules provide for circumstances in which counsel may find it necessary to file on paper.

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DEPARTMENT OF DEFENSE

Department of Navy

Notice of Intent To Prepare an Environmental Impact Statement for TRIDENT Support Facilities Explosives Handling Wharf, Naval Base Kitsap-Bangor, Silverdale, Kitsap County, WA and To Announce Public Scoping Meeting

AGENCY: Department of Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to section 102 of the National Environmental Policy Act of

1969, and the regulations implemented by the Council on Environmental Quality (40 CFR parts 1500-1508), the Department of Navy (Navy) announces its intent to prepare an Environmental Impact Statement (EIS) to evaluate the potential environmental impacts associated with the construction and operation of a proposed new Explosives Handling Wharf (EHW) located adjacent to, but separate from, the existing EHW on Hood Canal, NBK-Bangor, WA, to support TRIDENT submarines.

The proposed action consists of in-water and land-based construction including a covered ordnance operations area, a support building on the wharf, and a warping wharf. A warping wharf is a long narrow wharf extension used to position submarines prior to moving into the operations area of the EHW.

As part of the U.S. Navy's sea-based strategic deterrence mission, the Navy Strategic Systems Programs (SSP) directs research, development, manufacturing, test, evaluation, and operational support of the TRIDENT Fleet Ballistic Missile program. SSP is the Action Proponent and the Navy is the lead agency for this project.

On June 10, 2008, the Navy provided notice in the **Federal Register** (73 FR 32682) of its intent to prepare an EIS for a TRIDENT Support Facilities EHW and to announce a public scoping meeting. On June 30, 2008, the Navy provided notice in the **Federal Register** (73 FR 36847) of its decision to cancel the June 10, 2008 Notice of Intent. The Notice of Intent was cancelled to allow the Navy the opportunity to review and validate the need for the project and identify other alternative solutions to the proposed construction. After a thorough review, the Navy has now revalidated the requirement for a second EHW at NAVBASE Kitsap Bangor.

The Navy will hold three public scoping meetings for the purpose of further identifying the scope of issues to be addressed in the EIS. Federal, State, and local agencies and the public are invited to participate in the scoping process for the EIS. Comments are being solicited to help identify significant issues or concerns related to the proposed action, determine the scope of issues to be addressed in the EIS, and identify and refine alternatives to the proposed action.

The Navy will conduct public scoping meetings to receive oral and/or written comments on environmental concerns that should be addressed in the EIS. The public scoping meetings will be conducted in English and will be arranged in an informal, open house format. Attendees will be asked to sign

in and will be directed to various stations manned by Navy representatives and technical staff who will provide information and answer questions. Several large display boards will be located throughout the meeting locations to assist attendees in understanding the project and the alternatives. A comment table, supplied with comment sheets, will be placed in an easily accessible and comfortable location. Fact sheets about the project and alternatives will be available to participants.

DATES: *Dates and Addresses:* The public scoping meetings will be held from 5:30 p.m. to 8:30 p.m. on the following dates and locations:

1. June 23, 2009 at the Poulsbo Fire Station Main Headquarters, Multipurpose Room, 911 NE. Liberty Road, Poulsbo, WA;

2. June 24, 2009 at the Port Ludlow Fire Station 31, Training Room, 7650 Oak Bay Road, Port Ludlow, WA;

3. June 25, 2009 at the John Stanford Center for Educational Excellence, Auditorium, 2445 3rd Avenue South, Seattle WA.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Grzelak, Public Affairs Officer, Department of the Navy, Strategic Systems Programs, 2521 South Clark Street, Suite 1000, Arlington, VA 22202-3930, telephone: 703-601-9008, e-mail at: nbkehweis@ssp.navy.mil.

SUPPLEMENTARY INFORMATION: The purpose of the proposed action is to support current and future TRIDENT Fleet Ballistic Missile program requirements at NAVBASE Kitsap Bangor, WA. The proposed action is to construct and operate a proposed new EHW located adjacent to, but separate from, the existing EHW on Hood Canal to support TRIDENT submarines. A new EHW is needed to ensure the Navy has the facilities required to offload/load missiles and perform routine operations and upgrades necessary to maintain the TRIDENT program.

As part of the U.S. Navy's sea-based strategic deterrence mission, the TRIDENT submarines play a critical role of great strategic importance for the U.S. The Navy has only two Strategic Weapons Facilities for TRIDENT submarines. One in the Atlantic located in Kings Bay, Georgia and one in the Pacific located in Bangor, Washington. The Bangor facility has over time been upgraded, converted, and expanded, to handle variations in missile systems. Today's modern missile is a much more complex system, and takes more than twice the time to maintain and handle thus requiring additional Explosive Handling Wharf facilities to meet the