

certain provisions of the 72 COLREGS without interfering with their special functions as Large Harbor Tugs. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: August 9, 1994.

FOR FURTHER INFORMATION CONTACT: Commander K.P. McMahon, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that Large Harbor Tugs YTB 780 and YTB 789 are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c), pertaining to the location and arc of visibility of the sternlight; Rule 24(c), pertaining to the

towing lights displayed by power driven vessels when pushing ahead or towing alongside; Rule 27(b)(i), pertaining to the lights displayed by vessels restricted in their ability to maneuver; Annex I, section 2(a)(i), pertaining to the height above the hull of the masthead light; and Annex I, section 3(b), pertaining to the placement of the sidelights, without interfering with their special functions as Large Harbor Tugs. YTB 780 and YTB 789 are tugs of special construction and functions. They perform towing services for naval vessels.

In the case of these tugs, the mast is hinged and is lowered only when the tugs are actually engaged in towing alongside or pushing ships having radically flared bows or sponsoned sides and sterns. When the mast is in the lowered position, the masthead lights, and task lights mounted on this mast, cannot be displayed. During such operations only the pilot house top-mounted auxiliary masthead light, sidelights, and sternlight will be exhibited.

The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in

closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessels ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Three of § 706.2 is amended by adding the following vessel:

TABLE THREE

Vessel	No.	Masthead lights, arc of visibility; rule 21(a)	Side lights, arc of visibility; rule 21(b)	Stern light, arc of visibility; rule 21(c)	Side lights, distance in-board of ship's sides in meters; § 3(b) annex 1	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; § 2(K) annex 1	Anchor lights, relationship of aft light to forward light in meters; § 2(K) annex 1
SAUGUS	YTB 780				2.79	13.78		

[No modification to Table Three is necessary for YTB 789.]

§ 706.2 [Amended]

3. Paragraph 14, Table Four of § 706.2 is amended by adding the following vessel:

Vessel No.	Distance in meters of aux. masthead light below minimum required height. Annex I, sec. 2(a)(i)
YTB 780	3.53

4. Paragraph 14, Table Four of § 706.2 is amended by revising the information on the following vessel as follows:

Vessel No.	Distance in meters of aux. masthead light below minimum required height. Annex I, sec. 2(a)(i)
YTB 789	3.30

Dated: August 9, 1994.

H.E. Grant,

Rear Admiral, JAGC, U.S. Navy, Judge Advocate General.

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Department of the Air Force

32 CFR Part 806b

[Air Force Reg. 37-132]

Air Force Privacy Act Program

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising its Privacy Act Regulation. The revision adds a requirement for appointing Privacy Act (PA) monitors at HQ USAF and Secretary of the Air Force (SAF) offices;

adds alternative of using the unsworn declaration; changes the fee rates; changes policy on releasing medical records to a subject when there is possible harm; changes refusal to amend based on opinion or interpretation to a denial with appeal rights; changes list of information releasable without consent; provides a new balancing test; aligns language on medical records of minors with DoD guidance; adds computer matching provisions; adds systems; and deletes provision for landfill burials.

In addition to the above changes, the Department of the Air Force is currently conducting a review of its exemption rules. Upon completion of the review, the Department of the Air Force will update its exemption rules.

EFFECTIVE DATE: October 21, 1994.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Turner at (703) 697-3491 or DSN 227-3491.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Director, Administration and Management, Office of the Secretary of Defense has determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of \$100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act of 1980

The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act

The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

The Department of the Air Force previously published its proposed rule on July 28, 1994, at 59 FR 38389. No comments were received that resulted in a contrary determination, therefore, the Department of the Air Force is publishing this final rule.

List of Subjects in 32 CFR Part 806b
Privacy.

Accordingly, 32 CFR part 806b is revised to read:

PART 806B—AIR FORCE PRIVACY ACT PROGRAM

Subpart A—Overview of the Privacy Act Program

- 806b.1 Basic guidelines.
- 806b.2 Violation penalties.
- 806b.3 Personal notes.
- 806b.4 Responsibilities.

Subpart B—Obtaining Law Enforcement Records and Promises of Confidentiality

- 806b.5 Obtaining law enforcement records.
- 806b.6 Promising confidentiality.

Subpart C—Collecting Personal Information

- 806b.7 How to collect personal information.
- 806b.8 When to give privacy act statements (PAS).
- 806b.9 Requesting the social security number (SSN).

Subpart D—Giving Access to Privacy Act Records

- 806b.10 Making a request for access.
- 806b.11 Processing a request for access.
- 806b.12 Fees.
- 806b.13 Denying or limiting access.
- 806b.14 Denial authorities.

Subpart E—Amending the Record

- 806b.15 Amendment reasons.
- 806b.16 Responding to amendment requests.
- 806b.17 Approving or denying a record amendment.
- 806b.18 Seeking review of unfavorable agency determinations.
- 806b.19 Appeal procedures.
- 806b.20 Contents of Privacy Act case files.

Subpart F—Privacy Act Notifications

- 806b.21 When to include a privacy act warning statement in publications.
- 806b.22 Publishing system notices.
- 806b.23 Timing of notices.

Subpart G—Protecting and Disposing of Records

- 806b.24 Protecting records.
- 806b.25 Balancing protection.
- 806b.26 Disposing of records.

Subpart H—Privacy Act Exemptions

- 806b.27 Requesting an exemption.
- 806b.28 Exemption types.
- 806b.29 Authorizing exemptions.
- 806b.30 Approved exemptions.

Subpart I—Disclosing Records to Third Parties

- 806b.31 Disclosure considerations.
- 806b.32 Disclosing information for which consent is not required.

- 806b.33 Disclosing other information.
- 806b.34 Agencies or individuals to whom the Air Force may release privacy information.
- 806b.35 Disclosing the medical records of minors.
- 806b.36 Disclosure accounting.
- 806b.37 Computer matching.

Subpart J—Training

- 806b.38 Who needs training.
- 806b.39 Training tools.

Subpart K—Privacy Act Reporting

- 806b.40 Privacy act report (RCS: DD-DA&M(A)1379).

Appendix A to part 806b—Glossary of References, Abbreviations, Acronyms, and Terms

Appendix B to part 806b—Preparing a System Notice

Appendix C to part 806b—General and Specific Exemptions

Authority: Pub. L. 93-579, 88 Stat 1896 (5 U.S.C. 552a).

Subpart A—Overview of the Privacy Act Program

§ 806b.1 Basic guidelines.

The Privacy Act of 1974 and this part apply only to information in Air Force systems of records on living United States citizens and permanent resident aliens.

(a) An official system of records must be:

(1) Authorized by law or Executive Order.

(2) Controlled by an Air Force or lower level directive.

(3) Needed to carry out an Air Force mission or function.

(b) The Air Force does not:

(1) Keep records on how a person exercises First Amendment rights. EXCEPTIONS are when: The Air Force has the permission of that individual or is authorized by federal statute; or the information pertains to an authorized law enforcement activity.

(2) Penalize or harass an individual for exercising rights guaranteed under the Privacy Act. Give reasonable aid to individuals exercising their rights.

(c) Air Force members:

(1) Keep paper and electronic records containing personal information and retrieved by name or personal identifier only in approved systems published in the Federal Register.

(2) Collect, maintain, and use information in such systems only to support programs authorized by law or Executive Order.

(3) Safeguard the records in the system and keep them the minimum time required.

(4) Keep the records timely, accurate, complete, and relevant.

(5) Amend and correct records on request.

(6) Let individuals review and receive copies of their own records unless the Secretary of the Air Force approved an exemption for the system or the Air Force created the records in anticipation of a civil action or proceeding.

(7) Provide a review of decisions that deny individuals access to or amendment of their records.

§ 806b.2 Violation penalties.

An individual may file a civil suit against the Air Force for failing to comply with the Privacy Act. The courts may find an individual offender guilty of a misdemeanor and fine that individual offender not more than \$5,000 for:

(a) Willfully maintaining a system of records that doesn't meet the public notice requirements.

(b) Disclosing information from a system of records to someone not entitled to the information.

(c) Obtaining someone else's records under false pretenses.

§ 806b.3 Personal notes.

If you keep personal notes on individuals to use as memory aids to supervise or perform other official functions, and do not share them with others, and an Air Force directive does not require their maintenance, the Privacy Act does not apply.

§ 806b.4 Responsibilities.

(a) The Administrative Assistant to the Secretary of the Air Force (SAF/AA) manages the entire program.

(b) The Office of the General Counsel to the Secretary of the Air Force (SAF/GCA) makes final decisions on appeals.

(c) The Director of Information Management (SAF/AI), through the Access Programs Office of the Policy Division, (SAF/AAIA):

(1) Administers procedures outlined in this part.

(2) Submits system notices and required reports to the Defense Privacy Office.

(3) Guides major commands (MAJCOM) and field operating agencies (FOA).

(d) MAJCOM and FOA commanders, HQ USAF and Deputy Chiefs of Staff

(DCS), and comparable officials, and SAF offices implement this part. Each HQ USAF and SAF office appoints a Privacy Act monitor. Send the name, office symbol, and phone number to SAF/AAIA.

(e) MAJCOM and FOA Information Managers:

(1) Manage the program.

(2) Appoint a command Privacy Act officer.

(3) Send the name, office symbol, and phone number to SAF/AAIA.

(f) Privacy Act Officers:

(1) Guide and train.

(2) Review the program at regular intervals.

(3) Submit reports.

(4) Review all publications and forms for compliance with this part.

(5) Review system notices.

(6) Investigate complaints.

(7) Staff denial recommendations (at MAJCOMs and FOAs only).

(g) System Managers:

(1) Decide the need for, and content of systems.

(2) Manage and safeguard the system.

(3) Train personnel on Privacy Act requirements.

(4) Protect records from unauthorized disclosure, alteration, or destruction.

(5) Prepare system notices and reports.

(6) Answer Privacy Act requests.

(7) Keep records of disclosures.

(8) Evaluate the systems annually.

(h) Privacy Act Monitors (PAM):

(1) Are the focal point in their functional area for general Privacy Act questions and correspondence.

(2) Maintain a list of all systems of records and system managers in their area.

(3) Act as liaison with the Privacy Act Officer.

(4) Maintain statistics for the annual Privacy Act report.

Subpart B - Obtaining Law Enforcement Records and Promises of Confidentiality

§ 806b.5 Obtaining law enforcement records.

The Commander AFOSI; the Chief, Air Force Security Police Agency (AFSPA); MAJCOM, FOA, and base chiefs of security police; AFOSI detachment commanders; and designees of those offices may ask another agency for records for law enforcement under 5 U.S.C. 552a(b)(7). The requesting office must indicate in writing the specific part of the record desired and identify the law enforcement activity asking for the record.

§ 806b.6 Promising confidentiality.

Record promises of confidentiality to exempt from disclosure any 'confidential' information under subsections (k)(2), (k)(5), or (k)(7) of the Privacy Act.

Subpart C - Collecting Personal Information

§ 806b.7 How to collect personal information.

Collect personal information directly from the subject of the record when possible. You may ask third parties when:

- (a) You must verify information.
- (b) You want opinions or evaluations.
- (c) You can't contact the subject.
- (d) The subject asks you.

§ 806b.8 When to give Privacy Act statements (PAS).

(a) Give a PAS orally or in writing:

(1) To anyone from whom you are collecting personal information that will be put in a system of records.

(2) Whenever you ask someone for his or her Social Security Number (SSN).

Note: Do this regardless of how you collect or record the answers. You may display a sign in areas where people routinely furnish this kind of information. Give a copy of the PAS if asked. Do not ask the person to sign the PAS.

(3) A PAS must include four items:

(i) Authority: The legal authority, that is, the United States Code or Executive Order authorizing the program the system supports.

(ii) Purpose: The reason you are collecting the information.

(iii) Routine Uses: A list of where and why the information will be disclosed outside DoD.

(iv) Disclosure: Voluntary or Mandatory. (Use Mandatory only when disclosure is required by law and the individual will be penalized for not providing information.) Include any consequences of nondisclosure in nonthreatening language.

§ 806b.9 Requesting the social security number (SSN).

(a) Do not deny people a legal right, benefit, or privilege for refusing to give their SSNs unless the law requires disclosure, or a law or regulation adopted before January 1, 1975, required the SSN and the Air Force uses it to verify a person's identity in a system of records established before that date. When you ask for an SSN to create a record, tell the individual:

- (1) The statute, regulation, or rule authorizing you to ask for the SSN.
- (2) The uses that will be made of the SSN.

(3) If he or she is legally obligated to provide the SSN.

(b) The Air Force requests an individual's SSN and provides the individual information required by law when anyone enters military service or becomes an Air Force civilian employee. The Air Force uses the SSN as a service or employment number to reference the individual's official records. When you ask someone for an SSN as identification (ID) to retrieve an existing record, you do not have to restate this information.

(c) Executive Order 9397, November 22, 1943, authorizes using the SSN as a personal identifier. This order is not adequate authority to collect an SSN to create a record. When law does not require disclosing the SSN or when the system of records was created after January 1, 1975, you may ask for the SSN, but the individual does not have to disclose it. If the individual refuses to respond, use alternative means of identifying records.

(d) SSNs are personal and unique to each individual. Protect them as FOR OFFICIAL USE ONLY (FOUO). Do not disclose them to anyone without an official need to know.

Subpart D - Giving Access to Privacy Act Records

§ 806b.10 Making a request for access.

Persons or their designated representatives may ask for a copy of their records in a system of records. Requesters need not state why they want access to their records. Verify the identity of the requester to avoid unauthorized disclosures. How you verify identity will depend on the sensitivity of the requested records. Persons without access to notary services may use an unsworn declaration in the following format: 'I declare under penalty of perjury (if outside the United States, add 'under the laws of the United States of America') that the foregoing is true and correct. Executed on (date). (Signature).'

§ 806b.11 Processing a request for access.

Consider a request from an individual for his or her own records in a system of records under both the Freedom of Information Act (FOIA) and the Privacy Act regardless of the Act cited. The requester need not cite any Act. Process the request under whichever Act gives the most information. When necessary, tell the requester under which Act you processed the request and why.

(a) Requesters should describe the records they want. They do not have to name a system of records number, but

they should at least name a type of record or functional area. For requests that ask for 'all records about me,' ask for more information and tell the person how to review the Air Force systems of records published in the **Federal Register** or in AFDIR 37-144¹, 'Privacy Act Systems of Record' (formerly AFR 4-36).

(b) Requesters should not use government equipment, supplies, stationery, postage, telephones, or official mail channels for making Privacy Act requests. Privacy Act Officers and system managers process such requests but tell requesters that using government resources to make Privacy Act requests is not authorized.

(c) Tell the requester if a record exists and how to review the record. If possible, respond to requests within 10 workdays of receiving them. If you cannot answer the request in 10 workdays, send a letter explaining why and give an approximate completion date no more than 20 workdays after the first office received the request.

(d) Show or give a copy of the record to the requester within 30 workdays of receiving the request unless the system is exempt and the Air Force lists the exemption in appendix C of this part; or published as a final rule in the **Federal Register**. Give information in a form the requester can understand.

(e) If the requester wants another person present during the record review, the system manager may ask for written consent to authorize discussing the record with another person present.

§ 806b.12 Fees.

Give the first 100 pages free, and charge only reproduction costs for the remainder. Copies cost \$.15 per page; microfiche costs \$.25 per fiche. Charge the fee for the first 100 pages if records show that the Air Force already responded to a request for the same records at no charge. Do not charge fees:

(a) When the requester can get the record without charge under another publication (for example, medical records).

(b) For search.

(c) For reproducing a document for the convenience of the Air Force.

(d) For reproducing a record so the requester can review it.

§ 806b.13 Denying or limiting access.

Process access denials within five workdays after you receive a request for access. When you may not release a record, send a copy of the request, the

record, and why you recommend denying access (including the applicable exemption) to the denial authority through the Staff Judge Advocate (SJA) and the Privacy Act officer. The SJA gives a written legal opinion on the denial. The MAJCOM or FOA Privacy Act officer reviews the file, gets written advice from the SJA and the functional office of primary responsibility (OPR), and makes a recommendation to the denial authority. The denial authority sends the requester a letter with the decision. If the denial authority grants access, release the record. If the denial authority refuses access, tell the requester why and explain pertinent appeal rights.

(a) Before you deny a request for access to a record, make sure that: (1) The system has an SAF approved exemption.

(2) The exemption covers each document.

(3) Nonexempt parts are segregated.

(b) You may refuse to give out medical records if a physician believes that doing so could harm the person's mental or physical health. You have these options:

(1) Ask the requester to get a letter from a physician to whom you can send the records. Include a letter explaining to the physician that giving the records directly to the individual could be harmful.

(2) Offer the services of a military physician other than one who provided treatment if naming the physician poses a hardship on the individual.

(c) Do not delete third-party information from a record when the subject requests access, except as noted in § 806b.13(d), unless the Air Force covers the record with an established exemption (appendix C of this part). Presume that all information in a file pertains to the subject of the file.

(d) Do not release third-party personal data (such as SSN and home address). This action is not a denial.

(e) Withhold records compiled in connection with a civil action or other proceeding including any action where the Air Force expects judicial or administrative adjudicatory proceedings. This exemption does not cover criminal actions. Do not release attorney work products prepared before, during, or after the action or proceeding.

§ 806b.14 Denial authorities.

These officials or a designee may deny access or amendment of records. Send a letter to SAF/AAIA with the position titles of designees. You must get SAF/AA approval before delegating this authority to a lower level. Send

¹ Copies may be obtained at cost from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

requests for waiver with justification to SAF/AAIA. Authorities are:

- (a) DCSs and chiefs of comparable offices or higher level at SAF or HQ USAF.
- (b) MAJCOM or FOA commanders.
- (c) HQ USAF/DPCP, Pentagon, Washington, DC 20330-5060 (for civilian personnel records).
- (d) Commander, Air Force Office of Special Investigations (AFOSI), Washington, DC 20332-6001 (for AFOSI records).

Subpart E - Amending the Record

§ 806b.15 Amendment reasons.

Individuals may ask to have their records amended to make them accurate, timely, relevant, or complete. System managers routinely correct a record if the requester can show that it is factually wrong.

§ 806b.16 Responding to amendment requests:

- (a) Anyone may request minor corrections orally. Requests for more serious modifications should be in writing.
- (b) After verifying the identity of the requester, make the change, notify all known recipients of the record, and inform the individual.
- (c) Acknowledge requests within 10 workdays of receipt. Give an expected completion date unless you complete the change within that time. Final decisions must take no longer than 30 workdays.

§ 806b.17 Approving or denying a record amendment.

The Air Force does not usually amend a record when the change is based on opinion, interpretation, or subjective official judgment. This action constitutes a denial, and requesters may appeal. If the system manager decides not to amend or partially amend the record, send a copy of the request, the record, and the recommended denial reasons to the denial authority through the SJA and the Privacy Act officer. SJAs will include a legal opinion.

(a) The MAJCOM or FOA Privacy Act officer reviews the proposed denial, gets a legal opinion from the SJA and written advice from the functional OPR, and makes a recommendation to the denial authority.

(b) The denial authority sends the requester a letter with the decision. If the denial authority approves the request, amend the record and notify all previous recipients that it has been changed. If the authority denies the request, give the requester the statutory authority, reason, and pertinent appeal rights.

§ 806b.18 Seeking review of unfavorable agency determinations.

Requesters should pursue record corrections of subjective matters and opinions through proper channels to the Civilian Personnel Office using grievance procedures or the Air Force Board for Correction of Military Records (AFBCMR). Record correction requests denied by the AFBCMR are not subject to further consideration under this part.

§ 806b.19 Appeal procedures.

(a) Individuals may request a denial review by writing to the Secretary of the Air Force through the denial authority within 60 calendar days after receiving a denial letter. The denial authority promptly sends a complete appeal package to SAF/AAIA, including:

- (1) Original appeal letter.
- (2) Initial request.
- (3) Initial denial.
- (4) Copy of the record.
- (5) Any internal records or coordination actions relating to the denial.
- (6) Denial authority's comments on the appellant's arguments.
- (7) Legal reviews.
- (b) If the denial authority reverses an earlier denial and grants access or amendment, notify the requester immediately.
- (c) SAF/AAIA reviews the denial and forwards to SAF/GCA for legal review or staffing to grant or deny the appeal. SAF/GCA tells the requester the final Air Force decision and explains judicial review rights.

(d) The requester may file a concise statement of disagreement with the system manager if SAF/GCA denies the request to amend the record. SAF/GCA explains the requester's rights when they issue the final appeal decision.

(1) The records should clearly show that a statement of disagreement is filed with the record or separately.

(2) The disputed part of the record must show that the requester filed a statement of disagreement.

(3) Give copies of the statement of disagreement to the record's previous recipients. Inform subsequent record users about the dispute and give them a copy of the statement with the record.

(4) The system manager may include a brief summary of the reasons for not amending the record. Limit the summary to the reasons SAF/GCA gave to the individual. The summary is part of the individual's record, but it is not subject to amendment procedures.

§ 806b.20 Contents of Privacy Act case files.

Do not keep copies of disputed records in this file. Use the file solely

for statistics and to process requests. Do not use the case files to make any kind of determination about an individual. Document reasons for untimely responses. These files include:

- (a) Requests from and replies to individuals on whether a system has records about them.
- (b) Requests for access or amendment.
- (c) Approvals, denials, appeals, and final review actions.
- (d) Coordination actions and related papers.

Subpart F - Privacy Act Notifications

§ 806b.21 When to include a Privacy Act warning statement in publications.

Include a Privacy Act Warning Statement in each Air Force publication that requires collecting or keeping personal information in a system of records. Also include the warning statement when publications direct collection of the SSN from the individual. The warning statement will cite legal authority and the system of records number and title. You can use the following warning statement: 'This part requires collecting and maintaining information protected by the Privacy Act of 1974 authorized by (U.S.C. citation and or Executive Order number). System of records notice (number and title) applies.'

§ 806b.22 Publishing system notices.

The Air Force must publish notices in the **Federal Register** of new, amended, and deleted systems to inform the public of what records the Air Force keeps and give them an opportunity to comment. The Privacy Act also requires submission of new or significantly altered systems to the Office of Management and Budget (OMB) and both houses of the Congress before publication in the **Federal Register**. This includes:

- (a) Starting a new system.
- (b) Instituting significant changes to an existing system.
- (c) Sending out data collection forms or instructions.
- (d) Issuing a request for proposal or invitation for bid to support a new system.

§ 806b.23 Timing of notices.

At least 120 days before the effective start date, system managers must send the system notice to SAF/AAIA on a 5 1/4 or 3 1/2-inch disk in Wordstar (ASCII text file) or Microsoft Word, with a paper copy highlighting any changes through the MAJCOM or FOA Privacy Act Officer. See Appendix B of this part for a sample system notice.

Subpart G – Protecting and Disposing of Records**§ 806b.24 Protecting records.**

Protect information according to its sensitivity level. Consider the personal sensitivity of the information and the risk of loss or alteration. Most information in systems of records is FOR OFFICIAL USE ONLY (FOUO). Refer to AFI 37-131², 'Air Force Freedom of Information Act Program,' for protection methods.

§ 806b.25 Balancing protection.

Balance additional protection against risk and cost. AF Form 3227, 'Privacy Act Cover Sheet', is available for use with Privacy Act material. For example, a password may be enough protection for an automated system with a log-on protocol. Classified computer systems or those with established audit and password systems are obviously less vulnerable than unprotected files or word processors in offices that are periodically empty. Follow AFI 33-202³, 'The Air Force Computer Security Program,' for procedures on safeguarding personal information in automated records.

§ 806b.26 Disposing of records.

You may use the following methods to dispose of records protected by the Privacy Act according to records retention schedules:

- (a) Destroy by any method that prevents compromise, such as tearing, burning, or shredding, so long as the personal data is not recognizable and beyond reconstruction.
- (b) Degauss or overwrite magnetic tapes or other magnetic medium.
- (c) Dispose of paper products through the Defense Reutilization and Marketing Office (DRMO) or through activities who manage a base-wide recycling program. The recycling sales contract must contain a clause requiring the contractor to safeguard privacy material until its destruction and to pulp, macerate, shred, or otherwise completely destroy the records. Originators must safeguard Privacy Act material until it is transferred to the recycling contractor. A federal employee or, if authorized, a contractor employee must witness the destruction. This transfer does not require a disclosure accounting.

Subpart H – Privacy Act Exemptions**§ 806b.27 Requesting an exemption.**

A system manager who believes that a system needs an exemption from some

or all of the requirements of the Privacy Act should send a request to SAF/AAIA through the MAJCOM or FOA Privacy Act Officer. The request should detail the reasons for the exemption and the section of the Act that allows the exemption. SAF/AAIA gets approval for the request through SAF/AA and the Defense Privacy Office.

§ 806b.28 Exemption types.

- (a) A general exemption frees a system from most parts of the Privacy Act.
- (b) A specific exemption frees a system from only a few parts of the Privacy Act.

§ 806b.29 Authorizing exemptions.

Only SAF/AA can exempt systems of records from any part of the Privacy Act. Denial authorities can withhold records using these exemptions only if SAF/AA previously approved and published an exemption for the system in the **Federal Register**. Appendix C of this part lists the systems of records that have approved exemptions.

§ 806b.30 Approved exemptions.

Approved exemptions exist under 5 U.S.C. 552a for:

- (a) Certain systems of records used by activities whose principal function is criminal law enforcement (subsection (j)(2)).
- (b) Classified information in any system of records (subsection (k)(1)).
- (c) Law enforcement records (other than those covered by subsection (j)(2)). The Air Force must allow an individual access to any record that is used to deny rights, privileges or benefits to which he or she would otherwise be entitled by federal law or for which he or she would otherwise be eligible as a result of the maintenance of the information (unless doing so would reveal a confidential source) (subsection (k)(2)).
- (d) Statistical records required by law. Data is for statistical use only and may not be used to decide individuals' rights, benefits, or entitlements (subsection (k)(4)).
- (e) Data to determine suitability, eligibility, or qualifications for federal service or contracts, or access to classified information if access would reveal a confidential source (subsection (k)(5)).
- (f) Qualification tests for appointment or promotion in the federal service if access to this information would compromise the objectivity of the tests (subsection (k)(6)).
- (g) Information which the Armed Forces uses to evaluate potential for promotion if access to this information would reveal a confidential source (subsection (k)(7)).

Subpart I – Disclosing Records to Third Parties**§ 806b.31 Disclosure considerations.**

Before releasing personal information to third parties, consider the consequences, check accuracy, and make sure that no law or directive bans disclosure. You can release personal information to third parties when the subject agrees orally or in writing. Air Force members consent to releasing their home telephone number and address when they sign and check the 'Do Consent' block on the AF Form 624, 'Base/Unit Locator and PSC Directory' (see AFI 37-129⁴, 'Base and Unit Personnel Locators and Postal Directories').

(a) Before including personal information such as home addresses, home phones, and similar information on social rosters or directories, ask for written consent statements. Otherwise, do not include the information.

(b) You must get written consent before releasing any of these items of information:

- (1) Marital status.
- (2) Number and sex of dependents.
- (3) Gross salary of military personnel (see § 806b.32 for releasable pay information).
- (4) Civilian educational degrees and major areas of study.
- (5) School and year of graduation.
- (6) Home of record.
- (7) Home address and phone.
- (8) Age and date of birth.
- (9) Present or future assignments for overseas or for routinely deployable or sensitive units.
- (10) Office and unit address and duty phone for overseas or for routinely deployable or sensitive units.

§ 806b.32 Disclosing information for which consent is not required.

You don't need consent before releasing any of these items:

- (a) Information releasable under the FOIA.
- (b) Information for use within the Department of Defense by officials or employees with a need to know.
- (c) Name.
- (d) Rank.
- (e) Grade.
- (f) Air Force specialty code (AFSC).
- (g) Pay (including base pay, special pay, all allowances except Basic Allowance for Quarters (BAQ) and Variable Housing Allowance (VHA)).
- (h) Gross salary for civilians.
- (i) Past duty assignments.
- (j) Present and future approved and announced stateside assignments.

² See footnote 1 to section 806b.11, of this part.

³ See footnote 1 to section 806b.11, of this part.

⁴ See footnote 1 to section 806b.11, of this part.

- (k) Position title.
- (l) Office, unit address, and duty phone number.
- (m) Date of rank.
- (n) Entered on active duty (EAD) date.
- (o) Pay date.
- (p) Source of commission.
- (q) Professional military education.
- (r) Promotion sequence number.
- (s) Military awards and decorations.
- (t) Duty status of active, retired, or reserve.
- (u) Active duty official attendance at technical, scientific, or professional meetings.
- (v) Biographies and photos of key personnel.

§ 806b.33 Disclosing other information.

Use these guidelines to decide whether to release information:

- (a) Would the subject have a reasonable expectation of privacy in the information requested?
- (b) Would disclosing the information benefit the general public? The Air Force considers information as meeting the public interest standard if it reveals anything regarding the operations or activities of the agency, or performance of its statutory duties.
- (c) Balance the public interest against the individual's probable loss of privacy. Do not consider the requester's purpose, circumstances, or proposed use.

§ 806b.34 Agencies or individuals to whom the Air Force may release privacy information.

The Air Force may release information without consent to these individuals or agencies:

- (a) Agencies outside the Department of Defense for a Routine Use published in the Federal Register. The purpose of the disclosure must be compatible with the purpose in the Routine Use. When initially collecting the information from the subject, the Routine Uses block in the Privacy Act Statement must name the agencies and reason.
- (b) The Bureau of the Census to plan or carry out a census or survey under 13 U.S.C. 8.
- (c) A recipient for statistical research or reporting. The recipient must give advanced written assurance that the information is for statistical purposes only.

Note: No one may use any part of the record to decide on individuals' rights, benefits, or entitlements. You must release records in a format that makes it impossible to identify the real subjects.

- (d) The Archivist of the United States and the National Archives and Records Administration (NARA) to evaluate records for permanent retention.

Records stored in Federal Records Centers remain under Air Force control.

- (e) A federal, state, or local agency (other than the Department of Defense) for civil or criminal law enforcement. The head of the agency or a designee must send a written request to the system manager specifying the record or part needed and the law enforcement purpose. The system manager may also disclose a record to a law enforcement agency if the agency suspects a criminal violation. This disclosure is a Routine Use for all Air Force systems of records and is published in the Federal Register.
- (f) An individual or agency that needs the information for compelling health or safety reasons. The affected individual need not be the record subject.
- (g) The Congress, a congressional committee, or a subcommittee, for matters within their jurisdictions.
- (h) A congressional office acting for the record subject. A published, blanket Routine Use permits this disclosure. If the material for release is sensitive, get a release statement.
- (i) The Comptroller General or an authorized representative of the General Accounting Office on business.
- (j) A court order of a court of competent jurisdiction, signed by a judge.
- (k) A consumer credit agency according to the Debt Collections Act when a published system notice lists this disclosure as a Routine Use.
- (l) A contractor operating a system of records under an Air Force contract. Records maintained by the contractor for the management of contractor employees are not subject to the Privacy Act.

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- (f) An individual or agency that needs the information for compelling health or safety reasons. The affected individual need not be the record subject.
- (g) The Congress, a congressional committee, or a subcommittee, for matters within their jurisdictions.
- (h) A congressional office acting for the record subject. A published, blanket Routine Use permits this disclosure. If the material for release is sensitive, get a release statement.
- (i) The Comptroller General or an authorized representative of the General Accounting Office on business.
- (j) A court order of a court of competent jurisdiction, signed by a judge.
- (k) A consumer credit agency according to the Debt Collections Act when a published system notice lists this disclosure as a Routine Use.
- (l) A contractor operating a system of records under an Air Force contract. Records maintained by the contractor for the management of contractor employees are not subject to the Privacy Act.

§ 806b.35 Disclosing the medical records of minors.

Air Force personnel may disclose the medical records of minors to their parents or legal guardians. The laws of each state define the age of majority.

- (a) The Air Force must obey state laws protecting medical records of drug or alcohol abuse treatment, abortion, and birth control. If you manage medical records, learn the local laws and coordinate proposed local policies with the servicing SJA.
- (b) Outside the United States (overseas), the age of majority is 18. Unless parents or guardians have a court order granting access or the minor's written consent, they will not have access to minor's medical records overseas when the minor sought or consented to treatment between the ages of 15 and 17 in a program where regulation or statute provides

confidentiality of records and he or she asked for confidentiality.

§ 806b.36 Disclosure accountings.

System managers must keep an accurate record of all disclosures made from any system of records except disclosures to DoD personnel for official use or disclosures under the FOIA. System managers may use AF Form 771, 'Accounting of Disclosures'.

- (a) System managers may file the accounting record any way they want as long as they give it to the subject on request, send corrected or disputed information to previous record recipients, explain any disclosures, and provide an audit trail for reviews. Include in each accounting:

- (1) Release date.
- (2) Description of information.
- (3) Reason for release.
- (4) Name and address of recipient.

(b) Some exempt systems let you withhold the accounting record from the subject.

- (c) You may withhold information about disclosure accountings for law enforcement purposes at the law enforcement agency's request.

§ 806b.37 Computer matching.

Computer matching programs electronically compare records from two or more automated systems which may include the Department of Defense, another federal agency, or a state or other local government. A system manager proposing a match that could result in an adverse action against a federal employee must meet these requirements of the Privacy Act:

- (a) Prepare a written agreement between participants.
 - (1) Secure approval of the Defense Data Integrity Board.
 - (2) Publish a matching notice in the Federal Register before matching begins.
 - (3) Ensure full investigation and due process.
 - (4) Act on the information, as necessary.
- (b) The Privacy Act applies to matching programs that use records from:

- (1) Federal personnel or payroll systems.
- (2) Federal benefit programs where matching:
 - (i) Determines federal benefit eligibility.
 - (ii) Checks on compliance with benefit program requirements.
 - (iii) Recovers improper payments or delinquent debts from current or former beneficiaries.
- (c) Matches used for statistics, pilot programs, law enforcement, tax

administration, routine administration, background checks and foreign counterintelligence, and internal matching that won't cause any adverse action are exempt from Privacy Act matching requirements.

(d) Any activity that expects to participate in a matching program must contact SAF/AAIA immediately. System managers must prepare a notice for publication in the *Federal Register* with a Routine Use that allows disclosing the information for use in a matching program. Send the proposed system notice to SAF/AAIA. Allow 180 days for processing requests for a new matching program.

(e) Record subjects must receive prior notice of a match. The best way to do this is to include notice in the Privacy Act Statement on forms used in applying for benefits. Coordinate computer matching statements on forms with SAF/AAIA through the MAJCOM Privacy Act Officer.

Subpart J - Training

§ 806b.38 Who needs training.

The Privacy Act requires training for all persons involved in the design, development, operation and maintenance of any system of records. Some persons may need more specialized training. They include information managers, supervisors, and individuals working with medical, financial, security, and personnel records.

§ 806b.39 Training tools.

Helpful aids include:

- AFH 37-146⁵, 'Privacy Act Training', a self-paced course.
 - 'The Privacy Act of 1974,' a 32-minute film developed by the Defense Privacy Office. Consult your local audiovisual library.
 - 'A Manager's Overview, What You Need to Know About the Privacy Act'. Contact SAF/AAIA for copies.
- Note: Formal school training groups that develop or modify blocks of instruction must send the material to SAF/AAIA for coordination.

Subpart K - Privacy Act Reporting

§ 806b.40 Privacy Act Report (RCS: DD-DA&M(A)1379).

By March 1, of each year, MAJCOM and FOA Privacy Act officers must send SAF/AAIA a report covering the previous calendar year. The report includes:

- Total number of requests granted in whole.

- Total number of requests granted in part.

- Total number of requests denied and the Privacy Act exemptions used.

- Total number of requests for which no record was found.

- Total number of amendment requests granted in whole.

- Total number of amendment requests granted in part.

- Total number of amendment requests wholly denied.

- Specific recommendations for changes to the Act or the Privacy Act Program.

Appendix A to part 806b - Glossary of References, Abbreviations, Acronyms, and Terms

SECTION A-REFERENCES

- Privacy Act of 1974, as amended, Pub. L. 93-579, 88 Stat 1896 (5 U.S.C. 552a).
- 10 U.S.C 8013, 'Secretary of the Air Force: Powers and Duties.'
- Executive Order 9397, 'Numbering System for Federal Accounts Relating to Individual Persons.'
- 32 CFR part 806b, 'Air Force Privacy Act Program.'
- DoD Directive 5400.11¹, 'Department of Defense Privacy Program.'
- DoD 5400.11-R², 'Department of Defense Privacy Program.'
- AFI 33-202³, 'The Air Force Computer Security Program' (formerly AFR 205-16).
- AFPD 37-1⁴, 'Air Force Information Management.'
- AFI 37-131⁵, 'Air Force Freedom of Information Act Program' (formerly AFR 4-33).
- AFI 37-129⁶, 'Base and Unit Personnel Locators and Postal Directories' (formerly AFR 11-24).
- AFMAN 37-139⁷, 'Disposition of Records' (formerly AFR 4-20, volume 2).
- AFDIR 37-144⁸, 'Air Force Privacy Act Systems of Records Notices.'

¹ Copies may be obtained at cost from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

² See footnote 1 to section B, appendix A to part 806b.

³ See footnote 1 to section B, appendix A to part 806b.

⁴ See footnote 1 to section B, appendix A to part 806b.

⁵ See footnote 1 to section B, appendix A to part 806b.

⁶ See footnote 1 to section B, appendix A to part 806b.

⁷ See footnote 1 to section B, appendix A to part 806b.

⁸ See footnote 1 to section B, appendix A to part 806b.

m. AFH 37-146⁹, 'Privacy Act Training.'

SECTION B-DEFINITIONS ABBREVIATIONS AND ACRONYMS

- AETC - Air Education and Training Command
- AFA - Air Force Academy
- AFBCMR - Air Force Board for Correction of Military Records
- AFISA - Air Force Intelligence Services Agency
- AFMC - Air Force Materiel Command
- AFOSI - Air Force Office of Special Investigations
- AFSC - Air Force Specialty Code
- AFSCO - Air Force Security Clearance Office
- AFSPA - Air Force Security Police Agency
- ASCII - American Standard Code for Information Interchange
- BAQ - Basic Allowance for Quarters
- CFR - Code of Federal Regulations
- DCS - Deputy Chief of Staff
- DoD - Department of Defense
- DR&MO - Defense Reutilization and Marketing Office
- EAD - Entered on Active Duty
- FOA - Field Operating Agency
- FOIA - Freedom of Information Act
- FOUO - For Official Use Only
- IG - Inspector General
- IMC - Interim Message Change
- LE - Logistics and Engineering
- MAJCOM - Major Command
- MIRS - Management Information and Research System
- MP - Military Personnel
- MPC - Military Personnel Center
- NARA - National Archives and Records Administration
- OMB - Office of Management and Budget
- OPR - Office of Primary Responsibility
- PA - Privacy Act
- PAM - Privacy Act Monitor
- PAS - Privacy Act Statement
- RCS - Reports Control Symbol
- SAF - Secretary of the Air Force
- SAF/AA - The Administrative Assistant to the Secretary of the Air Force
- SAF/AAIA - Policy Division, Directorate of Information Management
- SAF/GCA - Assistant General Counsel for Civilian Personnel and Fiscal Law
- SG - Surgeon General
- SJA - Staff Judge Advocate
- SP - Security Police
- SSN - Social Security Number
- US - United States

⁹ See footnote 1 to section B, appendix A to part 806b.

⁵ See footnote 1 to section 806b.11, of this part.

qq. USAF – United States Air Force
 rr. U.S.C. – United States Code
 ss. VHA – Variable Housing Allowance

SECTION C—TERMS

a. *Access*. Allowing individuals to review or receive copies of their records.

b. *Amendment*. The process of adding, deleting, or changing information in a system of records to make the data accurate, relevant, timely, or complete.

c. *Computer matching*. A computerized comparison of two or more automated systems of records or a system of records with non-Federal records to establish or verify eligibility for payments under Federal benefit programs or to recover delinquent debts for these programs.

d. *Confidential source*. A person or organization giving information under an express or implied promise of confidentiality made before September 27, 1975.

e. *Confidentiality*. An expressed and recorded promise to withhold the identity of a source or the information provided by a source. The Air Force promises confidentiality only when the information goes into a system with an approved exemption for protecting the identity of confidential sources.

f. *Defense Data Integrity Board*. Representatives from the Services and the Department of Defense who oversee, coordinate, and approve all DoD computer matching programs covered by the Act.

g. *Denial authority*. The individuals with authority to deny requests for access or amendment of records under the Privacy Act.

h. *Disclosure*. Giving information from a system, by any means, to anyone other than the record subject.

i. *Federal benefit program*. A federally funded or administered program for individuals that provides cash or in-kind assistance (payments, grants, loans, or loan guarantees).

j. *Individual*. A living United States citizen or a permanent resident alien.

k. *Matching agency*. The agency that performs a computer match.

l. *Minor*. Anyone under the age of majority according to local state law. If there is no applicable state law, a minor is anyone under age 18. Military members and married persons are not minors, no matter what their chronological age.

m. *Personal identifier*. A name, number, or symbol which is unique to an individual, usually the person's name or SSN.

n. *Personal information*. Information about an individual other than items of public record.

o. *Privacy Act request*. An oral or written request by an individual about his or her records in a system of records.

p. *Recipient agency*. An agency or contractor that receives the records and actually performs the computer match.

q. *Record*. Any information about an individual.

r. *Routine use*. A disclosure of records to individuals or agencies outside the Department of Defense for a use that is compatible with the purpose for which the Air Force created the records.

s. *Source agency*. A federal, state, or local government agency that discloses records for the purpose of a computer match.

t. *System manager*. The official who is responsible for managing a system of records, including policies and procedures to operate and safeguard it. Local system managers operate record systems or are responsible for part of a decentralized system.

u. *System of records*. A group of records containing personal information retrieved by the subject's name, personal identifier, or individual identifier through a cross-reference system.

v. *System notice*. The official public notice published in the **Federal Register** of the existence and content of the system of records.

Appendix B to part 806b – Preparing a System Notice

The following elements comprise a system of records notice for publication in the **Federal Register**:

a. *System identifier*. SAF/AAIA assigns the notice number, for example, F011 AFMC A, where 'F' indicates 'Air Force,' the next number represents the series from AFMAN 37-139 regarding records disposition, and the final letter group shows the system manager's command or DCS. The last character 'A' indicates that this is the first notice for this series and system manager.

b. *System name*. Use a short, specific, plain-language title that identifies the system's general purpose (limited to 55 characters).

c. *System location*. Specify the address of the primary system and any decentralized elements, including automated data systems with a central computer facility and input or output terminals at separate locations. Use street address, 2-letter state abbreviations and 9-digit ZIP Codes. Spell out office names. Do not use office symbols.

d. *Categories of individuals covered by the system*. Use nontechnical, specific categories of individuals about whom the Air Force keeps records. Do not use categories like 'all Air Force personnel' unless they are actually true.

e. *Categories of records in the system*. Describe in clear, nontechnical terms, all categories of records in the system. List only documents actually kept in the system. Do not show source documents that are used to collect data and then destroyed. Do not list form numbers.

f. *Authority for maintenance of the system*. Cite the specific law or Executive Order that authorizes the program the records support. Cite the DoD directive or instruction or the Air Force or other instruction that authorizes the system of records. Always include titles with the citations.

Note: Executive Order 9397 authorizes using the Social Security Number (SSN). Include this authority whenever the SSN is used to retrieve records.

g. *Purpose(s)*. Describe briefly and specifically what the Air Force does with the information collected.

h. *Routine uses of records maintained in the system including categories of users and the purpose of such uses*. The Blanket Routine Uses published in the Air Force Directory of System Notices apply to all system notices unless you indicate otherwise. Also list each specific agency or activity outside DoD to whom the records may be released and the purpose for such release.

i. *Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system*.

j. *Storage*. State the medium in which the Air Force keeps the records, for example, in file folders, card files, microfiche, computer, and so on. Storage does not refer to the storage container.

k. *Retrievability*. State how the Air Force retrieves the records, for example, by name, SSN, or personal characteristics (such as fingerprints or voiceprints).

l. *Safeguards*. List the kinds of officials who have immediate access to the system. List those responsible for safeguarding the records. Identify the system safeguards, for example, storage in safes, vaults, locked cabinets or rooms, use of guards, visitor controls, personnel screening, computer systems software, and so on. Describe safeguards fully without compromising system security.

m. *Retention and disposal*. State how long AFMAN 37-139 requires the activity to maintain the record. Indicate when or if the records may be transferred to a Federal Records Center

and how long the record stays there. Specify when the Records Center sends the record to the National Archives or destroys it. Indicate how the records may be destroyed.

n. *System manager(s) and address.* List the title and duty address of the system manager. For decentralized systems, show the locations and the position or duty title of each category of officials responsible for any segment of the system.

o. *Notification procedure.* List the title and duty address of the official authorized to tell requesters if their records are in the system. Specify the information a requester must submit, for example, full name, military status, SSN, date of birth, or proof of identity, and so on.

p. *Record access procedures.* Explain how individuals may arrange to access their records. Include the titles or categories of officials who may assist, for example, the system manager.

q. *Contesting records procedures.* SAF/AAIA provides this standard caption.

r. *Record source categories.* Show categories of individuals or other information sources for the system. Do not list confidential sources protected by subsections (k)(2), (k)(5), or (k)(7) of the Act.

s. *Exemptions claimed for the system.* When a system has no approved exemption, write 'none' under this heading. Specifically list any approved exemption including the subsection in the Act.

Appendix C to part 806b - General and Specific Exemptions

(a) *General exemption.* The following systems of records are exempt under 5 U.S.C. 552a(j)(2):

(1) *System identifier and name:* F124 AF A, Counter Intelligence Operations and Collection Records.

(2) *System identifier and name:* F124 AF C, Criminal Records.

(3) *System identifier and name:* F125 AF SP E, Security Police Automated System (SPAS).

(4) *System identifier and name:* F124 AF D, Investigative Support Records.

(5) *System identifier and name:* F125 AF A, Correction and Rehabilitation Records.

Exemption—Portions of this system that fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of 5 U.S.C. 552a, Sections (c)(3) and (c)(4); (d)(1) through (d)(5); (e)(2) and (e)(3); (e)(4)(G) and (e)(4)(H), (e)(5); (f)(1) through (f)(5); (g)(1) through (g)(5); and (h) of the Act.

Authority—5 U.S.C. 552a(j)(2).

Reason—The general exemption will protect ongoing investigations and protect from access criminal investigation information contained in this record system so as not to jeopardize any subsequent judicial or administrative process taken as a result of information contained in the files.

(b) *Specific exemptions.* The following systems of records are subject to the specific exemptions shown:

(1) *Classified records.*

(i) All records in any systems of records that are properly classified according to Executive Orders 11652, 12065 or 12356, are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4)(G), (H), and (I); and (f), regardless of whether the entire system is otherwise exempt or not.

(ii) *Authority.* 5 U.S.C. 552a(k)(1).

(2) *System identifier and name:* F053 AFA C, Admissions and Registrar Records.

(i) *Exemption.* Parts of this system of records (Liaison Officer Evaluation and Selection Panel Candidate Evaluation) are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To ensure the frankness of information used to determine whether cadets are qualified for graduation and commissioning as officers in the Air Force.

(3) *System identifier and name:* F035 MPC R, Air Force Personnel Test 851, Test Answer Cards.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(6).

(iii) *Reasons.* To protect the objectivity of the promotion testing system by keeping the test questions and answers in confidence.

(4) *System identifier and name:* F035 AFA A, Cadet Personnel Management System.

(i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only insofar as disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate an Air Force Academy cadet for commissioning in the Air Force.

(5) *System identifier and name:* F045 AETC C, Cadet Records.

(i) *Exemption.* Portions of this system (Detachment Professional Officer Course (POC) Selection Rating Sheets; Air Force Reserve Officer Training Corps (AFROTC) Form 0-24—Disenrollment

Review; Memoranda for Record and Staff Papers with Staff Advice, Opinions, or Suggestions) are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4)(G) and (H), and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of a confidential source who furnishes information necessary to make determinations about the qualifications, eligibility, and suitability of cadets for graduation and commissioning in the Air Force.

(6) *System identifier and name:* F168 AF SG B, Family Advocacy Program Record.

(i) *Exemption.* Parts of this system are exempt from 5 U.S.C. 552a(c)(3) and (d), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons.* To encourage those who know of exceptional medical or educational conditions or family maltreatments to come forward by protecting their identities, and the integrity of ongoing and civil law investigations of criminal and civil law violations. Giving subjects access to their files could result in them concealing, altering, or fabricating evidence could hamper the identification of offenders and alleged offenders; and could jeopardize the safety and well-being of the family.

(7) *System identifier and name:* F035 AF MP A, Effectiveness/Performance Reporting System.

(i) *Exemptions—Brigadier General Selectee Effectiveness Reports and Colonel and Lieutenant Colonel Promotion Recommendations with close out dates on or before January 31, 1991, may be exempt from subsections of 5 U.S.C. 552a(c)(3); (d); (e)(4)(H); and (f).*

(ii) *Authority—5 U.S.C. 552a(k)(7).*

(iii) *Reasons—Subsection (c)(3) because making the disclosure accounting available to the individual may compromise express promises of confidentiality by revealing details about the report and identify other record sources, which may result in circumvention of the access exemption. Subsection (d) because individual disclosure compromises express promises of confidentiality conferred to protect the integrity of the promotion rating system.*

Subsection (e)(4)(H) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

Subsection (f) because of and to the extent that portions of this record

system are exempt from the individual access provisions of subsection (d).

(8) *System identifier and name:* F030 AF LE A, Equal Opportunity in Off Base-Housing.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(2).

(iii) *Reasons.* To enforce civil laws, court orders, and the activities of the Departments of Housing and Urban Development and Justice.

(9) *System identifier and name:* F035 AP A, Files on General Officers and Colonels Assigned to General Officer Positions.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4)(G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To protect the integrity of information used in the Reserve Initial Brigadier General Screening Board, the release of which would compromise the selection process.

(10) *System identifier and name:* F035 AF MP P, General Officer Personnel Data System.

(i) *Exemption—Air Force General Officer Promotion and Effectiveness Reports with close out dates on or before January 31, 1991, may be exempt from subsections of 5 U.S.C. 552a(c)(3); (d); (e)(4)(H); and (f).*

(ii) *Authority—5 U.S.C. 552a(k)(7).*

(iii) *Reason—Subsection (c)(3) because making the disclosure accounting available to the individual may compromise express promises of confidentiality by revealing details about the report and identify other record sources, which may result in circumvention of the access exemption.*

Subsection (d) because individual disclosure compromises express promises of confidentiality conferred to protect the integrity of the promotion rating system.

Subsection (e)(4)(H) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

Subsection (f) because of and to the extent that portions of this record system are exempt from the individual access provisions of subsection (d).

(11) *System identifier and name:* F035 MPC L, Historical Airman Promotion Master Test File.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f).

(ii) *Authority.* 5 U.S.C. 552a(k)(6).

(iii) *Reasons.* To protect the integrity, objectivity, and equity of the promotion

testing system by keeping test questions and answers in confidence.

(12) *System identifier and name:* F120 AF IG B, Inspector General Records.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f). However, if a person is denied any right, privilege, or benefit, he or she would otherwise be entitled to as a result of keeping this material, it must be released, unless doing so would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(2).

(iii) *Reasons.* Granting individuals access to information collected while an Inspector General inquiry is in progress could interfere with the just, thorough, and timely resolution of the complaint or inquiry and could possibly enable individuals to conceal wrong doing or mislead the inquiring officer. Disclosure might also subject sources, witnesses, and their families to harassment or intimidation.

(13) *System identifier and name:* F124 AFOSI B, Investigative Applicant Processing Records.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect those who gave information in confidence during Air Force Office of Special Investigations (AFOSI) applicant inquiries. Fear of harassment could cause sources not to make frank and open responses about applicant qualifications. This could compromise the integrity of the AFOSI personnel program that relies on selecting only qualified people.

(14) *System identifier and name:* F035 AFB B, Master Cadet Personnel Record (Active/Historical).

(i) *Exemptions.* Parts of these systems are exempt from 5 U.S.C. 552a(d), (e)(4)(H), and (f), but only to the extent that they would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(7).

(iii) *Reasons.* To maintain the candor and integrity of comments needed to evaluate a cadet for commissioning in the Air Force.

(15) *System identifier and name:* F205 AFISA A, Sensitive Compartmented Information Personnel Records.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(a)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(2) and (k)(5).

(iii) *Reasons.* To protect the identity of sources to whom proper promises of confidentiality have been made during investigations. Without these promises, sources will often be unwilling to provide information essential in adjudicating access in a fair and impartial manner.

(16) *F124 AFA, Security and Related Investigative Records.*

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to resolve charges of questionable conduct.

(17) *System identifier and name:* F205 AFSCO A, Special Security Case Files.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause sources to refuse to give this information in the frank and open way needed to pinpoint those areas in an investigation that should be expanded to resolve charges of questionable conduct.

(18) *System identifier and name:* F205 AF SP A, Special Security Files.

(i) *Exemption.* This system is exempt from 5 U.S.C. 552a(c)(3); (d); (e)(4) (G), (H), and (I); and (f), but only to the extent that disclosure would reveal the identity of a confidential source.

(ii) *Authority.* 5 U.S.C. 552a(k)(5).

(iii) *Reasons.* To protect the identity of those who give information in confidence for personnel security and related investigations. Fear of harassment could cause them to refuse to give this information in the frank and open way needed to pinpoint areas in an investigation that should be expanded to resolve charges of questionable conduct.

(19) *System identifier and name:* F035 AF MP R, Applications for Appointment and Extended Active Duty Files.

(i) *Exemption.* Parts of this system of records are exempt from 5 U.S.C. 552a(d), but only to the extent that

disclosure would reveal the identity of a confidential source.

(ii) *Authority*. 5 U.S.C. 552a(k)(5).

(iii) *Reasons*. To protect the identity of confidential sources who furnish information necessary to make determinations about the qualifications, eligibility, and suitability of health care professionals who apply for Reserve of the Air Force appointment or interservice transfer to the Air Force.

Dated: October 14, 1994.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94-26085 Filed 10-20-94; 8:45 am]

BILLING CODE 5000-04-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL-5094-7]

RIN 2060-AF07

National Emission Standards for Hazardous Air Pollutants for Source Categories: Early Reductions Program High-Risk List Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On December 29, 1992, the EPA promulgated final regulations implementing the Early Reductions Program under section 112(i)(5) of the Clean Air Act, as amended (CAA). As part of that rulemaking, EPA designated a list of high-risk hazardous air pollutants and limited the use of offsetting reductions in other hazardous air pollutants as counting towards the required reductions in high-risk pollutants. An amendment to the high-risk list which would delete acrylic acid because of EPA's analysis of new toxicological data was proposed in the *Federal Register* on June 22, 1994. This final action promulgates this amendment and deletes acrylic acid from the list of high-risk pollutants as designated by the Early Reductions Program.

This final action also removes methylene diphenyl diisocyanate (MDI) (CAS No. 101688) from the list of high-risk pollutants. The EPA's listing of MDI as a high-risk pollutant was vacated by the United States Court of Appeals for the District of Columbia Circuit on July 19, 1994.

DATES: *Effective Date.* October 21, 1994. *Judicial Review.* Under section 307(b)(1) of the CAA, judicial review of

the actions taken by this final rule is available only by the filing of a petition for review in the U.S. District Court of Appeals for the District of Columbia Circuit within 60 days of publication of this rule. Under section 307(b)(2) of the CAA, the requirements that are the subject of this action may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

ADDRESSES: *Docket.* Docket No. A-94-29, containing supporting information used in developing the promulgated standards, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Waterside Mall, room 1500, 1st floor, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Martha H. Keating, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-5340.

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

- I. Significant Comments and Summary of the Final Rule
- II. Removal of MDI From the High-Risk List
- III. Administrative Requirements

I. Significant Comments and Summary of the Final Rule

Based on comments received during the comment period, the EPA is deleting acrylic acid (CAS. No. 79107) from the list of high-risk pollutants, as proposed. Three commenters submitted letters supporting EPA's proposal, with all commenters agreeing that acrylic acid does not meet the EPA's criteria for listing acrylic acid as a high-risk pollutant under the Early Reductions Program. As the commenters appropriately pointed out, the EPA did not propose to revise the criteria for including a pollutant on the high-risk list. Therefore, the recent revision of the inhalation reference concentration (RfC) for acrylic acid (April 1, 1994) is sufficient grounds to delete acrylic acid from the list.

One commenter addressed issues pertinent to EPA's use of the Integrated Risk Information System (IRIS). With respect to acrylic acid, the commenter commended the EPA for considering additional data that was not previously available when the RfC for acrylic acid was first included in the IRIS data base. The commenter's specific comments however, dealt with the EPA's use of IRIS values for cresol isomers in the

context of two other proposed rulemakings. Because this issue is not pertinent to this action, these comments are not addressed here. The commenter has also submitted them to EPA in response to a request for public comment on two other proposed rulemakings that deal with cresol isomers and the EPA will consider and respond to them at the time those proposals are finalized.

II. Removal of MDI From the High-Risk List

On July 19, 1994, the United States Court of Appeals for the D.C. Circuit vacated EPA's designation of MDI as a high-risk pollutant for purposes of the Early Reductions Program [Chemical Manufacturers Association (CMA) v. EPA, No. 93-1178 (D.C. Cir.)]. The court found that EPA was arbitrary and capricious in not adequately addressing CMA's contentions that MDI was substantially different than the characteristics of the model pollutant used in the generic modeling exercise to screen the 189 hazardous air pollutants for inclusion on the high-risk list. In addition, the court found that it was arbitrary for EPA to include MDI on the list of high risk pollutants without identifying any serious health effect with which it had ever been associated.

Therefore, this final rule deletes MDI from the list of high-risk pollutants for the purposes of the Early Reductions Program in accordance with the court's decision.

III. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this rulemaking. The principal purposes of the docket are: (1) To allow interested parties to readily identify and locate documents so they can intelligently and effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review (except for interagency review materials [section 307(d)(7)(A)]).

B. Paperwork Reduction Act

There are no information collection requirements associated with this proposed rule. Therefore, an Information Collection Request document has not been prepared.

C. Executive Order 12866 Review

Under Executive Order 12866 (FR 51735 (October 4, 1993)), EPA must determine whether a regulation is "significant" and therefore subject to review by the Office of Management and

Budget (OMB), and the requirements of the Executive Order. The order defines "significant regulatory action" as one that is likely to result in a rule that may:

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

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

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs, 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. Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "non significant regulatory action". Accordingly, a regulatory impact analysis has not been prepared and EPA has not submitted the action to OMB for review.

D. Compliance With Regulatory Flexibility Act

Under section 605 of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, federal agencies are required to assess the economic impact of federal regulations on small entities. Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small business entities because the impact of this rule is not significant.

List of Subjects in 40 CFR Part 63

Air pollution control, Early emission reductions, Hazardous air pollutants, Compliance extensions, Sources.

Dated: October 13, 1994.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, 40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

§ 63.74 [Amended]

2. In § 63.74 Table 1 entitled "List of High Risk Pollutants", the entry for "acrylic acid" (CAS No. 79107) is removed.

3. In § 63.74 Table 1 entitled "List of High Risk Pollutants", the entry for

"methylene diphenyl diisocyanate (MDI)" (CAS No. 101688) is removed.

[FR Doc. 94-26196 Filed 10-20-94; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-7602]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646-3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the FEMA has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as

amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR,

1978 Comp., p. 329; E.O. 12127, 44 FR 19367,
3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/Location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
NEW ELIGIBLES—EMERGENCY PROGRAM			
Illinois: Ogden, village of, Champaign County	170030	Aug. 2, 1994	
New Mexico: Chama, village of, Rio Arriba County	350050	Aug. 2, 1994	12-12-75
Virginia: Washington, town of, Rappahannock County	510288	Aug. 11, 1994	2-4-77
Georgia: Forsyth, city of, Monroe County	130359	Aug. 12, 1994	4-11-75
Iowa: Dayton, city of, Webster County	190565	Aug. 19, 1994	11-5-76
Georgia: Baker County, unincorporated areas	130270	Aug. 18, 1994	3-28-75
Michigan:			
Waverly, township of, Cheboygan County	260678	Aug. 29, 1994	
Polkton, charter township of, Ottawa County	260923	Aug. 31, 1994	
New York: Kiryas Joel, village of, Orange County	361610	Aug. 31, 1994	11-1-84
Georgia: Twiggs County, unincorporated areas	130406	Sept 8, 1994	
Maine: Orrington, town of, Penobscot County	230180	Sept 20, 1994	2-7-75
Oklahoma: Kiowa County, unincorporated areas	400543	do	
Georgia:			
Alamo, city of, Wheeler County	130507	Sept. 22, 1994	
Macon County, unincorporated areas	130506	do	
Dawson, city of, Terrell County	130509	Sept. 27, 1994	
Jeffersonville, city of, Twiggs County	130508	do	
NEW ELIGIBLES—REGULAR PROGRAM			
California:			
Mammoth Lakes, town of, Mono County	060724	Aug. 2, 1994	9-30-92
Lake Forest, city of, Orange County ¹	060759	Sept. 15, 1994	
Iowa: Tripoli, city of, Bremer county	190669	Sept. 28, 1994	7-16-90
Illinois: West Peoria, city of, Peoria County ²	171034	Sept. 29, 1994	
REINSTATEMENTS—REGULAR PROGRAM			
New York:			
Grove, town of, Allegany County	361005	Nov. 26, 1976, Emerg; July 9, 1982, Reg; Nov. 4, 1992, Susp; Aug. 2, 1994, Rein.	11-6-91
Oneida Castle, village of, Oneida County	361526	June 1, 1983, Emerg; Sept. 15, 1983, Reg; Nov. 4, 1992, Susp; Aug. 2, 1994, Rein.	7-4-89
Stafford, town of, Genesee County	361118	Mar. 1, 1977, Emerg; July 16, 1982, Reg; Nov. 4, 1992, Susp; Aug. 2, 1994, Rein.	7-16-82
Cuyler, town of, Cortland County	361386	June 6, 1977, Emerg; May 15, 1985, Reg; May 15, 1985, Susp; Aug. 2, 1994, Rein.	5-15-85
De Ruyter, town of, Madison County	361291	Dec. 22, 1975, Emerg; June 8, 1984, Reg; May 17, 1988, Susp; Aug. 2, 1994, Rein.	6-8-84
Mississippi: Smith County, unincorporated areas	280306	June 8, 1990, Emerg; July 1, 1991, Reg; Dec. 3, 1993, Susp; Aug. 2, 1994, Rein.	12-3-93
Florida: Malone, town of, Jackson County	120623	Oct. 30, 1984, Emerg; Dec. 15, 1990, Reg; Dec. 15, 1990, Susp; Aug. 16, 1994, Rein.	12-15-90
Ohio: Kipton, village of, Lorain County	390743	Apr. 21, 1978, Emerg; Sept. 22, 1978, Reg; July 4, 1989, Susp; Aug. 29, 1994, Rein.	9-22-78
Virginia: Bluefield, town of, Tazewell County	510161	July 30, 1973, Emerg; July 17, 1978, Reg; Aug. 2, 1994, Susp; Aug. 30, 1994, Rein.	8-2-94
Pennsylvania: Wind Gap, Borough of, Northampton County	420734	Nov. 14, 1975, Emerg; May 19, 1981, Reg; May 16, 1994, Susp; Aug. 31, 1994, Rein.	5-16-94
Ohio: Higginsport, village of, Brown County	390677	Jan. 29, 1976, Emerg; Sept. 15, 1993, Reg; Aug. 16, 1994, Susp; Sept 8, 1994, Rein.	9-15-83
New York: Angelica, town of, Allegany County	361095	Mar. 10, 1982 Emerg; Dec. 31, 1982, Reg; Nov. 4, 1992, Susp; Sept 20, 1994, Rein.	12-31-82
REGULAR PROGRAM CONVERSIONS			
Region II			
New York: Turin, town of, Lewis County	360376	Aug. 2, 1994 Suspension withdrawn	8-2-94
Region III			
Pennsylvania: Union, township of, Huntingdon County	421704	do	Do.
Virginia:			
Tazewell County, unincorporated areas	510160	do	Do.
Wise County, unincorporated areas	510174	do	Do.
Region II			
New York: Trenton, town of, Oneida County	360556	Aug. 16, 1994 Suspension withdrawn	8-16-94

State/Location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
Region III			
Maryland:			
Deer Park, town of, Garrett County	240102	do	Do.
Garrett County, unincorporated areas	240034	do	Do.
Mountain Lake Park, town of, Garrett County	240038	do	Do.
Region V			
Minnesota: Paynesville, city of, Stearns County	270452	do	Do.
Ohio: Sebring, village of, Mahoning County	390371	do	Do.
Wisconsin: Winneconne, village of, Winnebago County ..	550512	do	Do.
Region VIII			
Utah:			
Farmington, city of, Davis County	490044	do	Do.
Davis County, unincorporated areas	490038	do	Do.
Region IV			
Florida: Orange City, city of, Volusia County	120633	Sept. 2, 1994 Suspension withdrawn	9-2-94
Region V			
Ohio: Batavia, village of, Clermont County	390066	do	9-2-94
Wisconsin: Pierce County, unincorporated areas	555571	do	9-2-94
Region II			
New Jersey: Byram, township of, Sussex County	340557	Sept. 15, 1994 Suspension withdrawn	9-15-94
Region IV			
Kentucky:			
Bourbon County, unincorporated areas	210271	do	7-16-81
Johnson County, unincorporated areas	210339	do	5-4-88
Monterey, city of, Owen County	210295	do	8-5-86
Russell, city of, Greenup County	210090	do	1-19-83
Illinois:			
Morris, city of, Grundy County	170263	do	9-15-94
Mundelein, village of, Lake County	170382	do	9-15-94
Region VI			
Texas:			
Jacksonville, city of, Cherokee County	480123	Sept. 30, 1994 Suspension withdrawn	9-30-94
North Lake, town of, Denton County	480782	do	Do.
Region VIII			
Utah:			
Bluffdale, city of, Salt Lake County	490247	do	Do.
Draper, city of, Salt Lake County	490244	do	Do.
Midvale, city of, Salt Lake County	490211	do	Do.
Murray, city of, Salt Lake County	490103	do	Do.
Riverton, city of, Salt Lake County	490104	do	Do.
Sandy City, city of, Salt Lake County	490106	do	Do.
South Salt Lake, city of, Salt Lake County	490219	do	Do.
South Jordan, city of, Salt Lake County	490107	do	Do.
West Valley City, city of, Salt Lake County	490245	do	Do.
West Jordan, city of, Salt Lake County	490108	do	Do.
Region IX			
Nevada:			
Reno, city of, Washoe County	320020	do	Do.
Sparks, city of, Washoe County	320021	do	Do.
Region X			
Washington:			
Burien, city of, King County	530321	do	Do.
King County, unincorporated areas	530071	do	Do.
Normandy Park, city of, King County	530084	do	Do.
Seatac, city of, King County	530320	do	Do.

¹ The City of Lake Forest, has adopted Orange County's Flood Insurance Rate Map (FIRM) and Study for floodplain management and insurance purposes.

² The City of West Peoria has adopted Peoria County's Flood Insurance Rate Map (FIRM) for floodplain management and flood insurance purposes.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: October 13, 1994.

Frank H. Thomas,
Deputy Associate Director, Mitigation
Directorate.

[FR Doc. 94-26171 Filed 10-20-94; 8:45 am]

BILLING CODE 6718-21-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 92-266, FCC 94-254]

Cable Television Act of 1992

AGENCY: Federal Communications
Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a Fourth Order on Reconsideration to revise and adopt further Commission cable rate regulations. The Fourth Order on Reconsideration addresses issues regarding external cost treatment of Commission cable television system regulatory fees and franchise fees. It is intended to provide for external cost treatment of Commission cable television system regulatory fees and permit cable operators to adjust rates for regulated cable services to reflect Commission regulatory fees and changes in franchise fees upon 30 days' notice without receiving prior franchising authority or Commission approval, but subject to refund.

EFFECTIVE DATE: November 21, 1994.

FOR FURTHER INFORMATION CONTACT:

Leora Hochstein, (202) 416-0800.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Fourth Order on Reconsideration in MM Docket No. 92-266, FCC 94-254, adopted September 30, 1994 and released October 5, 1994.

The complete text of this Fourth Order on Reconsideration is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription service at (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Synopsis of the Fourth Order on Reconsideration

I. Franchise Fees

1. Cable systems are franchised by state or local governments or by a combination thereof or, in certain circumstances, by other governmental entities such as federal military

installations. The payment of fees under the terms of any franchise is authorized by Section 622(a) of the Communications Act, is limited as to amount by Section 622(b), and such fees are to be accounted for in the establishment of rates under Section 623(b)(2)(c)(V).

2. Under the Commission's price cap rules, a cable operator is permitted to adjust its maximum monthly charge for regulated service tiers to reflect changes in certain categories of external costs, including franchise fees. If an operator's basic service tier is being regulated in a particular franchise area by the franchising authority or by the Commission, the operator generally is not allowed under our rules to increase its rates for the basic service tier or related equipment and installations without first submitting the proposed increase to the franchising authority or the Commission, as the case may be, for review. Under our rules, a franchising authority reviewing a proposed increase in basic rates has an initial 30 day period to make its decision. The franchising authority may extend this period for an additional 90 days in a non-cost-of-service case or 150 days in a cost-of-service case. During this period, the operator's proposed increase is not in effect. When the Commission is regulating basic rates, filings regarding rate increases must be made 30 days prior to the proposed effective date and such rate increases are effective on the date proposed unless the Commission issues an order deferring the effective date or denying the rate proposal. With respect to cable programming service (CPS) rates, an operator must file rate increases for prior review by the Commission if the Commission has ordered the operator to reduce its CPS rates within the prior 12 months or some other period specified by the Commission in a particular case. In addition, when a CPS complaint against the operator is pending before the Commission, an operator must give the Commission 30 days' notice of changes in any rates, including increases in rates attributable to increases in franchise fees.

3. On reconsideration, on our own motion, we determine that we should permit adjustments to capped rates to reflect increases in franchise fees without prior regulatory approval. Since it is the franchising authority which has set the franchise fee, prior regulatory review appears less necessary from a consumer protection standpoint than it is for other categories of external costs. This decision supersedes Answer No. 5 in the Questions and Answers released by the Cable Services Bureau on May

18, 1994 which interpreted the Commission's price cap rules as requiring prior approval before franchise fee increases could be passed through.

4. Accordingly, as of the effective date of this Order, where the franchising authority is regulating basic rates, increases in basic rates attributable to increases in franchise fees will not be subject to the prior approval requirements for proposed rates increases set forth in § 76.933(a)-(c) of our rules. However, operators will continue to be required to abide by the notice provisions of our rules. When the operator provides the notice to the franchising authority, it must also provide documentation that demonstrates that the rate increase has been properly calculated. We find it unnecessary to prescribe the precise form of this documentation. The operator need not use FCC Form 1210 since Form 1210 was not specifically designated for use in calculating rate adjustments that reflect changes in franchise fees.

5. As under existing rules, where the Commission is regulating basic service tier rates, operators must give the Commission 30 days' advance notice of any such increase attributable to franchise fee increases. Operators must also give subscribers and franchising authorities 30 days' advance notice of changes in basic rates attributable to increases in franchise fees as required by our rules. In addition, where the Commission is regulating basic service rates, the operator should submit with its filing to the Commission the same documentation which it would need to submit if the franchising authority were regulating basic service rates as outlined above.

6. The franchising authority or the Commission, as appropriate, may then review the pass-through of increases in franchise fees and may order a prospective rate reduction and refunds in accordance with our rules in the event the operator has increased its basic service rates by more than the increase in franchise fees properly allocable to the basic tier. The burden of demonstrating that any such increases are proper shall remain on the operator as with any other rate adjustments. The procedures set forth in § 76.933 of our rules will apply to a franchising authority review of rate increases resulting from franchise fee pass-throughs, except that the increased rate attributable to the increased franchise fee will be treated as an "existing rate" for the purposes of § 76.933. Thus, franchising authorities will have an initial 30-day period, beginning on the