

Subpart A—Polymer Substances and Polymer Adjuvants for Food Treatment

§ 173.75 Sorbitan monooleate.

Sorbitan monooleate may be safely used in accordance with the following prescribed conditions:

(a) The additive is produced by the esterification of sorbitol with commercial oleic acid.

(b) It meets the following specifications:

(1) Saponification number, 145–160.

(2) Hydroxyl number, 193–210.

(c) The additive is used or intended for use as follows:

(1) As an emulsifier in polymer dispersions that are used in the clarification of cane or beet sugar juice or liquor in an amount not to exceed 7.5 percent by weight in the final polymer dispersion.

(2) The additive is used in an amount not to exceed 0.70 part per million in sugar juice and 1.4 parts per million in sugar liquor.

Dated: March 31, 1986.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-7563 Filed 4-4-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

Abandoned Mine Reclamation Fund; Fee Collection and Coal Production Reporting

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Notice of decision on petition for rulemaking.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) makes available to the public its final decision on a petition for rulemaking from the United States Fuel Company (U.S. Fuel). The petition requests that OSMRE modify its definition of "reclaimed coal" contained in 30 CFR 870.5. On March 31, 1986, the Director made a decision denying the petition.

ADDRESS: Copies of the petition, and other relevant materials comprising the administrative record of this petition are available for public review and copying at OSMRE, Administrative Record,

Room 5124B-L, 1100 L Street, NW., Washington DC.

FOR FURTHER INFORMATION CONTACT:

Richard O. Miller, Chief, Regulatory Development and Issues Management, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Ave., NW., Room 134, Washington, DC 20240. Telephone (202) 343-5546.

SUPPLEMENTARY INFORMATION:

I. Petition for Rulemaking Process

Pursuant to section 201(g) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*, any person may petition the Director of OSMRE for a change in OSMRE's regulations. Under the applicable regulations for rulemaking petitions, 30 CFR 700.12, the Director must first determine whether the petition has a reasonable basis. If the petition has a reasonable basis, notice is published in the *Federal Register* seeking comments on the petition and the Director may hold a public hearing, conduct an investigation, or take other action to determine whether the petition should be granted. If the petition is granted, the Director initiates a rulemaking proceeding. If the petition is denied, the Director notifies the petitioner in writing setting forth the reasons for denial. Under § 700.12(d), the Director's decision constitutes the final decision for the Department of the Interior.

II. The United States Fuel Company Petition

OSMRE received a letter dated July 5, 1985, from the United States Fuel Company (U.S. Fuels) presenting to the Secretary of the Interior a petition for further interpretation of the definition of "reclaimed coal" contained in 30 CFR 870.5. After determining that the petition had sufficiently reasonable basis to seek further comments, the Director published the petition in the *Federal Register* (50 FR 36858) requesting public comment. The comment period began September 9, 1985, and was closed on October 18, 1985. Five persons submitted written comments during the public comment period.

The Director's letter response to the petitioner on this rulemaking petition appears as an appendix to this notice. This letter reports the Director's decision to the petitioner. It also contains a summary description of the issues raised by the petitioner, OSMRE's current regulatory program, an analysis of the petitioner's proposed regulatory change, and a discussion of the comments received on the petition.

Dated: March 31, 1986.

Jed D. Christensen,

Director, Office of Surface Mining Reclamation and Enforcement.

Appendix

The Director's response to the petition from the United States Fuel Company, is as follows:

Mr. Robert G. Pruitt, III,

Pruitt, Gushee and Fletcher, Suite 1850
Beneficial Life Tower, Salt Lake City,
Utah 84111

Re: United States Fuel Company: Petition for Rulemaking

Dear Mr. Pruitt: After careful consideration, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is denying the United States Fuel Company (U.S. Fuels) Petition for Rulemaking which requested that OSMRE modify the definition of "reclaimed coal" found at 30 CFR 870.5.

Background

On July 5, 1985, U.S. Fuels filed a petition for rulemaking under section 201(g) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1211(g) (SMCRA). That section allows any person to petition the Director of OSMRE to initiate a proceeding to issue, amend or repeal a rule adopted by the Secretary under SMCRA.

Title IV of SMCRA dealing with abandoned mine reclamation, creates a trust fund in the Treasury of the United States for the restoration of land and water resources and environment previously degraded by adverse effects of past coal mining practices. 30 U.S.C. 1233(3). The fund consists of sums collected pursuant to section 402(a) of SMCRA which provides:

All operators of coal mining operations subject to the provisions of this Act shall pay to the Secretary of the Interior for deposit in the fund, a reclamation fee of 35 cents per ton of coal produced by surface coal mining and 15 cents per ton of coal produced by underground mining or 10 percentum of the value of the coal at the mine, as determined by the Secretary, whichever is less 30 U.S.C. 1232(a).

OSMRE's regulations implementing this section of the Act are found at 30 CFR Part 870. OSMRE has by regulation defined surface coal mining, underground coal mining, and reclaimed coal.

Text of OSMRE's existing regulation at 30 CFR 870.5 is as follows:

Reclaimed coal means coal recovered from a deposit that is not in its original geological location, such as refuse piles or culm banks or retaining dams and ponds that are or have been used during the mining or preparation process, and stream coal deposits. Reclaimed coal operations are considered to be surface coal mining operations for fee liability and calculation purposes. (Emphasis added.)

The U.S. Fuel petition seeks to modify the definition of "reclaimed coal" found at 30 CFR 870.5 with regard to production of certain reclaimed coal within the permit area of active underground operations. The proposed change would have applied to the limited circumstance where the reclaimed

coal consists of coal-fines which are washed out during processing at an on-site preparation plant, as part of an active underground mining operation. Under the modification, the reclaimed coal-fines would be treated as underground mined coal, and the fee rate of 15 cents per ton would apply.

Pursuant to the applicable regulations for rulemaking petitions, 30 CFR 700.12(c), the Director published a notice of the petition in the *Federal Register* seeking comments from the public on the proposed change. The comment period closed on October 18, 1985. See, 50 FR 36858, September 9, 1985.

Basis for Decision

A number of factors form the basis for OSMRE's decision. Of primary concern to OSMRE is the adverse effect any change in definition would have on regulatory stability. OSMRE has been collecting abandoned Mine Reclamation fees since 1977. Such collection will end in 1992. Any change to the definition at this time will generate uncertainty for all remaining operations and may result in a flurry of new legal challenges and requests for recalculation of fee amounts. Moreover, OSMRE's existing reclaimed coal regulations have been subjected to Federal court review and have been repeatedly upheld. For instance, the Court of Appeals ruling in *U.S. v. Devil's Hole, Inc.*, 747 F.2d 895 (3d Cir. 1984), concerning remining of pre-Act anthracite silt deposits, upheld the Secretary's reclaimed coal regulations as being consistent with the Surface Mining Control and Reclamation Act of 1977 (SMCRA). See also *U.S. v. Consolidation Coal Co.*, *infra*. OSMRE's regulations are also consistent with the Internal Revenue Service (IRS) definition of "coal produced from a surface mine" found at 26 CFR 48.4121-1(d). The IRS regulations, which are used for calculating Black Lung Tax, provide that coal reclaimed from coal waste refuse piles be treated as produced from a surface mine.

OSMRE's rule defining "reclaimed coal" was adopted in June 1982. The petition states that U.S. Fuel has marketed coal slurry since 1975. Although U.S. Fuel had a stake in the development of this regulation, it neglected to participate in the rulemaking process. The current definition of "reclaimed coal" was not challenged within the 60 days after being promulgated as required by section 526(a) of SMCRA. Thus the procedural attacks on the current rule included in U.S. Fuel's petition should have been raised in a direct challenge to the rule at the time the rule was promulgated and will not be considered at this time.

To justify a change in the current rule, OSMRE is obligated to supply a reasoned analysis for the change. See, *Motor Vehicle Manufacturer's Association v. State Farm Mutual Automobile Insurance Company*, 463 U.S. 29, 103 S. Ct. 2856, 2866, 77 L. Ed. 2d 4433 (1983). OSMRE does not agree that the several arguments set forth in U.S. Fuel's petition recommending the rule change are sufficient to support a change in agency regulation. The change in the regulation which U.S. Fuel now seeks is more in the nature of a private remedy than an improvement to the regulatory scheme.

Under U.S. Fuel's suggested modification, a lesser amount of total fees would be

deposited in the abandoned Mine Land (AML) fund with no resulting increase in lands reclaimed. Without such an offset, little justification exists for reducing moneys available for reclamation. Revenue enhancement for this fund is important so as to further the purposes of SMCRA and maximize moneys available to reclaim abandoned mined lands. See, sections 101(b), 102(a) and 102(h) of SMCRA.

U.S. Fuel alleges that a lower fee rate would encourage the recovery of the coal slurry and thus reduce the environmental costs associated with the construction, maintenance, and reclamation of its sedimentation ponds. Although a lower fee may act as an incentive for U.S. Fuel's slurry sales, no additional incentive would be created for remining lands which would not otherwise be reclaimed. Under Title V of SMCRA, U.S. Fuel is already obligated to reclaim ponds located within the permit area. Thus, there would be no corresponding reduction in national environmental reclamation costs to match a reduction in reclamation fees.

U.S. Fuel also contends that a lower fee rate will "promote recovery of the coal resource." The petition explains how U.S. Fuel has been able to capitalize on the use of its slurry by mixing it with run-of-mine coal to meet existing contract requirements. U.S. Fuel makes no allegations that the practice of mixing slurry is financially dependent upon securing a lower fee rate. Contrary to what U.S. Fuel says, a strong incentive already appears to exist for recovery and use of the coal slurry. The petition itself points out that if U.S. Fuel did not mix the slurry with the higher grade underground coal to fulfill its contracts, the extra coal quality would be wasted. Mixing of slurry with run-of-mine coal appears to be prudent business practice for U.S. Fuel independent of OSMRE's reclamation fee schedule.

U.S. Fuel also alleges that little or no market value exists for this coal slurry without the adjacent underground mining operation. In formulating the fee schedule, Congress considered the possibility of operators mining coal of minimal value and provided these operators with the option of paying a reclamation fee at the rate of "10 percent of the value of the coal at the mine." 30 U.S.C. 1232. In doing so, Congress has determined that the current fee schedule would not otherwise act as a disincentive for recovery of lower grade coal. U.S. Fuel retains the option of paying fees based on the value of the coal produced.

U.S. Fuel's last argument is that because the coal slurry is a byproduct of underground mining operations the fee for coal produced by underground mining methods should apply. This argument must also fail. The coal produced from the slurry is not produced by underground mining methods. Under OSMRE's regulations, U.S. Fuel's coal is "produced" when the slurry is dredged and separated from the accompanying waste material. These are not underground extraction techniques. Under the rules, reclamation fee liability attaches at the time of the first transaction (sale or transfer of ownership) or use of the coal by the operator immediately after it is removed from a

reclaimed coal refuse deposit. 30 CFR 870.12(b)(1). Courts reviewing this issue have consistently held that remined coal is produced at the time of the remaining operation. In a recent Federal court decision, the court reemphasized that Congress intended to impose a reclamation fee on "those who gain an economic benefit from the coal when they gain the advantage." *U.S. v. Consolidation Coal Co.*, C.A. No. 82-1077 (S.D. W. Va., Nov. 7, 1985); *U.S. v. Sam Kennedy*, C.A. No. CV 82-4234 (S.D. Ill., Feb. 24, 1984); *U.S. v. Hecla Machinery and Equipment Company*, C.A. No. 80-4554; *U.S. v. Devil's Hole, Inc.*, C.A. No. 40-4553 (E.D. Pa., Dec. 29, 1983); *U.S. v. S.S. Burford, Inc.*, C.A. No. 82-385-E (N.D. W. Va., June 6, 1983).

U.S. Fuel's process for removing the coal from the slurry ponds is no different than numerous anthracite silt recovery operations in the eastern United States. These are "surface-mining" methodologies, requiring a substantially more modest capital investment than underground mines. Congress noted this difference in operating costs when formulating the reclamation fee schedule. Congress intended that the fee rate take into consideration the "disproportionately high social costs incurred by underground coal mine operators in meeting responsibilities under the Coal Mine Health and Safety Act of 1969" H.R. Rep. No. 218, 95th Cong., 1st Sess. 137, reprinted in 1977 U.S. Code Cong. & Ad. News 509, 669. Thus, OSMRE's determination that reclaimed coal should be treated as surface mined coal is consistent with the intent of Congress.

OSMRE received comments on the petition from several sources. The majority of the commenters, all but one of which were coal operators having a self-interest in reducing their fee payments, supported a lower fee for reclaimed or remined coal. Several commenters suggested that OSMRE look to the source of the coal in assessing fee rates. As discussed earlier, courts have upheld OSMRE's position regarding time of production and have discarded the argument repeatedly made by operators that the source of the coal should control. Also, commenters asserted that a rule change would provide an incentive for remining lands which would not otherwise be reclaimed. Although possibly a valid consideration in a more general proceeding, it does not apply to U.S. Fuel's narrow petition only concerning slurry remined within the permit area of an ongoing underground operation. Operators who would benefit from this suggested rule change are already obligated to reclaim all disturbances within their permit areas. Several commenters stated that the 35 cent-per-ton surface rate would adversely affect remining of lower-valued coal refuse. No documentation has been produced to demonstrate that the 35 cent-per-ton fee has rendered the remining of coal uneconomical. And, as discussed earlier, Congress recognized potential disparities in market value by allowing payment of 10 percent of the value of the coal for operators mining low-value coal. See, 30 CFR 870.13(a), (b).

For all of the foregoing reasons, OSMRE denies U.S. Fuel's petition filed with the

Director on July 5, 1985, and declines to modify the existing definition of "reclaimed coal" set forth at 30 CFR 870.5. Under 30 CFR 700.12(d), this letter constitutes a final decision of the Interior Department.

Sincerely,

Jed D. Christensen,
Director.

[FR Doc. 86-7596 Filed 4-4-86; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 552

Regulations Affecting Military Reservations; Fort Lewis Land Use Policy (FL 350-33)

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army is adding Subpart F to 32 CFR Part 552 to set forth regulations governing entry upon Army Training Areas on the Fort Lewis Military Reservation; Fort Lewis, Washington, which collectively comprise the area known as the Range Complex. It is intended that these regulations will give notice to the members of the public of the rules governing entry to the Range Complex areas on the Fort Lewis Military Reservation, Fort Lewis, Washington. **EFFECTIVE DATE:** April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. John Weller, HQ, I Corps and Fort Lewis, ATTN: AFZH-DPT-TIC, Fort Lewis, Washington 98433-5000, telephone (206) 967-6165.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Commanding General, Headquarters, I Corps and Fort Lewis, Fort Lewis, Washington on February 3, 1986 adopted entry regulations for the areas collectively known as the Range Complex on the Fort Lewis Military Reservation, Fort Lewis, Washington, entitled "Fort Lewis Land Use Policy" (FL Reg 350-33). Within the boundaries of the Fort Lewis Military Reservation are various parcels of land designated as Impact Areas, Close-In Training Areas, and Training Areas. These areas collectively compromise the Range Complex. The Range Complex is used extensively for military training essential to the combat readiness of the United States Army. The presence of unauthorized personnel is seriously disruptive of training activities, and presents a clear physical danger to soldiers and unauthorized personnel alike. Additionally there are conditions

within certain areas of the Range Complex which could be hazardous to any unauthorized personnel who enter such areas. In order that training mission requirements be met, it is imperative that a revised system of controlled entry be adopted. Accordingly, these regulations limit entry upon the Range Complex of the Fort Lewis Military Reservation to authorized Department of Defense Personnel and those members of the public who have obtained prior consent pursuant to these regulations. The requirements of the training mission, its importance to the national defense, and the need for protection of members of the public who utilize the Fort Lewis Military Reservation for recreational purpose mandate the immediate and uninterrupted effectiveness of these regulations. Further, no proposed rule has been published for the reasons stated above.

For editorial and administrative purposes, the Army is also amending 32 CFR Part 552 for greater clarity and use. The old Part 552 is subdivided by undesignated center headings and the updated Part 552 will contain subpart designations.

Executive Order 12291

It has been determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because the rule is administrative and has no economic effect on the public.

Regulatory Flexibility Act

The Department has also determined that this document will not have a significant economic effect on a substantial number of small entities and does not require a flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 32 CFR Part 552

Military reservations, Consumer protection, Federal buildings and facilities, and Real property acquisition.

PART 552—[AMENDED]

Accordingly, 32 CFR Part 552 is amended as follows:

1. The Table of Contents is amended by removing all undesignated centerheadings.

2. The Table of Contents is further amended by designating § 552.16 as Subpart A. §§ 552.18-552.19 as Subpart

B, § 552.25 as Subpart C, §§ 552.30-552.39 as Subpart D and §§ 552.50-552.83 as Subpart E.

3. The Table of Contents is further amended by adding entries for new Subpart F, and

4. By revising the authority citation for Part 552.

As amended, the Table of Contents and the authority citation for Part 552 read as follows:

PART 552—REGULATIONS AFFECTING MILITARY RESERVATIONS

Subpart A—Use of Department of the Army Real Estate Claims Founded Upon Contract

Sec.

552.16 Real estate claims founded upon contract.

Subpart B—Post Commander

552.18 Administration.

552.19 Hunting and fishing permits.

Subpart C—Entry Regulations for Certain Army Training Areas in Hawaii

552.25 Entry regulations for certain Army training areas in Hawaii.

Subpart D—Acquisition of Real Estate and Interest Therein

552.30 Purpose.

552.31 Definitions.

552.32 Authority to acquire real estate and interests therein.

552.33 Estates and methods of acquisition.

552.34 Policies relative to new acquisition.

552.35 Rights-of-entry for survey and exploration.

552.36 Rights-of-entry for construction.

552.37 Acquisition by Chief of Engineers.

552.38 Acquisition of maneuver agreements for Army commanders.

552.39 Acquisition of short-term leases by local commanding officers.

Subpart E—Solicitation on Military Reservations

552.50 Purpose.

552.51 Applicability.

552.52 Explanation of terms.

552.53 Regulatory requirements.

552.54 Solicitation.

552.55 Restrictions.

552.56 Licensing requirements.

552.57 Authorization to solicit.

552.58 Other transactions.

552.59 Granting solicitation privileges.

552.60 Supervision of on-post commercial activities.

552.61 Products and services offered in solicitation.

552.62 Advertising rules and educational programs.

552.63 "Cooling off" period for door-to-door sales.

552.64 Sound insurance underwriting and programing.

552.65 Command supervision.

552.66 Actions required by agents.

552.67 Life insurance policy content.

552.68 Minimum requirements for agents.

- Sec.
- 552.69 Application by companies to solicit on military installations in the United States, its territories, or the Commonwealth of Puerto Rico.
- 552.70 Application by companies to solicit on installations in foreign countries.
- 552.71 Associations—general.
- 552.72 Use of the allotment of pay system.
- 552.73 Minimum requirements for automobile insurance policies.
- 552.74 Grounds for suspension.
- 552.75 Factors in suspending solicitation privileges.
- 552.76 Preliminary investigation.
- 552.77 Suspension approval.
- 552.78 "Show cause" hearing.
- 552.79 Suspension action.
- 552.80 Suspension period.
- 552.81 Agents or companies with suspended solicitation privileges.
- 552.82 Exercise of "off limits" authority.
- 552.83 Standards of fairness.

Subpart F—Fort Lewis Land Use Policy

- 552.84 Purpose.
- 552.85 Applicability.
- 552.86 References.
- 552.87 General.
- 552.88 Responsibilities.
- 552.89 Activities.
- 552.90 Permit office.
- 552.91 Individual permit procedures.
- 552.92 Group permit procedures.
- 552.93 Permit deadline and duration.
- 552.94 Area access procedures.
- 552.95 Compatible use.
- 552.96 Violations.
- 552.97 Communications.

Appendix A—DPCA Recreational Areas in Training Areas

Appendix B—Non-Permit Access Routes

Appendix C—Authorized Activities for Ft. Lewis Maneuver Area Access

Appendix D—Unauthorized Activities in Ft. Lewis Maneuver Areas

Authority: 5 U.S.C. 301, 10 U.S.C. 3012, 15 U.S.C. 1601, 18 U.S.C. 1382, 31 U.S.C. 71, 40 U.S.C. 258a, 41 U.S.C. 14, 50 U.S.C. 797.

5. New Subpart F is added to Part 552 to read as follows:

Subpart F—Fort Lewis Land Use Policy

§ 552.84 Purpose.

(a) This regulation establishes procedures governing entry upon the Army training areas on Ft. Lewis, WA, designated in § 552.84(c) of this section.

(b) These procedures have been established to ensure proper use of these Army training areas. Uninterrupted military use is vital to maintain and improve the combat readiness of the US Armed Forces. In addition, conditions exist within these training areas which could be dangerous to any unauthorized persons who enter.

(c) This regulation governs all use of the Ft Lewis Military Reservation outside cantonment areas, housing areas, Gray Army Airfield, Madigan Army Medical Center, and recreational sites controlled by the Director of

Personnel and Community Activities (DPCA). The areas governed are designated on the overprinted 1:50,000 Ft Lewis Special Map as Impact Areas, lettered Close-In Training Areas (CTAs), or numbered Training Areas (TAs), and are hereafter referred to as the range complex. A full sized map is located at the Ft Lewis Area Access Office, Bldg. T-6127.

§ 552.85 Applicability.

This regulation is applicable to all military and civilian users of the range complex.

§ 552.86 References.

- (a) AR 405-70 (Utilization of Real Estate)
- (b) AR 405-80 (Granting Use of Real Estate)
- (c) AR 420-74 (Natural Resources—Land, Forest, and Wildlife Management)
- (d) FL Reg 215-1 (Hunting, Fishing, and Trapping)
- (e) FL Reg 350-30 (I Corps and Fort Lewis Range Regulations)
- (f) DA Form 1594 (Daily Staff Journal or Duty Officer's Log)
- (g) HFL Form 473 (Range, Facility, and Training Area Request)

§ 552.87 General.

(a) *Military training.* All use of the Ft Lewis range complex for military training is governed by FL Reg 350-30. Military training always has priority for use of the range complex.

(b) *Hunting.* Hunting, fishing, and trapping on Ft Lewis are governed by FL Reg 215-1.

(c) *Recreational use.* (1) All individuals or organizations, military or civilian, desiring access to the range complex for recreational purposes must apply for and possess a valid Ft Lewis area access permit except as outlined in § 552.87(c) of this section. Procedures are described in §§ 552.91 and 552.92.

(2) Authorized Department of Defense (DOD) patrons enroute to or using DPCA recreational areas (Appendix A) are not required to possess a permit. Travel to and from DPCA recreational use areas is restricted to the most direct route by paved or improved two lane roads, and direct trail access. Other travel in the range complex is governed by this regulation.

(3) Recreational use of CTAs without permit is authorized only for DOD personnel of Ft Lewis and their accompanied guests. Driving Privately Owned Vehicles (POV) in the CTAs is restricted to paved or improved gravel roads, except for direct trail access to DPCA recreational areas at Shannon Marsh and Wright's Lake. Other

recreational activities authorized in the CTAs for DOD personnel without permit are walking, jogging and picnicking at established picnic sites.

(4) Organizations or groups whose authorized recreational activity is of such a nature as to require special advanced confirmed commitments from Ft Lewis for land, including Scout Camporees, seasonal or one-time regional meets, and so on, must apply to the Ft Lewis Area Access Section in writing. If the area is available, the request will be forwarded to the Director of Engineering and Housing (DEH) for lease processing. Not less than 180 days are required for processing of these special requests. Organizations or groups whose activity requires military equipment or other special support from Ft Lewis must also apply in writing. If a permit is granted, the special assistance request will be coordinated by the Public Affairs and Liaison Office (PALO). Sample request guide and mailing address are available for the Access Section.

(5) All other recreational uses require a permit in accordance with this regulation.

(d) *Commercial use.* Individuals or organizations using the range complex for profit-generating activities must possess a Real Estate Agreement. Requests for Real Estate Agreements must be directed to the Real Property Branch, DEH, IAW AR 405-80. Real Estate Agreements issued after publication of this regulation will require Real Estate Agreement holders to notify the Area Access Section of their entry onto, and departure from, the range complex. Profit generating activities include individuals or organizations that collect fees for services or that sell materials collected from the range complex. Proposed timber sales require prior coordination with the Director of Plans, Training and Mobilization (DPTM) to ensure that access can be granted for the appropriate areas and times.

(e) *Installation service and maintenance.* DOD personnel and contractual personnel on official business are authorized on the Ft Lewis Military Reservation range complex as provided in Appendix B. Access to hazard areas for such personnel is governed by FL Reg 350-30.

(f) *Non-DOD personnel in transit.* Individuals in transit along State or County maintained roads or roads designated for public access by the Installation Commander require no special permits. These routes are listed in Appendix B.

(g) *Trespassers.* Persons or organizations entering or using the Ft Lewis range complex outside one of the access channels described above are trespassing on a controlled-access federal reservation and are subject to citation by the military police. Trespassers may be barred from subsequent authorized access to the installation, and will be subject to the provisions of this section.

(h) *Failure to comply.* Any person who enters the range complex of the Ft Lewis Military Reservation without the consent of the Commanding Officer or his designated representative is in violation of the provisions of this regulation. Offenders may be subjected to administrative action or punishment under either the Uniform Code of Military Justice (UCMJ) or Title 18 U.S.C. 1382, of Title 50 U.S.C. 797, as appropriate to each individual's status. Administrative action may include suspension or loss of recreational privileges, or permanent expulsion from the Ft Lewis Military Reservation.

§ 552.88 Responsibilities.

(a) *DPTM.* Operate the Ft Lewis Area Access Section as a part of Range Control.

(b) *Law Enforcement Command.* Provide law enforcement and game warden patrols to respond to known or suspected trespassers or other criminal activity on the range complex.

(c) *DEH.* Coordinate with the Ft Lewis Area Access Section (thru DPTM) all Real Estate Agreements, timber sales, wildlife management, construction, and other DEH or Corps of Engineers managed actions occurring on the range complex. Ensure all Real Estate Agreements issued after publication of this regulation require Real Estate Agreement holders to notify the Area Access Section of their entry onto, and departure from, the range complex.

(d) *DPCA.* Manage the Installation Hunting, Fishing, and Trapping programs in conjunction with DEH Wildlife. Manage those picnic and recreation sites located in the range complex, as listed in Appendix A.

(e) *PALO.* Make initial public release of Ft Lewis Land Use Policy and area access procedures, and provide periodic updates through media. Act as interface, when necessary, to resolve community relations issues related to land use. Coordinate special assistance requests per § 552.86(b). Inform DPTM of public response to policy execution.

§ 552.89 Activities.

(a) Examples of authorized activities are listed in Appendix C.

(b) Activities listed in Appendix D are not authorized on Ft Lewis and no permit will be issued.

§ 552.90 Permit office.

DPTM Range Control operates the Ft Lewis Area Access Section in Bldg T-6126 to issue permits and grant non-training access to the range complex. The office is open 0700-1900 hours, seven days a week, for permit processing and access control. At other hours, Range Operations will take calls for access only.

§ 552.91 Individual permit procedures.

(a) Individuals desiring area access for authorized activities (see Appendix C) must register in person at the Ft Lewis Area Access Section, Bldg T-6127. Minimum age is 18 years, except for active duty military personnel. Individuals under 18 years of age must be sponsored and accompanied by a parent or legal guardian.

(b) Individual registration requires:

- (1) Picture ID.
- (2) Personal information including Social Security Number.
- (3) Vehicle identification and license number, if a vehicle is to be brought on post.

(4) Names and ages of minor family members who will accompany a registered person.

(5) Liability release signature.

(6) Certification that intended activities are on the authorized list and are not for-profit commercial activities. Persons who submit false certificates are subject to prosecution in Federal Court Under 5 U.S.C. 1001, and the provisions of this section.

(c) A permit and a vehicle pass will be issued to each person authorized area access. The permit is not transferable. Entry to the range complex without the issued permit is forbidden.

(d) Individual write-in requests may be authorized for extraordinary circumstances.

§ 552.92 Group permit procedures.

(a) A collective permit will be issued to an organization desiring to conduct a group event. The group leader must register in person at the Ft Lewis Area Access Section, Bldg T-6127, and must be 21 years of age or older except for active duty military personnel.

(b) Group registration requires the information listed in § 552.91, except that a legible list of names of all persons in the group is required in lieu of the names and ages of minors.

(c) Group permits will be issued with the requirement that all members of the group will be with the leader throughout the event. If the group plans to separate

while still on post, sub-group leaders must be appointed and must each obtain a permit as noted in this section. The group leader permit is not transferable.

(d) Other group write-in requests may be authorized for extraordinary circumstances.

§ 552.93 Permit deadline and duration.

(a) Permits will be issued 0700-1900 hours daily and may be obtained no earlier than six months prior to the event date. Permits for authorized activities may be requested and issued on the day of the event, but must be in hand prior to individual or group entry on to the range complex.

(b) Permits for one-time events are valid for the duration of the event. Otherwise, permits are valid for six months and are not renewable. When a permit expires, the holder must reapply as described in this section.

(c) Access hours are thirty minutes after daylight to thirty minutes before dark, except for authorized overnight activities and as outlined in FL Reg 215-1.

§ 552.94 Area access procedures.

(a) Holders of current permits desiring access must call the Ft Lewis Area Access Section on the date of entry at the telephone numbers listed on the permit and state the area to be entered, estimated time of entry, and estimated time of departure. This check-in may also be done in person at the Ft Lewis Area Access Section, Bldg T-6126. Procedures for permits and access for hunting and trapping are outlined on FL Reg 215-1.

(b) The Ft Lewis Area Access Section will determine whether the area is available and, if so, authorize entry. If the area is not open for permit holders, and an alternate area cannot be provided, access will be denied. All calls and actions will be recorded on DA Form 1594 (Daily Staff Journal or Duty Officer's Log).

(c) Permit holders must call or visit the Ft Lewis Area Access Section immediately after leaving the authorized area to obtain checkout clearance. If a checkout is not received within three hours after the estimated time of departure, the Ft Lewis Area Access Section will call the contact phone number in the permit holder's record and, if necessary, initiate a search through the Military Police Desk. Permit holders who fail to call out twice will be barred from area access for thirty days. A third failure to check out will result in suspension of the permit for the remainder of its normal duration or ninety days, whichever is longer.

(d) Failure to comply with the provisions of this paragraph shall subject all persons to the provisions of this section.

§ 552.95 Compatible use.

(a) Unit commanders may, during training area scheduling, request that no permit holders be allowed in their areas. Justification must be in the remarks column of HFL Form 473 (Range, Facility and Training Area Request). If this restriction is granted, the Ft Lewis Area Access Section will close the appropriate areas. In the absence of a trainer's request for closure, the following military activities are considered incompatible with non-training access and will, when scheduled, block affected areas:

(1) Live-fire training events with surface danger zones falling into training areas.

(2) Parachute and air assault operations.

(3) Field artillery firing. The numbered training area occupied by the weapons will be closed.

(4) Motorized infantry operations that will use the majority of the road net in a training area, traveling at higher than normal speeds.

(5) Training employing riot agents or smoke generating equipment.

(b) The Range Officer may close training areas based on multiple occupation by large units.

(c) Areas allocated to modern firearm deer hunting are closed to training and recreational activities. When State Fish and Game pheasant release sites can be isolated by swamps, streams, or roads from the rest of a training area, multiple occupancy is authorized.

§ 552.96 Violations.

Anyone observing violators of this or other regulations must report the activity, time, and location to the Ft Lewis Area Access Section or the Military Police as soon as possible.

§ 552.97 Communications.

The Ft Lewis Area Access Section communicates by telephone as noted on the permit. Tactical FM contact may be made through Range Operations.

Appendix A—DPCA Recreational Areas in Training Areas

1. DOD use only, permit not required:

Note.—Use is authorized only to military, retired military, DOD civilian personnel, their family members and accompanied guests.

Boat launch adjacent to Officer's Club Beach on American Lake/Beachwood area
Cat Lake Picnic and Fishing Area—Training Area 19

Chambers Lake Picnic and *Fishing Area—
Training Area 12 (See para 2 below)

Ecology Park Hiking Path—North Fort, CTA A West

Fiander Lake Picnic and Fishing Area—
Training Area 20

Johnson Marsh—Training Area 10

Lewis Lake Picnic and Fishing Area—
Training Area 16

Miller Hill Trail Bike Area (DOD only)—Main Post

No Name Lake—Training Area 22

Sequalitchew Lake Picnic Area—Training Area 2

Shannon Marsh—CTA D

Skeet Trap Range—2d Division Range Road, CTA E

Solo Point Boat Launch—North Fort, CTA A West

Sportman's Range—East Gate Road, Range 15

Wright Marsh/Lake—CTA C

Vietnam Village Marsh—Training Area 9 and 10

2. Non-DOD use, permit required:

Chambers Lake, fishing only.

Appendix B—Non-Permit Access Routes

1. The following public easement routes may be used without permit or check-in:

I-5
Steilacoom-DuPont Road (EH 286156 to EH 302227).

Pacific Highway Southeast (EH 232119 to EH 250141).

Washington State Route 507 (EH 363061 to EH 429144).

Goodacre (unpaved) and Rice Kandle (paved) Roads (EH 386088 to EH 450074).

8th Avenue South (EH 424045 to EH 424126).

8th Avenue East (EH 440074 to EH 440126).

208th Avenue (EH 424126 to EH 432126).

Washington State Route 510 (EH 235063 to EH 247054 and EH 261046 to EH 273020).

Yelm Highway (EH 233056 to EH 239058).

Rainer Road Southeast (EG 167997 to EG 213941).

Military Road Southeast (EG 213941 to EG 215944).

Spurgeon Creek Road (EG 178986 to EG 179997).

Stedman Road (EG 153987 to EG 167995).

2. The following military routes may be used without permit or check-in:

Huggins Meyer Road (North Fort Road, EH 305202-EH 328213)

East Gate Road (C-5 Mock-up to 8th Ave South—EH 328213)

260th (EH 440074 to EH 457074)

Roy cut-off (Chambers Lake) Road (East Gate Road to Roy City Limits)

Lincoln Avenue (Madigan to EH 391179)

3. The Solo Point Road is open to

Weyerhaeuser Corporation personnel for business and recreation.

4. DOD personnel and Ft Lewis contractor personnel on official business may use all

DEH-maintained paved roads and two lane gravel roads in the training areas. The use of

one lane gravel lanes, or any established road not identified above, must be

coordinated with the Area Access Office

prior to use except as specified in

§ 552.87(b)(2)

5. All range roads closed because of

training activities will not be used until opened by the Range Officer. Such road closures will normally involve barricades and road guards. Barricades and road guards placed by direction of Range Control may not be by-passed.

Appendix C—Authorized Activities For Ft. Lewis Maneuver Area Access

Military Training (FL Reg 350-30)

DEH or Corps of Engineers Real Estate Agreement for commercial use (AR 405-80)

Installation service and maintenance (AR 420-74, FL Reg 350-30)

Non-DOD personnel in transit on public-access route only (Appendix B)

Non-Commercial recreational use:

Hunting, fishing and trapping (FL Reg 215-1)

Dog training (not allowed 1 April through 31 July in selected areas)

Horseback riding on roads and vehicle tracks

Walking, distance running

Model airplane and rocket flying

Model boating

Orienteering

Sport parachuting

Organized rifle and pistol competition

Service group camping and activities (Boy Scouts, etc.)

Observation of wildlife and vegetation

Non-Commercial picking of ferns,

mushrooms, blackberries, apples and other miscellaneous vegetation

Photography

Hiking

Historical Trails

Appendix D—Unauthorized Activities in Ft. Lewis Maneuver Areas

Civilian paramilitary activities and combat games.

Off-pavement motorcycle riding, except as noted in Appendix A Off-road vehicle operation.

Hang gliding.

Ultralight aircraft flying.

Hot air ballooning.

Souvenir hunting and metal-detecting, including recovery of ammunition residue of fragments, archaeological or cultural artifacts, or geological specimens.

Vehicle speed contests.

Wood cutting or brush picking, without DEH or Corps of Engineer permit.

Commercial activities conducted for profit that require a Real Estate Agreement or commercial permit per AR 405-80, including horseback riding rentals or guide service, and dog training for reimbursement.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

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