No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: July 15, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-16288 Filed 7-16-86; 11:14 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, July 22, 1986, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment or civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6))

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: July 15, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-16289 Filed 7-16-86; 11:14 am]

BILLING CODE 6714-01-M

4

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: July 10, 1986, 51 FR 25144.

PREVIOUSLY ANNOUNCED DATE AND TIME OF THE MEETING: July 16, 1986, 10:00 a.m.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

4. Georgia Ports Authority v. Palmetto Shipping Stevedoring Company and Georgia Ports Authority v. Harrington and Company, Inc., Civil Suits Pending in Georgia State Court, Relating to FMC Docket No. 85-20.

Joseph C. Polking,

Secretary.

[FR Doc. 86-16268 Filed 7-16-86; 8:45 am]

BILLING CODE 6730-01-M

federal register

Friday
July 18, 1986

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 310

Oral Mucosal Injury Drug Products for Over-the-Counter Human Use; Oral Wound Healing Drug Products for Over-the-Counter Human Use; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 78N-0196]

Oral Mucosal Injury Drug Products for Over-the-Counter Human Use; Oral Wound Healing Drug Products for Over-the-Counter Human Use

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule establishing that any oral wound healing drug product for over-the-counter (OTC) human use is not generally recognized as safe and effective, is misbranded, and is subject to regulatory action unless it has an approved new drug application (NDA). (Oral wound healing agents are drugs used to aid in the healing of minor oral wounds by means other than cleansing and irrigating, or by serving as a protectant.) After considering the agency's proposed regulation, which was issued in the form of a tentative final monograph, and because no new data or information were submitted, the agency is issuing this final rule to remove oral wound healing agents from the OTC market. This final rule is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: July 18, 1987.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 2, 1979 (44 FR 63270), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC oral mucosal injury drug products, together with the recommendations of the Advisory Review Panel on OTC Dentifrice and Dental Care Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by January 24, 1980. Reply comments in response to comments filed in the initial comment period could be submitted by February 25, 1980.

In accordance with § 330.10(a)10), the data and information considered by the Panel were put on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, after deletion of a small amount of trade secret information.

The agency's proposed regulation, in the form of a tentative final monograph, for OTC oral mucosal injury drug products was published in the **Federal Register** of July 26, 1983 (48 FR 33984). Interested persons were invited to file by September 26, 1983, written comments, objections, or requests for an oral hearing before the Commissioner of Food and Drugs regarding the proposal. Interested persons were invited to file comments on the agency's economic impact determination by November 23, 1983. New data could have been submitted until July 26, 1984, and comments on the new data until September 26, 1984.

No comments, objections, requests for an oral hearing, or new data were submitted in response to the proposed regulation on OTC oral mucosal injury drug products.

The agency is also engaged in a rulemaking on OTC oral health care drug products to be published in a future issue of the **Federal Register**. Oral health care drug products are used for the temporary relief of symptoms of the mouth and throat, for example, occasional minor sore throat or mouth soreness. The tentative final monograph for OTC oral mucosal injury drug products included two classes of products: oral wound cleansers and oral wound healing agents. There is considerable overlap between the rulemaking on OTC oral mucosal injury drug products and the rulemaking on OTC oral health care drug products. Accordingly, the agency is incorporating that part of the oral mucosal injury rulemaking that covers oral wound cleansers into the first segment of the tentative final monograph for OTC oral health care drug products. That monograph covers OTC anesthetic/analgesic, astringent, debriding agent/oral wound cleanser, and demulcent drug products. An intent of both rulemakings is to identify those ingredients that are generally recognized as safe and effective in temporarily relieving the symptoms of minor oral wounds or other irritations of the mouth or gums.

Carbamide peroxide, hydrogen peroxide, and sodium perborate monohydrate, the three ingredients included in the tentative final monograph for OTC oral mucosal injury drug products as oral wound cleansers, were also included in the rulemaking for OTC oral health care drug products as debriding agents (agents which cause the removal of foreign material or devitalized or contaminated tissue from or adjacent to a traumatic or infected lesion to expose surrounding healthy tissue (47 FR 22927)). A number of the comments submitted to the advance notice of proposed rulemaking for OTC oral health care drug products pointed out the similarities between oral wound cleansers and debriding agents and requested that the labeling for these ingredients be consistent between the two rulemakings. In order to achieve this consistency, the agency has decided to combine debriding agents and oral wound cleansers into one therapeutic class and to include that therapeutic class in the tentative final monograph for OTC oral health care anesthetic/analgesic, astringent, debriding agent/oral wound cleanser, and demulcent drug products. That tentative final monograph will be published in another issue of the **Federal Register**. Final agency action on OTC oral wound healing drug products occurs with the publication of this document.

In the proposed rule on OTC oral mucosal injury drug products (48 FR 33988), the agency accepted the Panel's recommended Category III classification of oral wound healing agents because there were insufficient data to establish safety and effectiveness of these ingredients, and no comments were received on the issue. In this final rule, no ingredients intended for use as an oral wound healing agent have been determined to be generally recognized as safe and effective for OTC use. This final rule declares any product intended for use as an OTC oral wound healing agent to be a new drug under section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)).

for which an NDA approved under section 505 of the act (21 U.S.C. 355) and 21 CFR Part 314 is required for marketing. In the absence of an approved NDA, products intended for this use would also be misbranded under section 502 of the act (21 U.S.C. 352). This final rule amends 21 CFR Part 310 to include OTC oral wound healing agents by adding to Subpart E new § 310.534 (21 CFR 310.534). The inclusion of OTC oral wound healing agents in Part 310 is consistent with FDA's established policy for regulations in which there are no monograph conditions. (See e.g., §§ 310.510, 310.519, 310.525, 310.526, and 310.533.) If, in the future, any ingredient is determined to be generally recognized as safe and effective as an OTC oral wound healing agent, the agency will promulgate an appropriate regulation at that time.

The OTC procedural regulations (21 CFR 330.10) have been revised to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). (See the **Federal Register** of September 29, 1981; 46 FR 47730.) The court in *Cutler* held that the OTC drug review regulations were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision has been deleted from the regulations, which now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA is no longer using the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but is using instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III).

The agency is aware that products containing certain ingredients offered as oral wound healing agents may have to be reformulated and/or relabeled. The agency has established a period of 12 months after the date of publication of the final rule in the **Federal Register** for reformulation and/or relabeling of products. On or after July 18, 1987, no OTC drug product that is subject to this final rule and that contains a nonmonograph condition, i.e., a condition that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved NDA.

I. Summary of Significant Changes From the Proposed Rule

Oral wound cleansers are being combined with oral health care debriding agents into one therapeutic class that is included in the first segment of the tentative final monograph for OTC oral health care drug products. That tentative final monograph covers OTC anesthetic/analgesic, astringent, debriding agent/oral wound cleanser, and demulcent drug products. It will be published in a future issue of the **Federal Register**. Therefore, those portions of Part 353 (proposed in the **Federal Register** of July 26, 1983; 48 FR 33984) applicable to oral wound cleansers, i.e., definitions proposed in § 353.3; indications, warnings, and directions proposed in § 353.50; and the professional labeling proposed in § 353.80, are being incorporated into the tentative final monograph for OTC oral health care anesthetic/analgesic, astringent, debriding agent/oral wound cleanser, and demulcent drug products. The agency is deferring consideration of proposed § 353.20(b), regarding the combination of an oral wound cleanser and an antiseptic, to the second segment of the OTC oral health care rulemaking, which covers antimicrobial drug products and which will be published in a future issue of the **Federal Register**.

The remaining portion of proposed Part 353 relating to oral wound healing agents, i.e., proposed §§ 353.3(d), 353.20 (a) and (c), and 353.50(a) will not be addressed in an OTC final monograph. No OTC oral wound healing agent has been found to be generally recognized as safe and effective and not misbranded. Oral wound healing agents are now considered to be new drugs. Accordingly, this final rule or oral wound healing agents is being promulgated under 21 CFR Part 310 rather than under 21 CFR Part 330. Therefore, the agency is amending Part 310 to include a final rule declaring OTC oral wound healing agents to be new drugs, by adding to Subpart E new § 310.534.

II. The Agency's Final Conclusions on OTC Oral Wound Healing Drug Products

The agency has determined that no ingredient has been found to be generally recognized as safe and effective for use as an OTC oral wound healing agent. Therefore, all oral wound healing agents, including those reviewed by the Panel, i.e., allantoin, carbamide peroxide in anhydrous glycerin, water soluble chlorophyllins, and hydrogen peroxide in aqueous solution, are considered nonmonograph ingredients. Any OTC drug product that is labeled, represented, or promoted for use as an oral wound healing agent is misbranded under section 502(a) of the act (21 U.S.C. 352(a)) and is a new drug within the meaning of section 201(p) of the act.

The agency is aware that products containing some of the above ingredients have been on the OTC market and that these products have had multiple claims. Purported oral wound healing agents must be removed from these OTC drug products or the product must be relabeled to exclude oral wound hearing claims by the effective date of this final rule unless the product has an approved NDA.

In response to the agency's request for specific comment on the economic impact of this rulemaking (48 FR 33984), no comments were received. The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of those rules, including this final rule for OTC oral wound healing drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC oral wound healing agents is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 21 CFR Part 310

New drugs

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act and under 21 CFR 5.11, Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended in Part 310 as follows:

PART 310—NEW DRUGS

1. The authority citation for Part 310 continues to read as follows:

Authority: Secs. 502, 503, 505, 701, 52 Stat. 1051, 1052, 1053, 1055 as amended (21 U.S.C. 352, 353, 355, 371) (5 U.S.C. 553); 21 CFR 5.11.

2. In Subpart E by adding new § 310.534 to read as follows:

§ 310.534 Drug products containing active ingredients offered over-the-counter (OTC) for human use as oral wound healing agents.

(a) Allantoin, carbamide peroxide in anhydrous glycerin, water soluble chlorophyllins, and hydrogen peroxide in aqueous solution have been present in oral mucosal injury drug products for use as oral wound healing agents. Oral wound healing agents have been marketed as aids in the healing of minor oral wounds by means other than cleansing and irrigating, or by serving as a protectant. Allantoin, carbamide peroxide in anhydrous glycerin, water soluble chlorophyllins, and hydrogen peroxide in aqueous solution are safe for use as oral wound healing agents, but there are inadequate data to establish general recognition of the effectiveness of these ingredients as oral wound healing agents.

(b) Any OTC drug product that is labeled, represented, or promoted for use as an oral wound healing agent is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act, for which an approved new drug application under section 505 of the act and Part 314 of this chapter is required for marketing. In the absence of an approved new drug application, such product is also misbranded under section 502 of the act.

(c) A completed and signed "Notice of Claimed Investigational Exemption for a New Drug" (Form FDA-1571) (OMB Approval No. 0910-0014), as set forth in § 312.1 of this chapter, is required to cover clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted OTC as an oral wound healing agent is safe and effective for the purpose intended.

(d) After the effective date of the final regulation, any OTC drug product that is labeled, represented, or promoted for use as an oral wound healing agent may not be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved new drug application.

Dated: March 5, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

Otis R. Bowen,

Secretary of Health and Human Services.

[FR Doc. 86-16181 Filed 7-17-86; 8:45 am]

BILLING CODE 4160-01-M

federal register

Friday
July 18, 1986

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of Airport Radar Service Areas; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket Nos. 86-AWA-34 and 86-AWA-35]

Proposed Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Airport Radar Service Areas (ARSA) at three locations under two separate airspace docket numbers—86-AWA-34 Bates Field, Mobile, AL, and 86-AWA-35 Spokane International Airport, WA, and Fairchild AFB, WA. Each location is a public or military airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of each ARSA would require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at each of the affected locations would promote the efficient control of air traffic and reduce the risk of midair collision in terminal areas.

DATES: Comments must be received on or before October 17, 1986, for Airspace Docket 86-AWA-34, and on or before November 4, 1986, for Airspace Docket No. 86-AWA-35. Informal airspace meeting dates are September 16, 1986, for Bates Field, Mobile, AL, ARSA and October 2, 1986, for Spokane International Airport, WA, ARSA and Fairchild AFB, WA, ARSA.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration ,Office of the Chief Counsel, Attention: Rules Docket [AGC-204], Airspace Docket No. 86-AWA, 800 Independence Avenue, SW., Washington, DC 20591.

Informal airspace meeting places are as follows:

Bates Field, Mobile, AL, ARSA; *time:* 7:00 p.m.; *location:* University of South Alabama Medical Center, Medical Sciences Auditorium, 2451 Filligan Avenue, Mobile, AL.

Spokane International Airport and Fairchild AFB, WA, ARSA's; *time:* 7:00 p.m.; *location:* Ziegler's Auditorium, North 4220 Market, Spokane, WA.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

Informal dockets may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert G. Burns Airspace and Air Traffic Rules Branch (ATO-239), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

This notice involves three locations organized two the groups. Each group is assigned a separate docket number and comment period. Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWA- ." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Meeting Procedures

In addition to seeking written comments on this proposal, the FAA will hold informal airspace meetings for all proposed ARSA locations in order to receive additional input with respect to the proposal. The schedule of times and places of the hearings is listed above. The meetings for Spokane International Airport and Fairchild Air Force Base are combined into one proceeding for the convenience of the public. No individual meetings will be held at the same time on separate locations in the same region, so that commenters will be able to attend all meetings in which they may have an interest. Persons who plan to attend any of the meetings should be aware of the following procedures to be followed:

(a) The meetings will be informal in nature and will be conducted by the designated representative of the Administrator. Each participant will be given an opportunity to make a presentation.

(b) The dates, times, and places for each meeting are listed above. There will be no admission fee or other charge to attend and participate. The meetings will be open to all persons on a space-available basis. The FAA representative may accelerate the agenda to enable early adjournment if the progress of any meeting is more expeditious than planned.

(c) The meetings will not be recorded. A summary of the comments made at each meeting will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meetings may be accepted at the discretion of the FAA representative. Participants submitting handout materials should present an original and two copies to the presiding officer for approval before distribution. If approved by the presiding officer, there should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the meetings should not be taken as expressing a final FAA position.

Agenda

Presentation of Meeting Procedures
FAA Presentation of Proposal
Public Presentations and Discussion

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and procedural aspects of the ATC system. Among the main objectives of the NAR were the improvement of the ATC system by increasing efficiency and reducing complexity. In its review of terminal airspace, NAR Task Group 1–2 concluded that TRSA's should be replaced. Four types of airspace configurations were considered as replacement candidates, of which Model B, since redesignated ARSA, was the consensus recommendation.

In response, the FAA published NAR Recommendation 1–2.2.1, "Replace Terminal Radar Service Areas with Model B Airspace and Service" in Notice 83–9 (July 28, 1983; 48 FR 34286) proposing the establishment of ARSA's at the Robert Mueller Municipal Airport, Austin, TX, and the Port of Columbus International Airport, Columbus, OH. ARSA's were designated at these airports on a temporary basis by SFAR No. 45 (October 28, 1983; 48 FR 50038) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis.

Following a confirmation period of more than a year, the FAA adopted the NAR recommendation and, on February 27, 1985, issued a final rule (50 FR 9252; March 6, 1985) defining an ARSA and establishing air traffic rules for operation within such an area. Concurrently, by separate rulemaking action, ARSA's were permanently established at the Austin, TX, and Columbus, OH, airports and also at the Baltimore/Washington International Airport, Baltimore, MD, (50 FR 9250; March 6, 1985). The FAA has stated that future notices would propose ARSA's for other airports at which TRSA procedures were in effect.

Additionally, the NAR Task Group recommended that the FAA develop quantitative criteria for proposing to establish ARSA's at locations other than those which are included in the TRSA replacement program. The task group recommended this criteria consider—among other things—traffic mix, flow and density, airport configuration, geographical features, collision risk assessment, and ATC capabilities to provide service to users. This criteria has been developed and is being published via the FAA directives system.

The FAA has established ARSA's at 62 locations under a paced implementation plan to replace TRSA's with ARSA's. This is one of a series of notices to implement ARSA's at locations with TRSA's.

Related Rulemaking

This notice proposes ARSA designation at three of the locations identified as candidates for an ARSA in the preamble to Amendment No. 71–10 (50 FR 9252). Other candidate locations will be proposed in future notices published in the **Federal Register**.

The Current Situation at the Proposed ARSA Locations

A TRSA is currently in effect at each of the locations at which ARSA's are proposed in this notice. A TRSA consists of the airspace surrounding a designated airport where ATC provides radar vectoring, sequencing, and separation for all aircraft operating under instrument flight rules (IFR) and for participating aircraft operating under visual flight rules (VFR). TRSA airspace and operating rules are not established by regulation, and participation by pilots operating under VFR is voluntary, although pilots are urged to participate. This level of service is known as Stage III and is provided at all locations identified as TRSA's. The NAR task group recommended the replacement of most TRSA's with ARSA's.

A number of problems with the TRSA program were identified by the task group. The task group stated that because there are different levels of service offered within the TRSA, users are not always sure of what restrictions or privileges exist, or how to cope with them. According to the task group, there is a feeling shared among users that TRSA's are often poorly defined, are generally dissimilar in dimensions, and encompass more area than is necessary or desirable. There are other users who believe that the voluntary nature of the TRSA does not adequately address the problems associated with nonparticipating aircraft operating in relative proximity to the airport and associated approach and departure courses. There is strong advocacy among user organizations that terminal radar facilities should provide all pilots the same service, in the same way, and, to the extent feasible, within standard size airspace designations.

Certain provisions of FAR section 91.87 add to the problem identified by the task group. For example, aircraft operating under VFR to or from a satellite airport and within the airport traffic area (ATA) of the primary airport are excluded from the two-way radio communications requirement of section 91.87. This condition is acceptable until the volume and density of traffic at the primary airport dictates further action.

The Proposal

The FAA is considering an amendment to § 71.501 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish ARSA's at the following three locations: Bates Field, Mobile, AL; Spokane International Airport, WA; Fairchild AFB, WA. Each of the above locations is a public or military airport at which a nonregulatory TRSA is currently in affect. The proposed locations are depicted on charts in Appendix 1 to this notice.

The FAA has published a final rule (50 FR 9252; March 6, 1985) which defines ARSA and prescribes operating rules for aircraft, ultralight vehicles, and parachute jump operations in airspace designated as an ARSA.

The final rule provides in part that any aircraft arriving at any airport in an ARSA or flying through an ARSA, prior to entering the ARSA must: (1) establish two-way radio communications with the ATC facility having jurisdiction over the area, and (2) while in the ARSA, maintain two-way radio communications with that ATC facility. For aircraft departing from the primary airport within the ARSA, two-way radio communications must be maintained with the ATC facility having jurisdiction over the area. For aircraft departing a satellite airport within the ARSA, two-way ratio communications must be established as soon as practicable after takeoff with the ATC facility having jurisdiction over the area, and thereafter maintained while operating within the ARSA.

All aircraft operating within an ARSA are required to comply with all ATC clearances and instructions and any FAA arrival or departure traffic pattern for the airport of intended operation. However, the rule permits ATC to authorize appropriate deviations to any of the operating requirements of the rule when safety considerations justify the deviation or more efficient utilization of the airspace can be attained. Ultralight vehicle operations and parachute jumps in an ARSA may only be conducted under the terms of an ATC authorization.

The FAA adopted the NAR task group recommendation that each ARSA be of the same airspace configuration insofar as practicable. The standard ARSA consists of airspace within 5 nautical miles of the primary airport extending from the surface to an altitude of 4,000 feet above that airport's elevation, and that airspace between 5 and 10 nautical

miles from the primary airport from 1,200 feet above the surface to an altitude of 4,000 feet above that airport's elevation. Proposed deviation from the standard has been necessary at some airports due to adjacent regulatory airspace, international boundaries, topography, or unusual operational requirements.

Definitions, operating requirements, and specific airspace designations applicable to ARSA may be found in 14 CFR Part 71, §§ 71.14 and 71.501, and Part 91, §§ 91.1 and 91.88.

For the reasons discussed under "Regulatory Evaluation," the FAA has determined that this proposed regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Regulatory Evaluation

The FAA has conducted a detailed Regulatory Evaluation of the proposed establishment of additional ARSA sites. The major findings of that evaluation are summarized below, and the full evaluation is available in the regulatory docket.

a. Costs

Costs which potentially could result from the ARSA program fall into the following categories:

(1) Air traffic controller staffing, controller training, and facility equipment costs incurred by the FAA.

(2) Costs associated with the revision of charts, notification of the public, and pilot education.

(3) Additional operating costs for circumnavigating or flying over the ARSA.

(4) Potential delay costs resulting from operations within an ARSA rather than a TRSA.

(5) The need for some operators to purchase radio transceivers.

(6) Miscellaneous costs.

It has been the FAA's experience, however, that these potential costs do not materialize to any appreciable degree, and when they do occur, they are transitional, relatively low in magnitude, or attributable to specific implementation problems that have been experienced at a very small minority of ARSA sites. The reasons for these conclusions are presented below.

FAA expects that the ARSA program can be implemented without requiring additional controller personnel above current authorized staffing levels because participation at most TRSA locations is already quite high, and the reduced separation standards permitted in ARSA's will allow controllers to absorb the slight increase in participating traffic by handling all traffic much more efficiently. Further, because controller training will be conducted during normal working hours, and existing TRSA facilities already operate the necessary radar equipment, FAA does not expect to incur any appreciable implementation costs. Essentially, the FAA is modifying its terminal radar procedures in the ARSA program in a manner that will make more efficient use of existing resources.

No additional costs are expected to be incurred because of the need to revise sectional charts to remove TRSA airspace depictions and incorporate the new ARSA airspace boundaries. Changes of this nature are routinely made during charting cycles, and the planned effective dates for newly established ARSA's are scheduled to coincide with the regular 6-month chart publication intervals.

Much of the need to notify the public and educate pilots about ARSA operations will be met as a part of this rulemaking proceeding. The informal public meeting being held at each location where an ARSA is being proposed provides pilots with the best opportunity to learn both how an ARSA works and how it will affect their local operations. Because the expenses associated with these public meetings will be incurred regardless of whether or not an ARSA is ultimately established at a proposed site, they are more appropriately considered sunken costs attributable to the rulemaking process rather than costs of the ARSA program. Once the decision has been made to establish an ARSA through a final rule issued in this proceeding, however, any public information costs which follow are strictly attributable to the ARSA program. The FAA expects to distribute a Letter to Airmen to all pilots residing within 50 miles of ARSA sites explaining the operation and configuration of the ARSA finally adopted. The FAA will also issue an Advisory Circular on ARSA's. The combined Letter to Airmen and prorated Advisory Circular costs for the three airports at which ARSA's are being proposed by this notice is estimated to be approximately $1,350. This cost will be incurred only once upon the initial establishment of the ARSA's.

Information on ARSA's following implementation of the program will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues, and therefore will not involve additional costs strictly as a result of the ARSA program. Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings that will be held at each site following implementation of the ARSA to allow users to provide feedback to the FAA on local ARSA operations. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

FAA anticipates that some pilots who currently transit a TRSA without establishing radio communications or participating in radar services may choose to circumnavigate the mandatory participation airspace of an ARSA rather than participate. Some minor delay costs will be incurred by these pilots because of the additional aircraft variable operating cost and lost crew and passenger time resulting from the deviation. Other pilots may elect to overfly the ARSA, or transit below the 1,200 feet above ground level (AGL) floor between the 5- and 10-nautical-mile rings. Although this will not result in any appreciable delay, a small additional fuel burn will result from the climb portion of the altitude adjustment (which will be offset somewhat by the descent).

FAA recognizes that the potential exists for delay to develop at some locations following establishment of an ARSA. The additional traffic that the radar facilities will be handling as a result of the mandatory participation requirement may, in some instances, result in minor delays to aircraft operations. FAA does not expect such delay to be appreciable. FAA expects that the greater flexibility afforded controllers in handling traffic as a result of the reduced separation standards will keep delay problems to a minimum. Those that do occur will be transitional in nature, diminishing as facilities gain operating experience with ARSA's and learn how to tailor procedures and allocate resources to take fullest advantage of the efficiencies that an ARSA will permit. This has been the experience at the three locations where ARSA's have been in effect for the longest period of time, and is the trend at most of the locations that have been more recently designated.

The FAA does not expect that any operators will find it necessary to install radio transceivers as a result of establishing the ARSA's proposed in this notice. Aircraft operating to and from primary airports already are

required to have two-way radio communications capability because of existing airport traffic areas and therefore will not incur any additional costs as a result of the proposed ARSA's. Further, the FAA has made an effort to minimize these potential costs throughout the ARSA program by providing airspace exclusions, or cutouts, for satellite airports located within 5 nautical miles of the ARSA center where the ARSA would otherwise have extended down to the surface. Procedural agreements between the local ATC facility and the affected airports have also been used to avoid radio installation costs. The only nonradio equipped (NORDO) aircraft identified by the FAA that could potentially be affected by the proposed ARSA's are the 8 to 10 agricultural aircraft based at satellite airports near Fairchild AFB. Most of these aircraft are located outside of the 5-nautical-mile ring and therefore will not be affected by the mandatory participation requirements. For those NORDO aircraft based at Sunwest Airport, which is within the 5-nautical-mile ring, the FAA plans to establish local procedures that will accommodate them.

At some proposed ARSA locations, special situations might exist where establishment of an ARSA could impose certain costs on users of that airspace. However, exclusions, cutouts, and special procedures have been used extensively throughout the ARSA program to alleviate adverse impacts on local fixed base and airport operators. Similarly, the FAA has eliminated potential adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight and banner towing activities, by developing special procedures to accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA does not expect that any such adverse impacts will occur at the candidate ARSA sites proposed in this notice.

b. Benefits

Much of the benefit that will result from ARSA's is nonquantifiable, and is attributable to simplification and standardization of ARSA configurations and procedures, which will eliminate much of the confusion pilots currently experience when operating in nonstandard TRSA's. Further, once experience is gained in ARSA operations, the greater flexibility allowed air traffic controllers in handling traffic within an ARSA will enable them to move traffic more efficiently than they currently are able to under TRSA's. These expected savings may or may not offset the delay that some sites may experience after the initial establishment of an ARSA, but are expected to eventually provide overall time savings to all traffic, IFR as well as VFR, that exceed delay as both pilots and controllers become more familiar with ARSA operating procedures.

Some of the benefits of the ARSA cannot be specifically attributed to individual candidate airports, but rather will result from the overall improvements in terminal area ATC procedures realized as ARSA's are implemented throughout the country. ARSA's have the potential of reducing both near and actual midair collisions at the airports where they are established. Based upon the experience at the Austin and Columbus ARSA confirmation sites, FAA estimates that near midair collisions may be reduced by approximately 35 to 40 percent. Further, FAA estimates that implementation of the ARSA program nationally may prevent approximately one midair collision every 1 to 2 years throughout the United States. The quantifiable benefits of preventing a midair collision can range from less than $100,000, resulting from the prevention of a minor nonfatal accident between general aviation aircraft, to $300 million or more, resulting from the prevention of a midair collision involving a large air carrier aircraft and numerous fatalities. Establishment of ARSA's at the sites proposed in this notice will contribute to these improvements in safety.

c. Comparison of Costs and Benefits

A direct comparison of the costs and benefits of this proposal is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, and it is difficult to specifically attribute the standardization benefits, as well as the safety benefits, to individual candidate ARSA sites.

FAA expects that any adjustment problems that may be experienced at new ARSA locations will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. This has been the experience at the vast majority of ARSA sites that have already been implemented. In addition to these operational efficiency improvements, establishment of the proposed ARSA sites will contribute to a reduction in near and actual midair collisions. For these reasons, FAA expects that establishment of the ARSA sites proposed in this notice will produce long term, ongoing benefits that will far exceed their costs, which are essentially transitional in nature.

International Trade Impact Analysis

This proposed regulation will only affect terminal airspace operating procedures at selected airports within the United States. As such, it will have no affect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small enities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have "a significant economic impact on a substantial number of small entities."

The small entities that could be potentially affected by implementation of the ARSA program are the fixed-base operators, flight schools, agricultural operators and other small aviation businesses located at satellite airports within 5 nautical miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. FAA has proposed to exclude almost every satellite airport located within 5 nautical miles of the primary airport at candidate ARSA sites to avoid adversely impacting their operations, and to simplify coordinating ATC responsibilities between the primary and satellite airports. In some cases, the same purposes will be achieved through Letters of Agreement between ATC and the affected airports that establish special procedures for operating to and from these airports. In this manner, FAA expects to virtually eliminate any adverse impact on the operations of small satellite airports that potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures that will accommodate these activities

through local agreements between ATC facilties and the affected organizations. FAA has utilized such arrangements extensively in implementing the ARSA's that have been established to date.

Further, because the FAA expects that any delay problems that may initially develop following implementation of an ARSA will be transitory, and because the airports that will be affected by the ARSA program represent only a small proportion of all the public use airports in operation within the United States, small entities of any type that use aircraft in the course of their business will not be adversely impacted.

For these reasons, the FAA certifies that the proposed regulations will not result in a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required under the terms of the RFA.

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to reads as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.501 [Amended]

2. Section 71.501 is amended as follows:

86–AWA–34

Bates Field, Mobile, AL [New]

That airspace extending upward from the surface to and including 4,200 feet MSL within a 5-mile radius of Bates Field (lat. 30°41'23" N., long. 88°14'31" W.); and that airspace extending upward from 1,500 feet MSL to and including 4,200 feet MSL within a 10-mile radius of Bates Field. This airport radar service area is effective during the specific days and hours of operation of Mobile Tower and Approach Control as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

86–AWA–35

Fairchild AFB, WA [New]

That airspace extending upward from the surface to and including 6,400 feet MSL within a 5-mile radius of Fairchild AFB (lat. 47°36'54" N., long. 117°39'24" W.); and that airspace extending upward from 3,700 feet MSL to and including 6,400 feet MSL within a 10-mile radius of the airport excluding that airspace within the Spokane International Airport, WA, Airport Radar Service Area east of a line bisecting the area where the 10-mile radius of Fairchild AFB intersects the 10-mile radius of Spokane International Airport.

Spokane International Airport, WA [New]

That airspace extending upward from the surface to and including 6,400 feet MSL within a 5-mile radius of the Spokane International Airport (lat. 47°37'12" N., long. 117°31'58" W.); and that airspace extending upward from 3,700 feet MSL to and including 6,400 feet MSL within a 10-mile radius of the airport from the 121° bearing from the airport clockwise to the 082° bearing from the airport, and that airspace extending upward from 4,200 feet MSL to and including 6,400 feet MSL within a 10-mile radius from the airport from the 082° bearing from the airport clockwise to the 121° bearing from the airport, excluding that airspace within the Fairchild AFB, WA, Airport Radar Service Area west of a line extending from the 10-mile radius at the 336° bearing from the airport direct to the 10-mile radius at the 180° bearing from the airport.

Issued in Washington, DC, on July 14, 1986.

Harold H. Downey,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

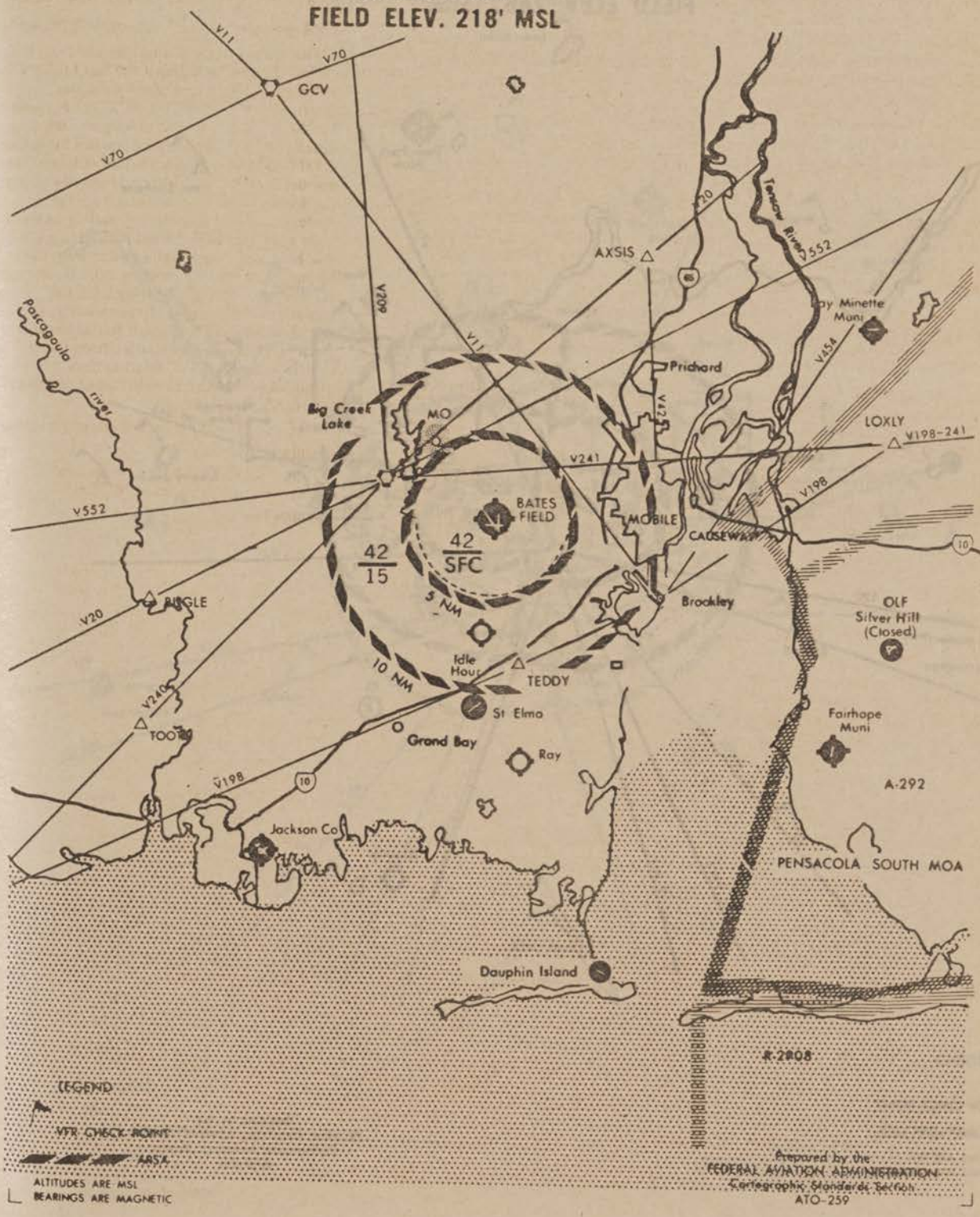
BILLING CODE 4910–13–M

APPENDIX 1

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

MOBILE, ALABAMA
BATES FIELD
FIELD ELEV. 218' MSL

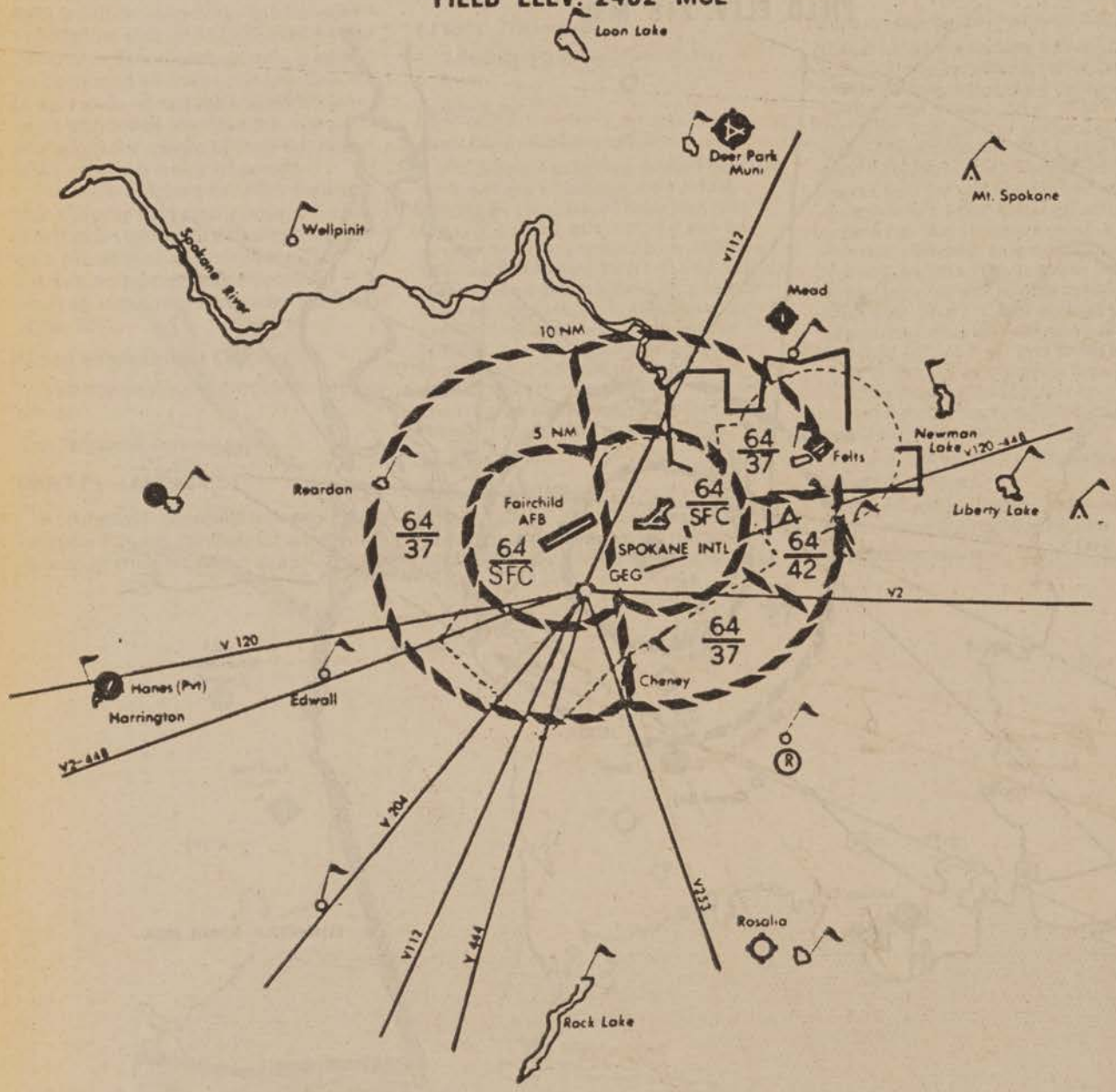


2

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

SPOKANE, WASHINGTON
FAIRCHILD AFB
FIELD ELEV. 2462' MSL



LEGEND

VFR CHECK POINT

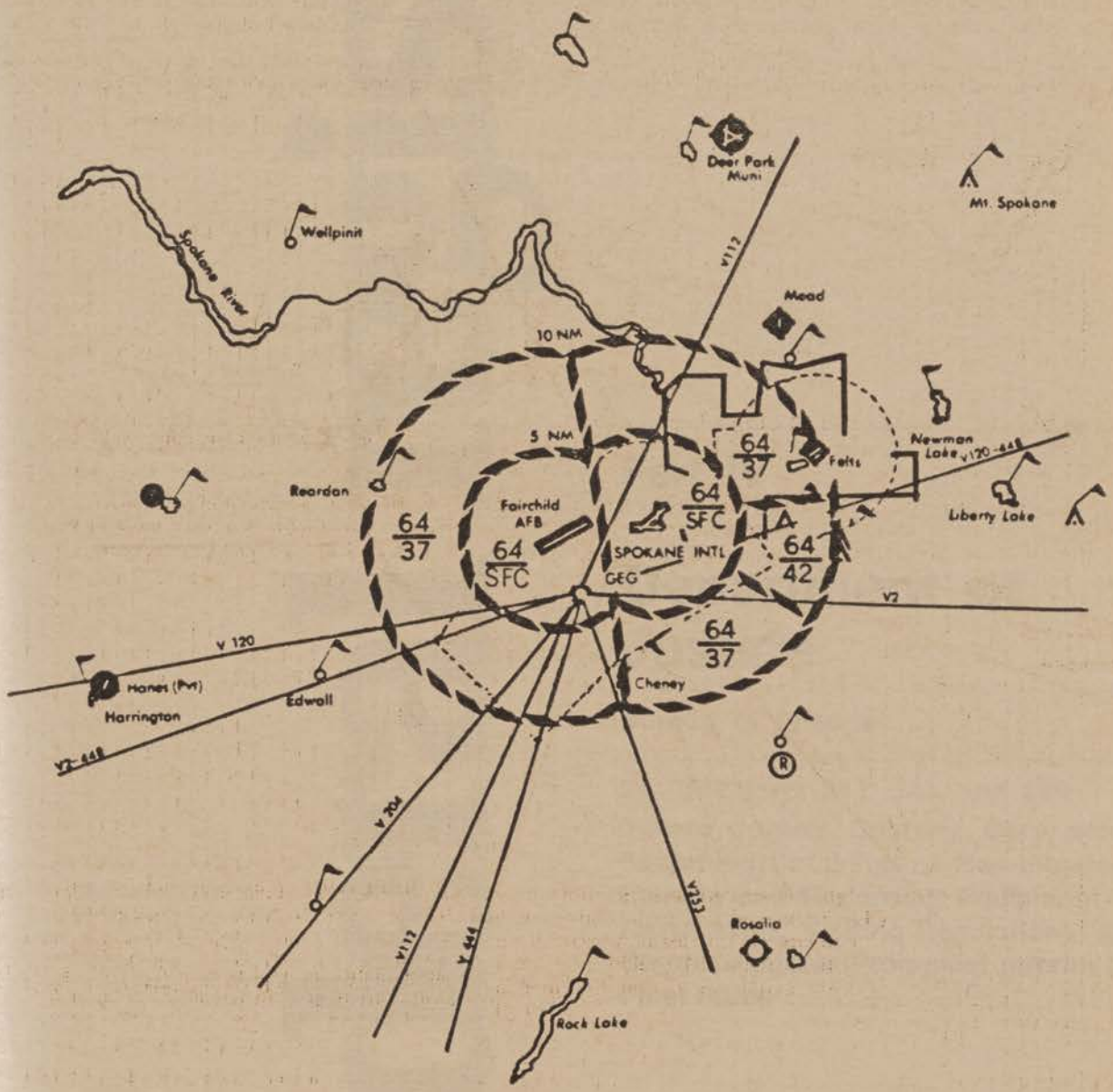
ARSA

ALTITUDES ARE MSL
BEARINGS ARE MAGNETIC

Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Section
ATO-259

3

AIRPORT RADAR SERVICE AREA
(NOT TO BE USED FOR NAVIGATION)
SPOKANE, WASHINGTON
SPOKANE INTERNATIONAL AIRPORT
FIELD ELEV. 2372' MSL



LEGEND

VFR CHECK POINT

ARSA

ALTITUDES ARE MSL
BEARINGS ARE MAGNETIC

Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Section
ATO-259

[FR Doc. 86-16190 Filed 7-17-86; 8:45 am]
BILLING CODE 4910-13-C

federal register

Friday
July 18, 1986

Part IV

Department of Justice

Bureau of Prisons

28 CFR Parts 511, 540, and 550

Inmate Control, Custody, Care, etc.: Searching/Detaining of Non-Inmates; Camera and Recording Equipment Use Restrictions; Visiting Regulations; and Chemical Abuse Programs; Interim and Final Rules

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 511

Inmate Control, Custody, Care, etc.: Searching/Detaining of Non-Inmates; Camera and Recording Equipment Use Restrictions

AGENCY: Bureau of Prisons, Justice.

ACTION: Interim rule.

SUMMARY: The Bureau of Prisons is amending its final rule on searching/detaining of non-inmates; arresting authority; use of metal detectors, to include a requirement that neither a camera nor recording equipment may be used on institution grounds without the written consent of the Warden.

EFFECTIVE DATE: July 18, 1986. Public comment must be received on or before October 31, 1986.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 770, 320 1st Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Hank Jacob, Office of General Counsel, Bureau of Prisons, phone 202/272-6874.

SUPPLEMENTARY INFORMATION: In this document, the Bureau of Prisons is amending its final rule on searching/detaining non-inmates; arresting authority, use of metal detectors. A final rule on this subject was published Thursday, November 1, 1984 (at 49 FR 44056 et seq.). The present amendment is intended to place into a policy of general scope the Bureau of Prisons' long-standing practice of requiring the Warden's approval for an individual to use either a camera or recording equipment while visiting the institution. This intent is presently included in Bureau rules covering specific activities, for example, the Bureau's rules on inmate legal activities (Part 543, Subpart B) and on contact with news media (Part 549, Subpart E). Based on this fact, plus the fact that the unauthorized use of cameras or recording equipment presents a potential threat to the security of the institution, and may invade an individual's privacy, the Bureau of Prisons finds good cause under 5 U.S.C. 553 to publish this amendment as an interim rule, without a notice of proposed rulemaking, an opportunity for public comment, or a delay in the effective date. The Bureau, however, has decided to publish this amendment as an interim rule to determine if any further revision or clarification will be required. Public comment received on or before the closing date will be considered prior to publication of the final rule amendment.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 511

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR, Chapter V is amended by revising Subchapter A, Part 511, Subpart B as set forth below.

Dated: July 14, 1986.

Norman A. Carlson,

Director, Bureau of Prisons.

In Subchapter A, Part 511, amend Subpart B to read as follows:

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 511—GENERAL MANAGEMENT POLICY

Subpart B—Searching/Detaining of Non-Inmates; Arresting Authority; Use of Metal Detectors

A. The authority citation for Part 511, Subpart B continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 751, 752, 1791, 1792, 3050, 4001, 4012, 4042, 4081, 4082, 5006-5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99, 6.1.

B. In Part 511, Subpart B, revise § 511.12(a) to read as follows:

§ 511.12 Procedures for searching visitors.

(a) The Warden shall post a notice outside the institution's secure perimeter advising all persons that it is a Federal crime to bring upon the institution grounds any weapons, intoxicants, drugs, or other contraband, and that all persons, property (including vehicles), and packages are subject to search. A person may not use either a camera or recording equipment on institution grounds without the written consent of the Warden.

* * * * *

[FR Doc. 86-16205 Filed 7-17-86; 8:45 am]

BILLING CODE 4410-05-M

28 CFR Part 540

Inmate Control, Custody, Care, etc.: Visiting Regulations

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: The Bureau of Prisons is amending its final rule on visiting regulations. These amendments are intended to clarify the Bureau's policy as to visiting times within the institution, and on obtaining background information necessary for preparing the inmate's list of visitors. In addition, the Bureau's rule on supervision of visits is being amended to state that the visiting area may be monitored.

EFFECTIVE DATE: August 20, 1986.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 770, 320 1st Street, NW., Washington, DC 20534. Comments received will be available for examination by interested persons at the above address.

FOR FURTHER INFORMATION CONTACT: Hank Jacob, Office of General Counsel, Bureau of Prisons, phone 202/272-6874.

SUPPLEMENTARY INFORMATION: In this document, the Bureau of Prisons is publishing final amendments to the rule on visiting regulations. The proposed rule on this subject was published Tuesday, October 1, 1985 (at 50 FR 40113 et seq.). The proposed amendments were intended to clarify existing rule provisions and address security concerns. Interested persons were invited to submit comments on the proposed changes. Members of the public may submit comments concerning the final rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register.**

In addition to the amendments identified in the proposed rule, other changes are also being made to the final rule. These changes are intended to update the rule and are considered non-substantive in nature. For this reason, the Bureau finds good cause under 5 U.S.C. 553 to include these changes within this final rule without a notice of proposed rulemaking, and an opportunity for public comment.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-

354), does not have a significant impact on a substantial number of small entities.

Summary of Changes

1. *Section 540.41*—Paragraphs (a) and (b) of this section are reworded to recognize that visits must be under the supervision of "staff" (was "officer"). The basic intent of the section is unchanged.

2. *Section 540.42*—We disagree with a comment suggesting that terms such as "if at all possible" or "consistent with available resources. . . with concerns of institution security" are intended to allow the Warden to establish restrictive rules, and not to provide flexible rules for the benefit of inmates and their families. Another commenter suggested that a substantial number of visitors work during the week and on one weekend day, and stated that it was important that their visitation not be limited to the weekend day that they are working.

The Bureau encourages visiting; however, because of the practical considerations and the different nature of different institutions, certain limitations, such as the availability of resources and security concerns, must be recognized and controls established in developing and administering visiting regulations. In an effort to address the commenters' concerns the Bureau has revised § 540.42(a) by substituting the phrase "to the extent practicable" for "if at all possible". Further, in its internal instructions to staff, the Bureau encourages its Wardens, as consistent with the needs of their institution, to provide each inmate with the opportunity to visit on both days of the weekend, and to try to accommodate a visitor who can only visit on a specific weekend day.

3. *Section 540.50*—The titles of "Health Systems Administrator" and "Captain" are substituted for "Hospital Administrative Officer" and "Chief Correctional Supervisor" respectively.

4. *Section 540.51*—A commenter to paragraph (b)(2) asked that the Bureau reaffirm its concern for the visitation rights of pre-trial detainees. This concern remains as stated in the Bureau's policy on pre-trial inmates, which provides that where the pre-trial inmate's expected status in confinement does not allow sufficient time to obtain background information, staff are expected to make a determination based on the information available and on an evaluation of any possible threat the potential visitor poses to institution security or good order.

A commenter suggested that the Bureau require a deadline for staff to gather and review background information. In response to this comment, and a similar concern expressed by another commenter, the Bureau's internal staff instructions require that the request for, and review of, background information be done in a timely fashion. For reasons of institution security and good order, we do not agree with the comment that the visit should be permitted "if the deadline is not met". The inmate does have the option of filing an administrative remedy (see part 542, Subpart B) to complain about any delay in processing.

A commenter suggested that the Bureau consider, as an alternative to an outright denial of a visit, the option of non-contact visitation. This suggestion is not feasible because most Bureau institutions are not equipped for this type of visitation. The commenter suggested that the rule also should provide for non-family visits where warranted; e.g., where an inmate is seen as suicidal. The Bureau believes that its exiting rules adequately address this concern. For example, § 540.28 provides for special visits. With respect to the commenter's example of a suicidal inmate, Part 549, Subpart F identifies the Bureau's policy in this area.

The reference in final § 540.41(b)(4) has been revised to reflect the new language of 18 U.S.C. 1791. The basic intent of this section is unchanged.

Section 540.51(g) is reworded although its intent is unchanged. A commenter to this section stated that restroom surveillance, as discussed in paragraph (g), should only be permitted where there is some reasonable basis for it. The final rule clearly states that the Warden may monitor a visitor restroom within the visiting area when there is reasonable suspicion that a visitor and/or an inmate is engaged, or attempting or about to engage, in criminal behavior or other prohibited behavior. The term "reasonable suspicion" is defined in 28 CFR 511.11. In § 540.51(g)(1), the reference to § 541.11(c) is changed to § 541.12.

List of Subjects in 28 CFR Part 540

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR, Chapter V is amended by revising Subchapter C, Part 540, Subpart D as set forth below.

Dated: July 14, 1986.

Norman A. Carlson,

Director, Bureau of Prisons.

Subchapter C of 28 CFR, Chapter V as follows: In Subchapter C, Part 540, amend Subpart D to read as follows:

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

Subpart D—Visiting Regulations

A. The authority citation for Part 540, continues to read as follows:

Authority 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

B. In Part 540, Subpart D, revise § 540.41 (a) and (b) to read as follows:

§ 540.41 Visiting times.

* * * * *

(a) Institutions of Security Levels 1, 2, and 3 may permit visits beyond the security perimeter, but always under supervision of staff.

(b) Institutions of Security Levels 4, 5, and 6 and administrative institutions may establish outdoor visiting, but it will always be inside the security perimeter and always under supervision of staff.

C. In Part 540, Subpart D, revise § 540.42 to read as follows:

§ 540.42 Visiting times.

(a) Each Warden shall establish a visiting schedule for the institution. At a minimum, the Warden shall establish visiting hours at the institution on Saturdays, Sundays, and holidays. The restriction of visiting to these days may be a hardship for some families and arrangements for other suitable hours shall be made to the extent practicable. Where staff resources permit, the Warden may establish evening visiting hours.

(b) Consistent with available resources, such as space limitations and staff availability, and with concerns of institution security, the Warden may limit the visiting period. With respect to weekend visits, for example, some or all inmates and visitors may be limited to visiting on Saturday or on Sunday, but not on both days, in order to accommodate the volume of visitors. There is no requirement that every visitor has the opportunity to visit on both days of the weekend, nor that every inmate has the opportunity to have visits on both days of the weekend.

D. In Part 540, Subpart D, revise § 540.50(b)(1) to read as follows:

§ 540.50 Visits to inmates not in regular population status.

* * * * *

(b) * * *

(1) When visitors request to see an inmate who is hospitalized in the institution, the Chief Medical Officer (or, in his absence, the Health Systems Administrator), in consultation with the Captain, shall determine whether a visit may occur, and if so, whether it may be held in the hospital.

* * * * *

E. In Part 540, Subpart D, revise § 540.51, paragraphs (b)(2), (b)(4), (g) introductory text, and (g)(1) to read as follows:

§ 540.51 Procedures.

* * * * *

(b) * * *

(2) Staff may request background information from potential visitors who are not members of the inmate's immediate family, before placing them on the inmate's approved visiting list. When little or no information is available on the inmate's potential visitor, visiting may be denied, pending receipt and review of necessary information, including information which is available on the inmate and/or the inmate's offense, including alleged offenses.

* * * * *

(4) Staff shall notify the inmate of each approval or disapproval of a requested person for the visiting list. Upon approval of each visitor, staff shall provide the inmate a copy of the visiting guidelines and with directions for transportation to and from the institution. The inmate is responsible for notifying the visitor of the approval or disapproval to visit and is expected to provide the approved visitors with a copy of the visiting guidelines and directions for transportation to and from the institution. The visiting guidelines shall include specific directions for reaching the institution and shall cite 18 U.S.C. 1791, which provides a penalty of imprisonment for not more than ten years, a fine of not more than $25,000, or both for providing or attempting to provide to an inmate anything whatsoever without the knowledge and consent of the Warden.

* * * * *

(g) Supervision of visits: Staff shall supervise each inmate visit to prevent the passage of contraband and to ensure the security and good order of the institution. The Warden may establish procedures to enable monitoring of the visiting area, including restrooms located within the visiting area. The Warden must provide notice to both visitors and inmates of the potential for monitoring the visiting area. The Warden may monitor a visitor restroom within the visiting area when there is reasonable suspicion that a visitor and/or an inmate is engaged, or attempting or about to engage, in criminal behavior or other prohibited behavior.

(1) The visiting room officer shall ensure that all visits are conducted in a quiet, orderly, and dignified manner. The visiting room officer may terminate visits that are not conducted in the appropriate manner. See 28 CFR § 541.12, item 5, for description of an inmate's responsibility during visits.

* * * * *

[FR Doc. 86-16206 Filed 7-17-86; 8:45 am]

BILLING CODE 4410-05-M

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28 CFR Part 550

Inmate Control, Custody, Care, etc.; Chemical Abuse Programs

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is publishing its final rule on chemical abuse programs. The rule describes the Bureau's policy on providing inmates who have a history of chemical abuse the opportunity to participate in chemical abuse programs.

EFFECTIVE DATE: August 20, 1986.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 770, 320 1st Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Hank Jacob, Office of General Counsel, Bureau of Prisons, phone 202/272-6874.

SUPPLEMENTARY INFORMATION: In this document, the Bureau of Prisons is publishing its final rule on chemical abuse programs. A proposed rule on this subject was published in the **Federal Register** November 22, 1985 (at 50 FR 48341 et seq.). Interested persons were invited to submit comments on the proposed rule. Members of the public may submit comments concerning the final rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register.**

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

Summary of Changes/Commets

1. Section 550.50—Section 550.50 is reworded, but the intent is unchanged.

2. Section 550.51—A public commenter viewed the overall standards of §550.51 inadequate and suggested the standards be expanded to include "the types of Chemical Abuse Programs which may be established and minimal requirements for their staffing and operation". It is not feasible to include this in the rule language as the need for drug abuse programming and thus the need for resources vary considerably from institution to institution. The Bureau of Prisons Program Statement on Chemical Abuse Programs, which is simultaneously issued, addresses these concerns. The Program Statement requires the Warden to decide the type of program (e.g., unit-based, centralized) and the number of staff assigned, based on the need for chemical abuse programming at that institution. To assist the Warden, the institution Chemical Abuse Program Coordinator is responsible for evaluating program strengths and weaknesses, and for making program recommendations.

A commenter suggests that the designated Chemical Abuse Program Coordinator "be a substance abuse professional". In the text of the Bureau's policy, guidelines are established that give the Warden the responsibility to designate a Coordinator, ordinarily a psychologist, with experience and training in the area of chemical abuse programming. Regardless of who is designated Program Coordinator, the importance of selecting the best qualified person, in terms of training and experience, is emphasized. In addition, the Bureau has authorized the allocation of funds for the purpose of contracting consultants to train institutional staff when warranted.

A commenter suggested the Bureau incorporate, as a part of the chemical abuse coordinator's position, a referral function outside the institution. We do not believe this appropriate in that this rule is written solely for inmate programming within the institution.

The Bureau agrees with the thrust of a comment calling for carefully developed "guidelines for a standard education package to be included in the institution's Admission and Orientation program". Bureau policy requires, as part of the Admission and Orientation Program, that inmates be provided information on the institution's chemical abuse programs. The Bureau is