

the Secretary's position with respect to any disputed plan provision; and a copy of the accident response plan indicating all disputed and agreed-upon provisions.

(c) *Filing and service of pleadings.* Filing with the Commission of any document in an accident response plan dispute proceeding is effective upon receipt. A copy of each document filed with the Commission in such a proceeding shall be expeditiously served on all parties, such as by personal delivery, including courier service, by express mail, or by facsimile transmission.

(d) *Submission of materials.*

(1) Within 15 calendar days of the referral, the parties shall submit to the Judge assigned to the matter all relevant materials regarding the dispute. Such submissions shall include a motion for any relief sought, including any request to stay the effect of a disputed provision pending any appeal taken pursuant to paragraph (f) of this section, and may include proposed findings of fact and conclusions of law. Such materials may be supported by affidavits or other verified documents, and shall specify the grounds upon which the party seeks relief. Supporting affidavits shall be made on personal knowledge and shall show affirmatively that the affiant is competent to testify to the matters stated.

(2) *Hearing.*

(i) Within 5 calendar days following the Secretary's referral, any party may request a hearing and shall so advise the Commission's Chief Administrative Law Judge or his designee, and simultaneously notify the other parties.

(ii) Within 5 calendar days following the Secretary's referral, the Commission's Chief Administrative Law Judge or his designee may issue an order scheduling a hearing on the Judge's own motion, and must immediately so notify the parties.

(iii) If a hearing on the referral is requested or ordered, the hearing shall be held within 15 calendar days of the referral. The scope of a hearing on an accident response plan dispute referral is limited to the disputed plan provision or provisions. If no hearing is held, the Judge assigned to the matter shall review the materials submitted by the parties pursuant to paragraph (d)(1) of this section, and shall issue a decision pursuant to paragraph (e) of this section.

(e) *Decision of the Judge.*

(1) Within 15 calendar days following receipt by the Judge of all submissions and testimony made pursuant to paragraph (d) of this section, the Judge shall issue a decision that constitutes the Judge's final disposition of the

proceedings. The decision shall be in writing and shall include all findings of fact and conclusions of law, and the reasons or bases for them, on all the material issues of fact, law or discretion presented by the record, and an order. The decision shall include a ruling, if a party has so moved, on whether inclusion of the disputed provision in the plan shall be limited, and its effect stayed, by any appeal taken pursuant to paragraph (f) of this section. As far as is practicable, the decision of the Judge shall otherwise be subject to the provisions of § 2700.69.

(2) The parties shall be notified of the Judge's decision by the most expeditious means reasonably available. Service of the decision shall be by certified or registered mail, return receipt requested.

(f) *Review of decision.* Any party may seek review of a Judge's decision by filing with the Commission a petition for discretionary review pursuant to § 2700.70 and § 2700.75. The Commission shall act upon a petition on an expedited basis. If review is granted, the Commission shall issue a briefing order. Except under extraordinary circumstances, the Commission will not grant motions for extension of time for filing briefs.

Dated: July 12, 2006.

**Michael F. Duffy,**

*Chairman, Federal Mine Safety and Health Review Commission.*

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

[DoD-2006-OS-0074]

#### 32 CFR Part 54

#### Allotments for Child Support and Spousal Support

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** The Department of Defense is administratively amending 32 CFR part 54, "Allotments for Child Support and Spousal Support" to identify the location of the policy and procedures for Allotments for Child Support and Spousal Support in the DoD Directives System. All other information remains unchanged.

**DATES:** This rule is effective July 18, 2006.

**FOR FURTHER INFORMATION CONTACT:** L. Bynum, 703-696-4970.

**SUPPLEMENTARY INFORMATION:** DoD Directive 1340.17, which was originally codified in the CFR as 32 CFR part 54, has been removed from the DoD Directives System. The sentence added to inform readers that were previously used to making cross-reference to the Directive will now know where to locate additional information.

#### List of Subjects in 32 CFR Part 54

Alimony, Child support, Military personnel, Reporting and recordkeeping requirements, Wages.

■ Accordingly, 32 CFR part 54 is amended as follows:

#### PART 54—ALLOTMENTS FOR CHILD AND SPOUSAL SUPPORT

■ 1. The authority citation for 32 CFR part 54 continues to read as follows:

**Authority:** 15 U.S.C. 1673, 37 U.S.C. 101, 42 U.S.C. 665.

■ 2. Section 54.1 is amended by adding a sentence at the end of the section to read as follows:

#### § 54.1 Purpose.

\* \* \* The policy and procedures for this part are also located in the DoD Financial Management Regulation ("DoDFMR"), Volume 7B, Chapter 43, section 4304, "Allotments for Child Support and Spousal Support" (DoD 7000.14-R).

Dated: July 12, 2006.

**L.M. Bynum,**

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

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

[DoD-2006-OS-0093]

#### 32 CFR Part 78

#### Voluntary State Tax Withholding From Retired Pay

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** The Department of Defense is administratively amending 32 CFR Part 78, "Voluntary State Tax Withholding From Retired Pay" to identify the location of the policy and procedures for Voluntary State Tax Withholding from Retired Pay in the DoD Directives System. All other information remains unchanged.

**DATES:** This rule is effective July 18, 2006.