ACQUISITION AND TECHNOLOGY

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000

August 12, 1996

MEMORANDUM FOR DOD ENVIRONMENTAL RESTORATION STAKEHOLDERS

SUBJECT: Federal Register Publication of Restoration Advisory Board Proposed Rule and Department of Defense Request for Comments

The National Defense Authorization Act for Fiscal Year 1996 requires the Secretary of Defense to prescribe regulations regarding Restoration Advisory Boards (RABs). RABs provide an opportunity for information exchange among the affected community, the Department of Defense (DoD), the Environmental Protection Agency (EPA) and state and local government; and for communities to provide input to the cleanup process. A working group comprised of representatives of the military departments and the EPA developed this proposed rule based on existing RAB policy.

The attached Federal Register notice contains the proposed rule and solicits comments from interested parties. Comments are due by November 4, 1996. Once comments are considered, we intend to publish a final rule for RABs in the Federal Register.

It is DoD's intent to distribute this proposed rule as broadly as possible and seek comments from the public. Since you are a stakeholder in the program, I felt you should have a copy for information and be provided an opportunity to comment should you choose to do so. Please share this notice with others who you believe may be interested in commenting on the proposed rule. Any questions or comments should be directed to Ms. Marcia Read, Office of the Assistant Deputy Under Secretary of Defense (Environmental Cleanup), 3400 Defense Pentagon, Washington. D.C., 20310-2400. Telephone: (703) 697-9793, by facsimile at (703) 695-4981.

Patricia A. Rivers

Patricia A. Rivers
Assistant Deputy Under Secretary of Defense
(Environmental Cleanup)

Attachment

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Environmental Security *Defending Our Future*

G03WV001304_01.06_0003_a

time change) is estimated to be $4,800 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $87,480, or $4,860 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects 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. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive: *Lockheed:* Docket 95-NM-248-AD.

Applicability: All Model 382 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of brake effectiveness during a high energy rejected takeoff (RTO), accomplish the following:

(a) Within 180 days after the effective date of this AD, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(1) Inspect the main landing gear brakes having the brake part number listed below for wear, in accordance with Hercules Alert Service Bulletin A382-32-47, dated March 1, 1995. Any brake worn more than the maximum wear limit specified below must be replaced, prior to further flight, with a brake within that limit, in accordance with the alert service bulletin.

Brake manufacturer	Brake part mumber	Maximum wear limit (inches)
Hercules	9560685	0.359

(2) Incorporate into the FAA-approved maintenance inspection program the maximum brake wear limits specified in paragraph (a)(1) of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office (ACO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on July 30, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96-19891 Filed 8-5-96; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 344

[Department of the Treasury Circular, Public Debt Series No. 3-72]

Regulations Governing United States Treasury Certificates of Indebtedness, Treasury Notes, and Treasury Bonds—State and Local Government Series

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Proposed rule; correction.

SUMMARY: In the proposed rule, beginning on page 39227 in the issue of Friday, July 26, 1996, make the following correction:

On page 39228, in the first column, address section of the preamble, the Internet address of the Public Debt home page was incorrect. It should be changed to read: http// www.ustreas.gov/treasury/bureaus/ pubdebt/pubdebt.html

Dated: July 31, 1996.

Van Zeck,

Deputy Commissioner.

[FR Doc. 96-19931 Filed 8-5-96; 8:45 am]

BILLING CODE 4810-39-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 202

RIN 0790-AG31

Restoration Advisory Boards (RABs)

AGENCY: Department of Defense, Office of the Assistant Deputy Under Secretary of Defense (Environmental Cleanup), DoD.

ACTION: Proposed rule.

SUMMARY: The Department of Defense (DoD) proposes and requests public comments on regulations regarding the characteristics, composition, funding, and establishment of Restoration Advisory Boards (RABs). DoD has proposed these regulations in response to section 324 of the National Defense

Authorization Act for Fiscal Year 1996 (Pub. L. 104–106) that amended section 2705 of title 10, United States Code, and requires the Secretary of Defense to prescribe regulations regarding RABs.

The purpose of a RAB is to facilitate public participation in DoD environmental restoration activities at operating and closing DoD installations where local communities express interest in the program. The proposed regulations are based on DoD's current policies for establishing and operating RABs as well as DoD's experience in establishing RABs over the past two years.

DATES: Comments on this proposed rule must be submitted on or before November 4, 1996.

ADDRESSES: Comments on this proposal should be sent to the following address: Office of the Assistant Deputy Under Secretary of the Defense (Environmental Cleanup), 3400 Defense Pentagon, Washington, DC 20301–3400. The public must send a written original, two copies, and whenever possible, a 3.5 inch computer disk containing comments in a common word processing format such as WordPerfect version 5.1. This will expedite DoD's response to comments and reduce the associated costs.

FOR FURTHER INFORMATION CONTACT: Ms. Marcia Read, Office of the Assistant Deputy Under Secretary of Defense (Environmental Cleanup), (703) 697–9793.

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I. Authority

These regulations are proposed under the authority of section 2705 of title 10, United States Code, that was amended by section 324 of the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104–106).

II. Background

The Defense Environmental Restoration Program (DERP) was established in 1984 to promote and coordinate efforts for the evaluation and cleanup of environmental contamination at operating and closing DoD installations and formerly used defense sites (FUDS). Policy direction and oversight of DERP is the responsibility of the Office of the Assistant Deputy Under Secretary of Defense (Environmental Cleanup). The DoD Components (Departments of Army, Navy, and Air Force, and the Defense Agencies) are responsible for program implementation.

DoD recognizes the importance of public involvement at military installations and FUDS that require environmental restoration. DoD has developed policies to ensure that local communities are provided the opportunity as early as possible to obtain information about and provide input to the decisions regarding the environmental restoration activities at military installations. It is DoD policy to provide such opportunity through the establishment of RABs.

DoD, as with all federal agencies, must comply with the statutory and regulatory requirements for community involvement found under the National Oil and Hazardous Substance Pollution Contingency Plan (NCP), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (Pub. L. 96–510) as amended by the Superfund Amendments and Reauthorization Act (SARA) (Pub. L. 99–499), the Resource Conservation and Recovery Act (RCRA) (Pub. L. 94–550), National Environmental Policy Act (NEPA) (Pub. L. 91–190), and other applicable federal, state and local environmental laws and regulations. Section 211 of SARA (10 USC 2705(c)) and Executive Order 12580, entitled "Superfund Implementation," require DoD, where possible and practical, to establish technical review committees (TRC) for reviewing technical documents and discussing progress in implementing and completing restoration activities.

Over the past several years, DoD has participated as a member of the Federal Facilities Environmental Restoration Dialogue Committee (FFERDC). The FFERDC is a committee chartered under the Federal Advisory Committee (FACA). The committee includes stakeholders—representatives of federal, state, tribal, and local agencies, and of environmental, community, labor, and environmental justice organizations. The FFERDC develops consensus policy recommendations for improving decisions about environmental restoration at federal facilities. In February 1993, the FFERDC issued the "Interim Report of the FFERDC: Recommendations for Improving the Federal Facilities Environmental Restoration Decision-Making and Priority-Setting Processes". In that report, the FFERDC recommended that: (1) Federal agencies should be more proactive in providing information about restoration activities to stakeholders, and (2) citizen advisory boards should be established to provide advice to government agencies that conduct and regulate restoration at federal facilities. DoD carefully considered the recommendations of the FFERDC and, in response, strengthened its community involvement efforts including the RAB initiative under its environmental restoration program.

Following the release of the FFERDC Interim Report in 1993, the FFERDC expanded its membership to include representatives from the military services, local governments, and environmental justice organizations. In April 1996, the FFERDC issued its Final Report which includes chapters on community involvement and advisory boards. The Final Report affirms the value of RABs as a method for involving the public in the environmental restoration decision-making process and provides recommendations for establishing and implementing successful RABs.

In 1993, President Clinton announced five-part plan to speed the economic recovery of communities in which bases are scheduled to close. Part of the Fast-Track Cleanup Program, which sprang from the President's plan, emphasized the early community involvement in the environmental restoration process as an important element of the program. On September 9, 1993, the Deputy Secretary of Defense issued a memorandum that outlined the policies for implementation of the Fast-Track Cleanup Program. One of the guidances called for the establishment of RABs at closing installations where property was available for transfer to communities for reuse. The RAB initiative, subsequently applied to operational installations, gives an opportunity for citizens living near military installations to obtain information about, and provide input to, the environmental restoration program.

DoD believes that working in partnership with local communities and addressing the concerns of those communities early in the restoration process will enhance its efforts under, and increase credibility of, the environmental restoration program. DoD remains committed to involving communities neighboring its installations in environmental restoration decisions that may affect human health and the environment. RABs have become a significant component of DoD's efforts to increase community involvement in DoD's environmental restoration program. RABs continuously provide a forum through which members of affected communities can provide input to an installation's ongoing environmental restoration activities.

On September 27, 1994, DoD and EPA jointly issued guidelines for the formation and operation of RABs ("Restoration Advisory Board Implementation Guidelines"). The guidelines describe how to implement the DoD RAB policy and identify the role each stakeholder can play in the RAB. The guidelines also state that existing TRCs or similar groups may be expanded or modified to become RABs rather than an installation creating a separate committee because RABs are designed to fulfill the statutory requirements for TRCs.

As of September 30, 1995, more than 200 RABs had been formed at more than 230 operating and closing installations that have restoration programs. It is important to note that the RAB is not a replacement for other types of community outreach and participation activities required by law, regulation, or policy.

In section 326(a) of the National Defense Authorization Act for Fiscal Year 1995 (Pub. L. 103-337, October 5, 1994), Congress directed that section 2705 of title 10, United States Code (CERCLA), be amended in the following manner, ("1) In lieu of establishing a technical review committee under subsection (c), the Secretary may permit establishment of a restoration advisory board in connection with any installation (or group of nearby installations) where the Secretary is planning or implementing environmental restoration activities." Thus, Congress granted DoD the authority to establish RABs instead of TRCs at installations undergoing environmental restoration.

On February 10, 1996, the President signed into law the National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106) which contained several provisions addressing the establishment and operation of RABs. Section 324(a) of Pub. L. 104-106 amended section 2705 of title 10, United States Code, requiring the Secretary of Defense to "prescribe regulations regarding the establishment, characteristics, composition, and funding of restoration advisory boards" (amended section 2705(d)(2)(A)). Section 324(a) of Pub. L. 104-106 also stated that DoD's issuance of regulations shall not be a precondition to the establishment of RABs (amended section 2705(d)(2)(B)). Section 324(b) of Pub. L. 104-106 authorized DoD to enable the installation to pay for routine administrative expenses of a RAB, as well as allowing RABs or TRCs to obtain technical assistance for interpreting scientific and engineering issues with regard to the nature of environmental hazards at the installation and the restoration activities conducted, or proposed to be conducted at the installation using DERP and Base Realignment and Closure (BRAC) funding (amended sections 2705(d)(3), (e), and (g)). However, section 324(d) of Pub. L. 104-106 stated that funding for both administrative expenses and technical assistance may not be made after September 15, 1996, unless the Secretary publishes proposed final or interim final regulations for RABs (amended section 2705(g)(2)(B)).

Therefore, DoD proposes these regulations regarding the characteristics, composition, funding, and establishment of RABs. DoD recognizes that each RAB established will be a unique organization dealing with installation-specific issues. This proposal, developed consistent with the recommendations set forth in the FFERDC's Final Report, is consistent with existing DoD and EPA policy on RABs, and reflects over two years of experience in establishing and operating RABs throughout the United States. DoD has structured this proposal to maximize flexibility for RAB members and installations nationwide.

III. Summary of the Proposed Rule

DoD is proposing and requesting public comment on regulations regarding the establishment, characteristics, composition, and funding of RABs. This section of the preamble provides a summary of the proposed regulations in 32 CFR part 202.

A. General Requirements

In this section of the proposed rule, DoD discusses the purpose, scope, and applicability of the proposed regulations for RABs. DoD is required by revised section 2705(d)(2)(A) of title 10, United States Code, to issue regulations concerning the establishment, characteristics, composition, and funding of RABs. When issued as a final rule, the regulations will apply to all RABs regardless of when they were established.

In this proposal, DoD defines the purpose of a RAB as providing an expanded opportunity for stakeholder input into the environmental restoration process at operating and closing DoD installations. While a RAB will complement other community involvement efforts undertaken by the installation concerning environmental restoration, DoD that a RAB does not replace other types of community outreach and participation activities required by applicable federal and state laws.

DoD will require that a RAB be established at an installation when there is sufficient and sustained community interest and any of four specified criteria are met. The installation shall have the lead responsibility for forming and operating a RAB. Further, DoD proposes five minimum steps that the installation should take to determine if sufficient and sustained community interest exists in forming a RAB.

Prior to establishing a RAB, DoD is proposing that the installation should notify potential stakeholders of its intent to form a RAB. Stakeholders are defined as all parties that are actually or potentially affected by restoration activities at an installation. At closing installations, stakeholders should include members of the Local Redevelopment Authorities (LRA). The notification should describe the purpose of a RAB and discuss opportunities for membership.

This proposed rule contains guidelines regarding the composition of RABs. DoD proposes that each RAB should consist of representatives from DoD, EPA, state and local government, and members of the community. DoD notes in the preamble (see section IV. A.4.a) that EPA's involvement on a RAB is discretionary depending on whether the installation is included on the National Priorities List (NPL) set forth in Title 40 Code of Federal Regulations part 300, appendix B. At closing installations, members of the BRAC Cleanup Team BCT) may serve on the RAB as DoD, EPA, or state representatives.

DoD is not proposing regulations for specific roles and responsibilities of RAB members, but is stating that the chairmanship of a RAB must be shared between the installation and community. In addition, DoD proposes that community members of a RAB shall not be compensated by DoD for their participation.

B. Operating Requirements

In this section of the proposed rule, DoD sets forth basic requirements for the operation of a RAB. DoD proposes that each RAB should develop a mission statement that describes its overall purpose and goals. DoD also specifies certain requirements regarding the selection process for co-chairs. DoD proposes that the installation's co-chair shall be determined by the installation's Commanding Officer (CO) or other DoD decision authority in accordance with military service-specific guidance. DoD is not specifying any required procedures for selection of the community co-chair or for community members of the RAB in general, only that the community members of the RAB will be responsible for selecting their co-chair.

DoD proposes that each RAB should develop a set of operating procedures. These procedures may address: Announcing meetings; attendance of members at meetings; frequency of meetings; addition or removal of RAB members; length of service for RAB members and co-chairs; methods for dispute resolution; review of responses to public comments; participation of the general public in RAB operations; and keeping the public informed about RAB proceedings.

DoD is not proposing specific requirements concerning the conduct of RAB meetings, because the meeting format of each RAB will vary and be dictated by the needs of the participants. However, DoD proposes that the installation should prepare meeting minutes summarizing the topics discussed at RAB meetings, and make them available in information repositories.

C. Administrative Support, Funding, and Reporting Requirements

In this section of the proposed rule, DoD sets forth requirements regarding administrative support for establishing and operating a RAB, funding for administrative support, and reporting requirements regarding the activities and administrative expenses associated with RABs. This section also references impending regulations governing how community members of RABs and TRCs may seek funding for obtaining technical assistance to interpret scientific and engineering issues with regard to the nature of environmental hazards at the installation and the restoration activities conducted, or proposed to be conducted at the installation.

Section 324 of Pub. L. 104–106 amended section 2705(d)(3), title 10, United States Code, authorizes the CO of an installation, or if there is no such commander, an appropriate DoD official, to pay for routine administrative expenses of a RAB established at an installation. To implement this provision, this proposed rule requires that the installation provide administrative support to establish and operate a RAB, subject to the availability of funds. The scope of this support corresponds to those activities that are eligible for DoD funding including:

- Establishing a RAB.
- Membership selection.
- Certain types of training.
- Meeting announcements.
- Meeting facility.
- Meeting facilitators, including translators.
- Preparation of meeting materials and minutes.
- Maintenance of a RAB mailing list and mailing of RAB materials.

Section 324(d) of Pub. L. 104–106 amended section 2705(g) title 10, United States Code, prescribes the level and allocation of funds earmarked for RAB administrative expenses. Accordingly, the proposed rule establishes these requirements and specifies that operating installations should pay for RAB administrative expenses using funds from their Component's Defense Environmental Restoration Account (DERA). At closing installations, DoD proposes that installations use BRAC funds to pay for eligible RAB administrative expenses.

Section 324(c) of Pub. L. 104–106 revised section 2705(e), title 10, United States Code, enables community members of a RAB or TRC to request DoD to obtain from the private sector, technical assistance for interpreting scientific and engineering issues with regard to the nature of environmental hazards at the installation and the restoration activities conducted, or proposed to be conducted at the installation.

Later this year, DoD will issue a rule addressing policies and procedures for obtaining technical assistance under section 2705(e). In this proposed rule, DoD states that community members of a RAB or TRC seeking technical assistance in interpreting information with regard to the restoration activities at an installation may obtain a grant through such programs as EPA's Technical Assistance Grant (TAG) program or Technical Outreach Services to Communities (TOSC) program. Upon DoD's promulgation of regulations implementing section 2705(e), Technical Assistance for Public Participation (TAPP), community members of a RAB or TRC may request the installation CO, or appropriate DoD official, to obtain from private sector sources technical assistance.

Section 324(f) of Pub. L. 104–106 amends section 2706(a)(2) of title 10, United States Code, by adding subsection (j) requiring DoD to report to Congress on the activities of TRCs and RABs. In order to fulfill this requirement, this proposed rule requires that the installation at which a RAB has been established document the activities of the RAB and track expenditures for administrative expenses of the RAB. This proposed rule does not prescribe specific procedures for the installation to follow as part of DoD's collecting this information when reporting to Congress. Rather, DoD will rely on existing internal reporting mechanisms within the Department and services to collect this information.

IV. Section-by-Section Analysis of the Proposed Rule

This section of the preamble presents an analysis of each section of the proposed rule.

A. General Requirements

1. Purpose, Scope, and Applicability

a. *Purpose and scope of responsibilities of a RAB.* To define the duties and responsibilities of a RAB, DoD is proposing that the purpose of a RAB is to provide an expanded opportunity for stakeholder input into the environmental restoration process at DoD installations. DoD considers stakeholders as parties that are actually or potentially affected by restoration

activities at an installation. At closing installations, the LRA, as defined under BRAC, are included as stakeholders.

This proposed rule does not list specific responsibilities of a RAB, but DoD considers the following types of activities within the scope of a RAB:

- Providing advice to the installation, EPA, state regulatory agency, and other government agencies on restoration activities and community involvement.
- Addressing important issues related to restoration, such as the scope of studies, cleanup levels, waste management, and remedial action alternatives.
- Reviewing and evaluating documents associated with restoration activities, such as plans and technical reports.
- Identifying restoration projects to be accomplished in the next fiscal year and beyond.
- Recommending priorities among sites or projects.
- Conducting regular meetings that are open to the public and scheduled at convenient times and locations.
- Interacting with the LRA or other land use planning bodies to discuss future land use issues relevant to environmental restoration decision-making.

By establishing a RAB, DoD hopes to ensure that interested stakeholders have a voice and can actively participate in a timely and thorough manner in the planning and implementation of the environmental restoration. A RAB will serve as a forum for the expression and careful consideration of diverse points of view.

While a RAB complements other community involvement efforts at DoD installations, DoD notes in the proposed rule that a RAB does not replace other types of community outreach and participation activities required by law, regulation, or policy. DoD installations will continue to be responsible for fulfilling all legally mandated public involvement requirements, such as those required under CERCLA, RCRA, NEPA, and applicable state environmental regulations.

b. *Applicability of regulations to existing RABs.* As directed by section 2705(d)(2)(A) of title 10, United States Code, DoD must prescribe regulations regarding the establishment, characteristics, composition, and funding of RABs. DoD intends that the final regulations will apply to all RABs, including RABs established prior to the effective date of the final rule. DoD does not consider that applying final regulations to RABs already established will pose any additional requirements or conflict, because the proposed regulations are based on existing DoD policy that has been implemented since September 1994.

2. Criteria for Establishment

a. *Determing If Sufficient Interest Warrants Establishing a RAB.* In this rule, RABs may only be established at operating or closing installations undergoing environmental restoration. In accordance with existing policy, DoD proposes that a RAB be established when there is sufficient and sustained community interest and any of the following criteria are met:

- The closure of an installation involves the transfer of property to the community.
- At least 50 local citizens petition for an advisory board.
- Federal, state, or local government representatives request formation of an advisory board, or
- The installation determines the need for an advisory board.

To clarify how an installation will determine the need for an advisory board, DoD proposes that the installation determine the level of interest within the community for establishing a RAB by:

- Reviewing correspondence files.
- Reviewing media coverage.
- Consulting community members.
- Consulting relevant government officials, and
- Evaluating responses to notices placed in local newspapers.

At the majority of installations that have an environmental restoration program, DoD expects that local communities will be interested in forming a RAB. If, however, outreach efforts reveal no interest within the community, a description of those efforts taken, a summary of the results, and plans for future efforts, must be documented as part of the installation's community relations plan (CRP). Under CERCLA (see 40 CFR 300.430(c)), an installation must prepare a formal CRP based on community interviews and other relevant information. The CRP specifies the community relations activities the installation expects to undertake during the restoration process.

DoD notes that installation efforts to identify the level of community interest in establishing a RAB should not be limited to a one-time assessment of the criteria discussed above. Although DoD is not proposing a specific requirement, DoD recommends that the installation reassess current community interest in the restoration program as part of the periodic update of its CRP.

b. *Responsibility for forming and operating a RAB.* Once the installation determines that a RAB must be established, DoD proposes that the installation have the lead responsibility for forming and operating the RAB. The installation should have lead responsibility because the RAB will be an integral part of the installation's community involvement and outreach programs. DoD recommends that installations involve, as appropriate, EPA, state, and local government in all phases of RAB planning and operation.

c. *Converting existing Technical Review Committees (TRCs) to RABs.* TRCs were established at more than 200 DoD installations to provide interested parties with a forum to discuss and provide input into environmental restoration activities. DoD recommends that, where there is sufficient and sustained interest, installations expand or modify existing TRCs or similar groups to become RABs rather than create a separate committee.

RABs will expand the TRC initiative in the following ways: (1) RABs will involve a greater number of community members than TRCs, thereby better incorporating the diverse needs and concerns of the community directly affected by environmental restoration activities; and (2) chairmanship of the RAB will be shared between the installation and community, promoting partnership and a strong commitment to incorporate the community's concerns into the decision-making process. In these situations, RABs will fulfill the statutory requirements for a TRC.

In order to convert a TRC to a RAB, several tasks must be accomplished. These tasks include: Increasing community representation; adding a community co-chair; and making meetings open to the public. The DoD installation should evaluate the diversity of the current membership of the TRC when converting to a RAB. DoD recommends that the installation should consult with EPA and the state, as appropriate, regarding the diversity of the current membership of the TRC. When formulating RABs, it is DoD's goal to ensure diversity and balance in membership of RABs. DoD believes that current TRC members should be given a preference for a seat on the RAB to preserve continuity and the "institutional history" of the environmental restoration process. However, DoD feels that this preference to include existing TRC members in RABs also should be balanced against the preeminent need to form a RAB truly representative of the community's diverse interests.

3. Notification of Formation of a RAB

a. *Public notice and outreach.* Prior to establishing a RAB, DoD proposes that installations should notify potential stakeholders of its intent to form a RAB, including those installations that may be converting TRCs to RABs. In announcing the formation of a RAB, the installation should describe the purpose of a RAB and discuss membership opportunities.

DoD recommends that every effort be made to ensure that a broad spectrum of individuals or groups representing the community's interests are informed about the RAB, its purpose, and membership opportunities. In some cases, it may be necessary that the installation directly solicit some groups or organizations, particularly groups traditionally underrepresented such as low-income and minority segments of the population. Installations should consult the existing TRC, state, and EPA for information or other comments before providing this notice.

b. *RAB information meeting.* While not required in the proposed rule, DoD suggests that an installation sponsor an informational meeting prior to establishing a RAB. The focus of this meeting will be to introduce the concept of RABs to the community and to begin the membership solicitation process.

4. Composition of a RAB

a. *Membership.* DoD's goal is that RAB membership be well balanced and reflect the diverse interests within the local community. Therefore, DoD proposes that each RAB should consist of representatives of DoD, EPA, state and local government, and members of the community.

b. *Government representation.* DoD proposes that DoD, EPA, and state and local governments should be represented on the RAB. Potential candidates may include the Remedial Project Manager (RPM) from the installation, EPA, and the state, as well as representatives from local government agencies. In the case of closing military installations, members of the BCT may serve on the RAB as DoD, EPA, and state representatives. It is important that any government representative chosen for RAB membership dedicate the time necessary, and have sufficient authority, to fulfill all RAB responsibilities.

EPA, state, and local regulatory agencies fulfill important roles on a RAB, because of their regulatory oversight of DoD environmental restoration activities. However, EPA stated in the September 27, 1994 Restoration Advisory Board Implementation Guidelines that its involvement on a RAB will vary based on whether the installation is on the National Priorities List (NPL) under the CERCLA. The NPL, set forth in Title 40 CFR part 300, appendix B, is a list of sites ranked in order of priority for hazardous waste restoration. EPA is committed to full involvement as the federal regulatory agency on RABs where EPA has received resources from DoD. For installations that are not included on the NPL, non-base closure or base closure installations where EPA has not been given resources from DoD, EPA's involvement will be at the discretion of the Regional Administrator of EPA's regional office. DoD has included EPA's discretionary involvement in RABs in the proposed rule.

Ideally, DoD believes that RABs should have only one representative from each government agency, so as to prevent an inordinate representation of government and DoD officials. While DoD encourages other government representatives to attend RAB meetings their role will be strictly one of providing information and support.

c. *Community representation.* RAB community members should live and/or work in the affected community or be affected by the installation's environmental restoration program. While DoD is not proposing specific procedures to be used for selecting community members of the RAB, DoD notes that one of the most sensitive issues facing installations that establish a RAB concerns the selection of community members. When members of the community feel the selection process for RAB members, particularly of community members, is conducted in a fair and unbiased manner, it enhances their perception that the RAB can be a credible forum for the discussion of their issues and concerns. If the selection of community members is not approached carefully, the result can be a loss of trust and failure to achieve dialogue.

DoD will not limit the ability of community RAB members who have business interests to compete for DoD contracts, if proper and appropriate assurances to avoid any potential conflicts of interest are issued.

d. *Roles and responsibilities of members.* DoD proposes that chairmanship of the RAB be shared between the installation and the community. DoD believes this will promote partnering between the two parties and reflect a strong commitment by DoD to incorporate the community's concerns into decisions about the environmental restoration process. Together, the installation and community co-chairs will jointly determine meeting agendas, run meetings, and ensure that issues related to the environmental restoration are raised and adequately addressed.

DoD also is specifying in the proposed rule that the community co-chair and community RAB members are expected to serve without compensation for their services. DoD considers community membership on a RAB to be voluntary, and therefore these members will not be paid by DoD for the time invested or services rendered.

DoD is not proposing specific requirements concerning the roles and responsibilities of individual members of a RAB. DoD considers the issuance of such regulations to be overly burdensome to the formation and operation of RABs, and therefore unnecessary. DoD recommends that installations consult previous guidance concerning the roles of individual members when forming and operating a RAB.

B. Operating Requirements

1. Creating a Mission Statement

DoD proposes that each RAB should develop a mission statement that articulates the overall purpose of the RAB. DoD considers this necessary to provide focus and goals for the group. In addition, when members of the RAB agree early on to their mission, it provides a framework for discussions. Without the framework, discussions may become hampered with issues that are not relevant to the environmental restoration process.

2. Selecting Co-Chairs

DoD proposes that the installation co-chair be selected by the installation's CO or as defined by military service-specific guidance, while the community members of the RAB will select the community co-chair. DoD considers it necessary for the community members to select their co-chair to ensure their active participation in the operation of the RAB and to enhance their perception that the RAB can be a credible forum for their issues and concerns.

3. Developing Operating Procedures

DoD considers a formal and agreed-upon set of operating procedures necessary to manage the business of RABs. While DoD will allow each RAB to customize or tailor its operating procedures as it sees fit, DoD proposes that each RAB develop operating procedures on:

- Announcing meetings.
- Attendance of members at meetings.

- Frequency of meetings.
- Additions or removals of RAB members.
- Length of service of members and co-chairs.
- Methods for dispute resolution.
- Review and responses to public comments.
- Participation of the public.
- Keeping the public informed.

With regards to keeping the public informed, DoD proposes that the installation prepare meeting minutes summarizing the topics discussed at the meeting. This is needed to ensure dissemination of the results to community members and interested parties. DoD also proposes that, at a minimum, the minutes should be distributed to the information repositories established under the installation's CRP. Although not required, DoD recommends that the installation consider mailing copies of the minutes to all community members who attended the meeting, existing TRC members, and/or to people identified on the installation's community relations mailing list.

4. Training RAB Members

DoD is not proposing a requirement for training members of the RAB. However, DoD believes that RAB members may need some initial orientation training to enable them to fulfill their responsibilities. DoD recommends that the installation should work with EPA, the state, and environmental groups to develop methods to quickly inform and educate the RAB members and to promote the rapid formation of a fully functioning RAB.[1]

DoD notes that under this proposed rule, only certain types of training will be considered within the scope of administrative support for RABs, and therefore, financed using funds allocated to the administrative expenses of RABs. DoD further discusses training in context of administrative support eligible for available funding in section C.1.b. of this preamble.

5. Conducting RAB Meetings

DoD believes the meeting format of each RAB will vary and be dictated by the needs of the participants. Therefore, DoD is not proposing specific procedures for conducting RAB meetings.[2]

Regarding the nature of discussions at RAB meetings, DoD will consider all advice provided by the RAB whether consensus in nature or provided on an individual basis, including advice given that represents the minority view of members. While voting or polling the members may facilitate RAB discussions, such votes should be advisory only and not binding on agency decisionmakers. Group consensus is not a prerequisite for RAB input; each member of the RAB should provide advice as an individual. At the same time, while group consensus is not required or asked of advisory board members, it is recognized that in the natural course of discussions, consensus may evolve.

C. Administrative Support, Funding, and Reporting Requirements

1. Administrative Support and Eligible Expenses

a. *Administrative support.* Section 324 of Pub. L. 104–106 amended section 2705(d)(3), title 10, United States Code, authorizes the CO of an installation, or if there is no such commander, an appropriate DoD official, to pay for routine administrative expenses of a RAB established at an installation. To implement this provision, this proposed rule requires that the installation provide administrative support to establish and operate a RAB, subject to the availability of funds. Securing ongoing administrative support is especially important for closing or closed installations.

DoD proposes to define the scope of activities that are unique to the establishment and operation of RABs, and therefore eligible for funds as RAB administrative expenses.

b. *Eligible administrative expenses.* In order for an activity to be considered as an eligible RAB administrative cost, the activity must be unique to and directly associated with establishing and operating the RAB. For example, producing a fact sheet as part of obtaining a hazardous waste storage permit under RCRA or hosting an installation open house as specified by the community relations plan under CERCLA, may not necessarily be relevant to a RAB's mission statement or operations. The costs incurred in preparing and distributing such a fact sheet or holding the open house would not be considered administrative support required for a RAB.

While DoD cannot identify all possible examples of activities unique to and directly associated with establishing and operating a RAB, DoD proposes to consider the following activities as typical of administrative support required for a RAB:

- RAB establishment.
- Membership selection.
- Certain types of training.
- Meeting announcements.
- Meeting facility.
- Facilitators, including translators.
- Preparation of meeting agenda materials and minutes.
- Maintenance of a RAB mailing list and mailing of RAB materials.

Which regards to training RAB members, DoD clarifies that in order for training to be considered an eligible administrative cost, it must mutually benefit the mission and all members of a RAB and be relevant to the environmental restoration activities occurring at the installation. For example, if the installation were to hold an orientation training for members of a RAB, costs incurred in preparing training manuals, slides, or other presentation materials would be considered an allowable administrative expense, because such training is unique to and mutually beneficial to the mission and members of the RAB.

A type of training that would not qualify as a RAB administrative support includes specialized training for an individual member of a RAB, such as an off-site workshop on building leadership capabilities. DoD does not consider such training to be unique to and mutually beneficial to the establishment and operation of a RAB. However, DoD notes that types of training that are not eligible for funding as a RAB administrative expense may qualify and be eligible for funding as technical assistance.

2. Funding

Section 324(d) of Pub. L. 104–106 amended section 2705(g) title 10, United States Code, prescribes the level and allocation of funds for RAB administrative expenses. Accordingly, DoD is proposing to establish these requirements as is. The proposed rule states that subject to available funding, operating installations should pay for RAB administrative expenses using funds from their Component's DERA. At closing installations, DoD proposes that installations use BRAC funds to pay for eligible RAB administrative expenses.

3. Technical Assistance to Community Members

Section 324(c) of Pub. L. 104–106 revised section 2705(e), title 10, United States Code, enables a RAB or TRC to request from the private sector, technical assistance for interpreting scientific and engineering issues with regard to the nature of environmental

[1] Further guidance on training RAB community members may be found in "Restoration Advisory Board Guidelines, DoD/EPA September 1994."

[2] For further guidance on meeting formats see "Restoration Advisory Board Implementation Guidelines, DoD/EPA September 1994."

hazards at the installation and the restoration activities conducted, or proposed to be conducted at the installation.

This proposed rule states that community members of RABs or TRCs seeking technical assistance in interpreting information with regard to the restoration activities at an installation may request assistance from such programs as EPA's TAG and TOSC programs. Section 117(e) and 311(d) of CERCLA as amended by SARA, established the TAG and TOSC programs, respectively. These programs provide grants for groups of individuals to hire independent technical advisors who can help them understand technical information, findings, and recommendations related to a site. Regulations for EPA's TAG program are found in 40 CFR part 35 subpart M.

On May 24, 1995, DoD issued a Notice of Request for Comments (60 FR 27460), in which DoD requested comments on three options for technical assistance funding to citizens affected by environmental restoration activities at DoD installations (referred to as the Technical Assistance for Public Participation (TAPP) rulemaking). As the final TAPP rulemaking will specify the selected option for providing technical assistance for short-term training, attendance at workshops, and the procurement of technical consultants to interpret scientific and engineering issues with regard to the nature of environmental hazards at an installation and the restoration activities proposed for or conducted at the installation, DoD does not address these requirements in this proposed rule.

Upon DoD's promulgation of TAPP regulations, community members of RABs or TRCs may request the installation CO, or appropriate DoD official, to obtain from private sector sources technical assistance.

4. Documenting and Reporting Activities and Expenses

Section 324(f) of Pub. L. 104–106 amends section 2706(a)(2) of title 10, United States Code, by adding subsection (j) requiring DoD to report to Congress on the activities of TRCs and RABs. In order to fulfill this requirement, this proposed rule requires that the installation at which a RAB has been established document the activities of the RAB and track expenditures for administrative expenses of the RAB. With regards to tracking expenses, DoD recommends that installations tally costs according to the specific activities identified above (see section IV.C.1.b. of the preamble) that are typical of administrative support required for a RAB.

Although this proposed rule requires installations to document RAB activities and track expenditures, DoD is not prescribing specific procedures to accomplish this. In addition, DoD will use internal department and service-specific reporting mechanisms to obtain required information from installations on RAB activities and expenditures when reporting to the Congress.

V. Regulatory Analysis

A. Regulatory Impact Analysis Pursuant to Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), DoD must determine whether a regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order.

DoD has determined that this proposed rule is not a "significant regulatory action" because it is unlikely to:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, of State, local, or tribal governments or communities;

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan program or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

B. Regulatory Flexibility Act

It has been certified that this proposed rule is not subject to the Regulatory Flexibility Act (RFA) of 1980, 5 U.S.C. 601 *et seq.* because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. The primary effect of the proposed rule will be to increase community involvement in DoD's environmental restoration program.

C. Paperwork Reduction Act

It has been certified that the proposed rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

VI. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, DoD must prepare a statement to accompany any rule where the estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, will be $100 million or more in any one year.

DoD has determined that this proposed rule will not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

List of Subjects in 32 CFR Part 202

Administrative practice and procedure, Environmental protection—restoration, Federal buildings and facilities, Organization and functions (Government agencies).

Title 32 of the Code of Federal Regulations, Chapter I, Subchapter M, is amended by adding part 202 to read as follows:

PART 202—RESTORATION ADVISORY BOARDS (RABs)

Subpart A—General Requirements

Sec.
202.1 Purpose, scope, and applicability.
202.2 Criteria for establishment.
202.3 Notification.
202.4 Composition of a Restoration Advisory Board (RAB).

Subpart B—Operating Requirements

202.5 Creating a mission statement.
202.6 Selecting co-chairs.
202.7 Developing operating procedures.

Subpart C—Administrative Support, Funding, and Reporting Requirements

202.8 Administrative support and funding.
202.9 Technical assistance to community members.
202.10 Documenting and reporting activities and expenses.

Authority: 5 U.S.C. 551 et seq. and 10 U.S.C. 2705.

Subpart A—General Requirements

§ 202.1 Purpose, scope, and applicability.

(a) The purpose of this part is to establish regulations regarding the characteristics, composition, funding and establishment of Restoration Advisory Boards (RABs).

(b) The regulations in this part apply to all RABs regardless of when the board was established.

(c) The purpose of a RAB is to provide an expanded opportunity for stakeholder input into the environmental restoration process occurring at operating and closing installations and at formerly used defense sites. Stakeholders are those parties that are actually or may be potentially affected by restoration activities at the installation.

(d) A RAB will complement other community involvement efforts

occurring at an installation; however it does not replace other types of community outreach and participation activities required by applicable laws and regulations.

§ 202.2 Criteria for establishment.

(a) A RAB should be established when there is sufficient and sustained community interest, and any of the following criteria are met:

(1) The closure of an installation involves the transfer of property to the community;

(2) At least 50 local citizens petition the installation for creation of an advisory board;

(3) Federal, state, or local government representatives request the formation of an advisory board; or

(4) The installation determines the need for an advisory board.

(b) To determine the need for establishing a RAB, an installation should:

(1) Review correspondence files;

(2) Review media coverage;

(3) Consult local community members;

(4) Consult relevant government officials; and

(5) Evaluate responses to notices placed in local newspapers.

(c) The installation shall have lead responsibility for forming and operating a RAB.

§ 202.3 Notification.

Prior to establishing a RAB, an installation should notify potential stakeholders of its intent to form a RAB. In announcing the formation of a RAB, the installation should describe the purpose of a RAB and discuss opportunities for membership.

§ 202.4 Composition of a Restoration Advisory Board (RAB).

(a) *Membership.* At a minimum, each RAB should consist of representatives from the Department of Defense (DoD), the U.S. Environmental Protection Agency (EPA), state government, community, and local government. At closing installations, the representatives of the Base Realignment and Closure (BRAC) Cleanup Team (BCT) may also serve as the government representative(s) of the RAB. For non-closing installations, or installations where EPA has not been given support resources from DoD, EPA's involvement will be at the discretion of the Administrator of the appropriate EPA regional office.

(b) *Chairmanship.* Each RAB established shall have two cochairs; one representing the DoD installation and the other a community member. Co-chairs shall be responsible for directing and managing the operations of the RAB.

(c) *Compensation for Community Members of the Restoration Advisory Board.* The community co-chair and community members serve voluntarily, therefore they will not be compensated by DoD for their participation.

Subpart B—Operating Requirements

§ 202.5 Creating a mission statement.

Each RAB should develop a mission statement that describes its overall purpose and goals.

§ 202.6 Selecting co-chairs.

(a) *DoD Installation Co-Chair.* The DoD installation co-chair shall be selected by the installation's Commanding Officer or in accordance with military service-specific guidance.

(b) *Community Co-Chair.* The community co-chair shall be selected by the community members of the RAB.

§ 202.7 Developing operating procedures.

(a) Each RAB should develop a set of operating procedures. Areas that may be addressed in the procedures involve:

(1) Announcing meetings;

(2) Attendance of members at meetings;

(3) Frequency of meetings;

(4) Addition or removal of members;

(5) Length of service for members and co-chairs;

(6) Methods for dispute resolution;

(7) Review and responses to public comments;

(8) Participation of the public in operations of the RAB;

(9) Keeping the public informed about proceedings of the RAB.

(b) The installation and community co-chairs should prepare meeting minutes summarizing the topics discussed at meetings of the RAB. The installation should make the meeting minutes available in information repositories.

Subpart C—Administrative Support, Funding, and Reporting Requirements

§ 202.8 Administrative support and funding.

(a) Subject to the availability of funding, the installation shall provide administrative support to establish and operate a RAB.

(b) Allowable Administrative Expenses for a Restoration Advisory Board: The following activities unique to and directly associated with establishing and operating a RAB shall qualify as an administrative expense of a RAB:

(1) Establishment of the RAB;

(2) Membership selection;

(3) Certain types of training;

(4) Meeting announcements;

(5) meeting facility;

(6) Meeting facilitators, including translators;

(7) Preparation of meeting agenda materials and minutes;

(8) Maintenance of a mailing list for the RAB and mailings of materials developed and used by the RAB.

(c) Funding:

(1) At operating installations, administrative expenses for a RAB shall be paid for using funds from the Component's Environmental Restoration Accounts.

(2) At closing installations, administrative expenses for a RAB shall be paid using Base Realignment and Closure (BRAC) funds.

§ 202.9 Technical assistance to community members.

Community members of a RAB or TRC may request technical assistance for interpreting scientific and engineering issues with regard to the nature of environmental hazards at the installation and restoration activities conducted, or proposed to be conduct at the installation.

§ 202.10 Documenting and reporting activities and expenses.

The installation, at which a RAB is established, shall document the activities and record the administrative expenses associated with the RAB.

Dated: July 31, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 96–132; FCC 96–259]

Satellite Licensing Procedures

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: American Mobile Satellite Corporation ("AMSC") is the only U.S. mobile satellite service ("MSS") system currently authorized to operate in the upper L-band. However, international coordination has been extremely difficult and we do not believe we will be able to secure sufficient spectrum in the upper L-band for AMSC's operations. Therefore, the Commission