

endangered fish and wildlife (50 CFR part 222).

Issuance of permit No. 954 as required by the Endangered Species Act of 1973, as amended, was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the permit; and (3) is consistent with the purposes and policies set forth in section 2 of the Endangered Species Act.

Dated: May 18, 1995.

**Ann D. Terbush,**

*Chief, Permits & Documentation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 95-12724 Filed 5-23-95; 8:45 am]

BILLING CODE 3510-22-F

**DEPARTMENT OF DEFENSE**

**Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review.**

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Title: Applicable Forms; OMB Control Number: Telecommunications Service Priority System; SF Forms 315, 316, 317, 318, 319, and 320; OMB Control Number 0704-0305*

*Type of Request: Revision*

*Number of Respondents: 94*

*Responses Per Respondent: 18*

*Annual Responses: 1,692*

*Average Burden Per Response: 2.16*

*hours*

*Annual Burden Hours: 3,654*

*Needs and Uses: The*

Telecommunications Service Priority (TSP) System identifies leased telecommunications services vital to National Security and Emergency Preparedness, and provides the legal basis for vendor priority installation and restoration. The information collected hereby, provides the DoD with the data necessary to make appropriate telecommunications service priority assignments. It is additionally used to maintain the currency of associated data bases.

*Affected Public:* State or local governments; Businesses or other for-profit; Federal agencies or employees; and small businesses or organizations

*Frequency:* On occasion

*Respondent's Obligation:* Required to obtain or retain a benefit.

*OMB Desk Officer:* Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

*DoD Clearance Officer:* Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

Dated: May 19, 1995.

**Patricia L. Topping,**

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

[FR Doc. 95-12730 Filed 5-23-95; 8:45 am]

BILLING CODE 5000-04-P

**Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review**

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Title: Technical Assistance for Public Participation in the Defense Environmental Restoration Program*  
*Type of Request: Expedited Processing—Approval date requested: 30 days following publication in the*

**Federal Register**

*Number of Respondents: 100*

*Responses Per Respondent: 1*

*Annual Responses: 100*

*Average Burden Per Response: 6 hours*

*Annual Burden Hours: 600*

*Needs and Uses:* The Department of Defense (DoD) is establishing a Technical Assistance for Public Participation in the Defense Environmental Restoration Program as authorized by the National Defense Authorization Act of Fiscal Year 1995. The information collected hereby, will be utilized to assess whether one of the options DoD is proposing in the establishment of this program is feasible. A separately published Notice of Expression of Interest will propose criteria for providers, including technical expertise, management capability, and not-for-profit status, as well as offer potential providers an opportunity to submit responses expressing their interest in this program.

*Affected Public:* Not-for-profit institutions; State, local, or tribal government

*Frequency:* Onetime

*Respondent's Obligation:* Required to obtain or retain benefits

*OMB Desk Officer:* Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.  
*DoD Clearance Officer:* Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

Dated: May 19, 1995.

**Patricia L. Toppings,**

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

[FR Doc. 95-12731 Filed 5-23-95; 8:45 am]

BILLING CODE 5000-04-P

**Office of the Secretary**

**Manual for Courts-Martial**

**AGENCY:** Joint Service Committee on Military Justice (JSC).

**ACTION:** Notice of proposed amendment.

**SUMMARY:** The Department of Defense is considering recommending changes to the Manual for Courts-Martial, United States, 1984, Executive Order No. 12473, as amended by Executive Order Nos. 12484, 12550, 12586, 12708, 12767, 12888, and 12936. The proposed changes are part of the 1995 annual review required by the Manual for Courts-Martial and DoD Directive 5500.17, "Review of the Manual for Courts-Martial," January 23, 1985.

The proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, "Preparation and Processing of Legislation, Executive Orders, Proclamations, and Reports and Comments Thereon", May 21, 1964, and do not constitute the official position of the Department of Defense, the Military Departments, or any other government agency.

This notice is provided in accordance with DoD Directive 5500.17, "Review of the Manual for Courts-Martial", January 23, 1985. This notice is intended only to improve the internal management of the Federal government. It is not intended to create any right or benefit, substantive or procedural, enforceable at

law by a party against the United States, its agencies, its officers, or any person.

The proposed changes follow in their entirety: R.C.M. 305(g), *et seq.*, is amended to read as follows: (g) *Who may direct release from confinement.* Any commander of a prisoner, an officer appointed under regulations of the Secretary concerned to conduct the review under subsections (i) and/or (j) of this rule, or, once charges have been referred, a military judge detailed to the court-martial to which the charges against the accused have been referred may direct release from pretrial confinement. For the purposes of this subsection, "any commander" includes the immediate or higher commander of the prisoner and the commander of the installation on which the confinement facility is located. (h) *Notification and action by commander.*

(1) *Report.* Unless the commander of the prisoner ordered the pretrial confinement, the commissioned, warrant, noncommissioned, or petty officer in to whose charge the prisoner was committed shall, within 24 hours after that commitment, cause to be made a report to the commander which shall contain the name of the prisoner, the offenses charged against the prisoner, and the name of the person who ordered or authorized confinement.

(2) *Action by commander.*

(A) *Decision.* Not later than 72 hours after the commander's ordering of a prisoner into pretrial confinement, or after receipt of a report that a member of the commander's unit or organization has been confined, whichever situation is applicable, the commander shall decide whether pretrial confinement will continue. A commander complying with RCM 305(d), or this subsection, may also satisfy the probable cause review of subsection RCM (i)(1) and (2) below, provided the commander is a neutral and detached officer and acts within 48 hours of the imposition of confinement under the military's control.

(B) *Requirements for confinement.* The commander shall direct the prisoner's release from pretrial confinement unless the commander believes upon probable cause, that is, upon reasonable grounds, that:

- (i) An offense triable by a court-martial has been committed;
- (ii) The prisoner committed it; and
- (iii) Confinement is necessary because it is foreseeable that:
  - (a) The prisoner will not appear at trial, pretrial hearing, or investigation, or
  - (b) The prisoner will engage in serious criminal misconduct; and

(iv) Less severe forms of restraint are inadequate.

Serious criminal misconduct includes intimidation of witnesses or other obstruction of justice, seriously injuring others, or other offenses which pose a serious threat to the safety of the community or to the effectiveness, morale, discipline, readiness, or safety of the command, or to the national security of the United States. As used in this rule, "national security" means the national defense and foreign relations of the United States and specifically includes: military or defense advantage over any foreign nation or group of nations; a favorable foreign relations position; or a defense posture capable of successfully resisting hostile or destructive action from within or without, overt or covert.

(C) *Memorandum.* If continued pretrial confinement is approved, the commander shall prepare a written memorandum which states the reasons for the conclusion that the requirements for confinement in subsection (h)(2)(B) of this rule have been met. This memorandum may include hearsay and may incorporate by reference other documents, such as witness statements, investigative reports, or official records. This memorandum shall be forwarded to the 7 day reviewing officer under subsection (i) of this rule. If such a memorandum was prepared by the commander before ordering confinement, a second memorandum need not be prepared, however, additional information may be added to the memorandum at any time.

(i) *Procedures for review of pretrial confinement.*

(1) *Preliminary review.* Review of the adequacy of probable cause to continue pretrial confinement shall be made by a neutral and detached officer within 48 hours of imposition of confinement under military control. If the prisoner was apprehended by civilian authorities and remains in civilian custody at the request of military authorities, reasonable efforts will be made to bring the prisoner under military control in a timely fashion. In calculating the number of days of confinement for purposes of this rule, the initial date of confinement shall count as one day and the date of the review shall also count as one day.

(2) *By whom made.* The review under subsection (1) shall be made by a neutral and detached officer. A determination made by a commanding officer under subsection (d) or (h) of this rule satisfies this requirement.

(3) *7 Day Review.* Within 7 days of the imposition of confinement, a neutral and detached officer appointed in

accordance with regulations prescribed by the Secretary concerned shall review the probable cause determination and necessity for continued pretrial confinement.

(4) *Nature of the 7 day review.*

(A) *Matters considered.* The review under this subsection shall include a review of the memorandum submitted by the prisoner's commander under subsection (h)(2)(C) of this rule. Additional written matters may be considered, including any submitted by the accused. The prisoner, and the prisoner's counsel, if any, shall be allowed to appear before the reviewing officer and make a statement, if practicable. A representative of the command may appear before the reviewing officer to make a statement.

(B) *Rules of evidence.* Except for Mil. R. Evid., Section V (Privileges) and Mil. R. Evid. 302 and 305, the Military Rules of Evidence shall not apply to the matters considered.

(C) *Standard of proof.* The requirements for confinement under subsection (h)(2)(B) of this rule must be proved by a preponderance of the evidence.

(5) *Extension of time limit.* The reviewing officer may, for good cause, extend the time limit for completion of the initial review to 10 days after the imposition of pretrial confinement.

(6) *Action by reviewing officer.* Upon completion of review, the reviewing officer shall approve continued confinement or order immediate release.

(7) *Memorandum.* The reviewing officer's conclusions, including the factual findings on which they are based, shall be set forth in a written memorandum. A copy of the memorandum and of all documents considered by the reviewing officer shall be maintained in accordance with regulations prescribed by the Secretary concerned and provided to the accused or the Government on request.

(8) *Reconsideration of approval of continued confinement.* The reviewing officer shall, after notice to the parties, reconsider the decision to confine the prisoner upon request based upon any significant information not previously considered.

(j) *Review by military judge.* Once the charges for which the accused has been confined are referred to trial, the military judge shall review the propriety of the pretrial confinement upon motion for appropriate relief.

(1) *Release.* The military judge shall order release from pretrial confinement only if:

(A) The reviewing officer's decision was an abuse of discretion, and there is not sufficient information presented to

the military judge justifying continuation of pretrial confinement under subsection (h)(2)(B) of this rule;

(B) Information not presented to the reviewing officer establishes that the prisoner should be released under subsection (h)(2)(B) of this rule; or

(C) The provisions of subsection (i) (2) or (3) of this rule have not been complied with and information presented to the military judge does not establish sufficient grounds for continued confinement under subsection (h)(2)(B) of this rule.

(2) Pretrial Confinement Credit. The military judge shall order administrative credit under subsection (k) of this rule for any pretrial confinement served. A military judge shall order 1 day credit for each day of confinement served in anticipation of trial by courts-martial, and may order more than 1 day credit for each day served as a result of abuse of discretion or of failure to comply with the provisions of subsection (f), (h), or (i) of this rule. The military judge may order additional credit for each day of pretrial confinement considered illegal or which involves unusually harsh circumstances.

Amendments be amended by inserting the following at the end of section R.C.M. 305(i) Amendments:

1995 Amendment: The amendment to subsections (h)(2)(A) and (i) conforms military practice to the 48-hour probable cause review required by *County of Riverside v. McLaughlin*, 500 U.S. 44 (1991), and *United v. Rexroat*, 38 M.J. 292 (C.M.A. 1993). *Rexroat*, which applies *McLaughlin* to courts-martial, requires that after an accused is ordered into pretrial confinement, a neutral and detached official must review the probable cause for continued pretrial confinement within 48 hours. *Rexroat* makes clear that this neutral and detached official may be a commander, but this is not required. Additionally, nothing in this amendment prohibits the commander initially ordering an accused into pretrial confinement under subsection (d) from conducting the 48-hour probable cause review required by the subsection (i) (1) and (2), or the 72-hour review required by subsection (h)(2)(A), or all three actions, provided that commander is neutral and detached within the meaning of *United States v. Ezell*, 6 M.J. 307, 318-319 (C.M.A. 1979), and *United States v. Lopex*, 35 M.J. 35, 41 Rule 1109. Vacation of suspension of sentence Rule 1109(d), is amended to read as follows:

(d) Vacation of suspended general court-martial sentence or of a special court-martial sentence including a suspended bad-conduct discharge.

Rule 1109(d)(1)(A), is amended to read as follows:

(A) In general. Before vacation of the suspension of any general court-martial sentence, or of special court-martial sentence which, as approved, includes a suspended bad-conduct discharge, the officer having special court-martial jurisdiction over the probationer shall personally hold a hearing on the alleged violation of the conditions of suspension. If there is no officer having special court-martial jurisdiction over the accused, who is subordinate to the officer having general court-martial jurisdiction over the accused, the officer exercising general court-martial jurisdiction over the accused shall personally hold the hearing under subsection (d)(1) of this rule. In such cases, subsection (d)(1)(D) of this rule shall not apply.

(1) Action by officer having special court-martial jurisdiction over probationer.

Rule 1109(e), is amended to read as follows:

(e) Vacation of suspended special court-martial sentence not including a suspended bad-conduct discharge or of a suspended summary court-martial sentence.

Rule 1109(e)(1), is amended to read as follows:

(1) In general. Before a vacation of the suspension of the special court-martial sentence not including a suspended bad-conduct discharge or of a summary court-martial sentence, the officer having authority to convene for the command in which the probationer is serving or assigned to same kind of court-martial which imposed the sentence shall cause a hearing to be held on the alleged violation(s) of the conditions of suspension.

The following discussion section shall be inserted after R.C.M. 1109(e)(5):

#### Discussion

If the special court-martial includes an approved bad conduct discharge, and suspended lesser punishments, the special court-martial convening authority may approve the vacation of lesser punishments.

Appendix 21, R.C.M. 1109 Amendments be amended by inserting the following at the end thereof:

1995 Amendment: The Rule is amended to clarify that "the suspension of a special court-martial sentence which as approved includes a bad-conduct discharge," permits the officer exercising special court-martial jurisdiction to vacate any suspended punishments other than an approved suspended bad conduct discharge.

M.R.E. 1102 is amended to read as follows:

Substantive amendments to the Federal Rules of Evidence, in so far as they affect criminal proceedings, shall apply to the Military Rules of Evidence 180 days after the effective date of such amendments unless action to the contrary is taken by the President.

Appendix 22, Rule 1102 Amendments be amended by inserting the following at the end thereof:

1995 Amendment: The rule is modified to more clearly reflect the Committee's original intent that the Federal Rules of Evidence apply to the armed forces "to the extent practicable". The new language is intended to insure that only changes which affect the substantive criminal practice, as opposed to technical language of the rule, are automatically applicable to the armed forces.

Part IV of the *Manual for Courts-Martial, United States, 1984*, be amended by inserting the following new paragraph after paragraph 97:

97a. Article 134—(Parole, Violation of)

a. Text. See paragraph 60.

b. Elements.

(1) That the accused was a prisoner as the result of a court-martial conviction;

(2) That the accused was on parole;

(3) That the conditions of parole were that (\_\_\_\_\_);

(4) That the accused violated the conditions of his parole by doing an act or failing to do an act;

(5) That the conduct was to the prejudice of good or discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. Explanation.

(1) "Prisoner" refers only to those in confinement resulting from conviction at a court-martial or other criminal proceedings.

(2) "Parole" is defined as "word or honor." A prisoner on parole, or parolee, has agreed to adhere to a parole plan and conditions of parole. A "parole plan" is a written or oral agreement made by the prisoner prior to parole to do or refrain from doing certain acts or activities. A parole plan may include a residence requirement stating where and with whom a parolee will live, and a requirement that the prisoner have an offer of guaranteed employment. "Conditions of parole" include the parole plan and other reasonable and appropriate conditions of parole, such as paying restitution, beginning or continuing treatment for alcohol or drug abuse, or paying a fine ordered executed as part of the prisoner's court-martial sentence. In return for giving his or her "word of honor" to abide by a parole

plan and conditions of parole, the prisoner is granted parole.

d. Lesser included offense. Article 80—attempts.

e. Maximum punishment. Bad conduct discharge, confinement for 6 months and forfeiture of two-thirds pay per month for 6 months.

f. Sample specification.

In that \_\_\_\_\_ (personal jurisdiction data), a prisoner on parole, did, (at/on board—location), on or about \_\_\_\_\_, 199\_\_\_\_, violate the conditions of his parole by \_\_\_\_\_.

**ADDRESSES:** Copies of the proposed changes may be examined at the Office of the Judge Advocate General, Criminal Law Division, Building 111, Washington Navy Yard, Washington, DC 20374-1111. A copy of the proposed changes may be obtained by mail upon request from the foregoing address, ATTN: LT Kristen M. Henrichsen.

**DATES:** Comments on the proposed changes must be received no later than August 7, 1995, for consideration by the Joint Service Committee on Military Justice.

**FOR FURTHER INFORMATION CONTACT:** LT Kristen M. Henrichsen, JAGC, USN, Executive Secretary, Joint Service Committee on Military Justice, Office of the Judge Advocate General, Criminal Law Division, Building 111, Washington Navy Yard, Washington, DC 20374-1111; (202) 433-5895.

Dated: May 18, 1995.

**L.M. Bynum,**

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

[FR Doc. 95-12631 Filed 5-23-95; 8:45 am]

BILLING CODE 5000-04-M

### Department of Defense Education Benefits Board of Actuaries; Notice of Meeting

**SUMMARY:** A meeting of the board has been scheduled to execute the provisions of Chapter 101, Title 10, United States Code (10 U.S.C. 2006 et. seq.). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of the G.I. Bill. Persons desiring to 1) attend the DoD Education Benefits Board of Actuaries meeting or 2) make an oral presentation or submit a written statement for consideration at the meeting must notify Patricia Robertson at (703) 696-6336 by July 28, 1995.

**DATES:** August 4, 1995, 10 am to 1 pm.

**ADDRESSES:** Room 1E801 #4.

### FOR FURTHER INFORMATION CONTACT:

Benjamin I. Gottlieb, Executive Secretary, DoD Office of the Actuary, 4th floor, 1600 Wilson Boulevard, Arlington, VA 22209-2593, (703) 696-5869.

Dated: May 18, 1995.

**L.M. Bynum,**

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

[FR Doc. 94-12629 Filed 5-23-94; 8:45 am]

BILLING CODE 5000-04-M

### Joint Service Committee on Military Justice; Public Meeting

**AGENCY:** Joint Service Committee on Military Justice (JSC).

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda for the 1995 annual public meeting of the JSC. This notice also describes the functions of the JSC.

**DATES:** Wednesday, July 12, 1995, 10 a.m. to 11 a.m.

**ADDRESS:** Building 111, Washington Navy Yard, Washington, DC.

**FUNCTION:** The JSC was established by the Judge Advocates General in 1972. The JSC currently operates under Department of Defense Directive 5500.17 of January 23, 1985. It is the function of the JSC to improve Military Justice through the preparation and evaluation of proposed amendments and changes to the Uniform Code of Military Justice and the *Manual for Courts-Martial*.

**AGENDA:** The JSC will receive public comment concerning its 1995 Annual Review of *Manual for Courts-Martial, United States, 1984*, as published on May 24, 1995.

### FOR FURTHER INFORMATION CONTACT:

LT Kristen M. Henrichsen, JAGC, USN, Executive Secretary, Joint Service Committee on Military Justice, Building 111, Washington Navy Yard, Washington, DC 20374-1111; (202) 433-5895.

Dated: May 24, 1995.

**L.M. Bynum,**

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

[FR Doc. 95-12630 Filed 5-23-95; 8:45 am]

BILLING CODE 5000-04-M

### Department of the Air Force

#### Record of Decision (ROD) for the Disposal and Reuse of Richards-Gebaur Air Force Base (AFB), Colorado

On April 28, 1995, the Air Force signed the ROD for the Disposal and Reuse of Richards-Gebaur AFB. The decisions included in this ROD have been made in consideration of, but not limited to, the information contained in the Final Environmental Impact Statement (FEIS) filed with the Environmental Protection Agency on July 1, 1994.

Richards-Gebaur AFB closed on September 30, 1994, pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (Pub. L. 100-526) upon recommendation of the Secretary of Defense and findings of the Defense Base Closure and Realignment Commission. This ROD documents the Richards-Gebaur AFB disposal decisions.

The decision conveyed by the ROD is to dispose of Richards-Gebaur AFB in a manner that enables airport operation and commercial, office, and industrial areas. In addition, there will be two military reusers. This allows for the full implementation of the central theme of the proposed future land use plans discussed in the FEIS. The environmental findings and mitigation measures contained in the ROD remain fully applicable.

Consistent with the community reuse plan, the ROD balances aviation, industrial, office industrial park, commercial, and military uses throughout the base.

Several disposal methods and parcels are involved in the ROD, including a public benefit conveyance sponsored by the Federal Aviation Administration (FAA), Federal transfers to the U.S. Army and the U.S. Marine Corps, and negotiated sales to public bodies.

Of the 428 acres, the Kansas City Aviation Department (KCAD) will gain more than 178 acres in an FAA-sponsored public benefit conveyance. Another 12-acre transfer will be offered to the City of Belton, Missouri through negotiated sale. The Air Force will transfer 184 acres to the Department of the Army, and 54 acres to the U.S. Marine Corps. The electric system with appropriate easements for maintenance and repair will be conveyed through negotiated sale to an eligible public body. The other utilities (gas, telephone, water, and sewer) were transferred in a previous disposal action. Utility