injunctive proceedings in the courts, and, in the case of a willful violation, reference of the matter to the Department of Justice for criminal prosecution. The Commission may also, on some occasions, refer the matter to, or grant requests for access to its files made by, domestic and foreign governmental authorities or foreign securities authorities, self-regulatory organizations such as stock exchanges or the National Association of Securities Dealers, Inc., and other persons or entities.

* * * * *

PART 203—RULES RELATING TO INVESTIGATIONS

13. The authority citation for Part 203 continues to read as follows:

Authority: Secs. 19, 23, 48 Stat. 85, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855 as amended; 15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11, unless otherwise noted.

Subpart A—In General

14. Section 203.2 is revised to read as follows:

§ 203.2 Information obtained in investigations and examinations.

Information or documents obtained by the Commission in the course of any investigation or examination, unless made a matter of public record, shall be deemed non-public, but the Commission approves the practice whereby officials of the Division of Enforcement at the level of Assistant Director or higher, and officials in Regional Offices at the level of Assistant Regional Administrator or higher, may engage in, and may authorize members of the Commission's staff to engage in, discussions with representatives of domestic and foreign governmental authorities, foreign securities authorities, self-regulatory organizations, receivers, special counsels, and other similar persons appointed in Commission litigation, the Securities Investor Protection Corporation, trustees and counsel for trustees appointed pursuant to section 5(b) of the Securities Investor Protection Act, and trustees in bankruptcy, concerning information obtained in individual investigations, including examinations and formal investigations conducted pursuant to Commission order.

By the Commission.

Date: May 30, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-13516 Filed 6-6-89; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1902, 1903, 1908, 1910, 1915, 1917, 1918, and 1926

Display or Removal of Management and Budget Control Numbers Assigned to Collections of Information Contained in Regulations; Technical Amendments to CFR

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Technical Amendments to CFR.

SUMMARY: This document amends certain OSHA regulations to include or remove a control number assigned by the Director of the Office of Management and Budget (OMB). The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq. and 5 CFR Part 1320) requires display of an OMB control number on all information collection provisions.

EFFECTIVE DATE: June 7, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Office of Public Affairs, Room N-3649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq. and 5 CFR Part 1320) requires the display of an OMB control number for all regulations containing information collection requirements. In certain instances, the Department inadvertently did not include the OMB number at the end of the appropriate section of the regulatory text. In addition, the agency has found numbers incorrectly displayed; typographical errors; and OMB numbers displayed in sections where the information collection requirements were removed. The Agency, therefore, is making technical amendments to the regulations cited, adding parenthetically the OMB approval numbers; removing numbers where information collection is no longer required; and correcting the typographical error.

Since these are minor technical amendments to the regulations, OSHA finds good cause, under 5 U.S.C. 553 and 29 CFR 1911.5, for not providing notice and public procedure and delayed effective dates for these amendments.

Parts 1902, 1903, 1908, 1910, 1915, 1917, 1918 and 1926 of Title 29 of the Code of Federal Regulations are amended as set forth below:

PARTS 1902, 1903, 1908, 1910, 1915, 1917, 1918, and 1926—[AMENDED]

§ 1902.3 [Amended]

1. In § 1902.3, by adding a parenthetical, as follows, at the end of the regulatory text:

(Approved by the Office of Management and Budget under control number 1218-0004)

§ 1903.11 [Amended]

2. In § 1903.11, by adding a parenthetical, as follows, at the end of the regulatory text:

(Approved by the Office of Management and Budget under control number 1218-0064)

§ 1908.6, 1908.7, 1908.9 and 1908.10 [Amended]

3. In §§ 1908.6, 1908.7, 1908.9, and 1908.10, by adding a parenthetical, as follows, at the end of the regulatory text of each section:

(Approved by the Office of Management and Budget under control number 1218-0110)

§ 1910.7 [Amended]

4. In § 1910.7, the parenthetical displaying the OMB control number at the end of Appendix A is transferred to the end of the regulatory text preceding the appendix.

§ 1910.20 [Amended]

5. In § 1910.20, by adding a parenthetical, as follows, at the end of the regulatory text:

(Approved by the Office of Management and Budget under control number 1218-0065)

§ 1910.66 [Amended]

6. In § 1910.66, by adding a parenthetical, as follows, at the end of the regulatory text:

(Approved by the Office of Management and Budget under control number 1218-0121)

§ 1910.95 [Amended]

7. In § 1910.95, the parenthetical displaying the OMB control number at the end of Appendix I is transferred to the end of the regulatory text preceding Appendix A.

§ 1910.217 [Amended]

8. In § 1910.217, by revising the parenthetical at the end of the regulatory text to read as follows:

(The information collection requirements contained in paragraph (g) were approved by the Office of Management and Budget under control number 1218-0070. The information collection requirements contained in paragraph (h) were approved by the Office of Management and Budget under control number 1218-0143)

9. In § 1910.272, the parenthetical displaying the OMB control number at the end of Appendix C is transferred to the end of the regulatory text preceding Appendix A.

§ 1910.421 [Amended]

10. In § 1910.421, by revising the parenthetical at the end of the regulatory text to read as follows:

(Approved by the Office of Management and Budget under control number 1218–0069)

§ 1910.1001 [Amended]

11. In § 1910.1001, the parenthetical displaying the OMB control number at the end of Appendix H is transferred to the end of the regulatory text preceding Appendix A.

§ 1910.1015 [Amended]

12. In § 1910.1015, by revising the parenthetical at the end of the regulatory text to read as follows:

(Approved by the Office of Management and Budget under control number 1218–0044)

§ 1910.1017 [Amended]

13. In § 1910.1017, by adding a parenthetical, as follows, at the end of the regulatory text immediately preceding Appendix A:

(Approved by the Office of Management and Budget under control number 1218–0010)

§ 1910.1018 [Amended]

14. In § 1910.1018, by adding a parenthetical, as follows, at the end of the regulatory text immediately preceding Appendix A:

(Approved by the Office of Management and Budget under control number 1218–0104)

§ 1910.1025 [Amended]

15. In § 1910.1025, the parenthetical displaying the OMB control number at the end of Appendix D is transferred to the end of the regulatory text preceding Appendix A.

§ 1910.1028 [Amended]

16. In § 1910.1028, by adding a parenthetical, as follows, at the end of the regulatory text immediately preceding Appendix A:

(Approved by the Office of Management and Budget under control number 1218–0129)

§ 1910.1029 [Amended]

17. In § 1910.1029, by adding a parenthetical, as follows, at the end of the regulatory text immediately preceding Appendix A:

(Approved by the Office of Management and Budget under control number 1218–0128)

§ 1910.1043 [Amended]

18. In § 1910.1043, the parenthetical at the end of Appendix E is removed and a new parenthetical is added at the end of the regulatory text immediately preceding Appendix A to read as follows:

(Approved by the Office of Management and Budget under control 1218–0061)

§ 1910.1044 [Amended]

19. In § 1910.1044, the parenthetical displaying the OMB control number at the end of Appendix C is transferred to the end of the regulatory text preceding Appendix A.

§ 1910.1045 [Amended]

20. In § 1910.1045, by adding a parenthetical, as follows, at the end of the regulatory text immediately preceding Appendix A:

(Approved by the Office of Management and Budget under control number 1218–0126)

§ 1910.1047 [Amended]

21. In § 1910.1047, the parenthetical displaying the OMB control number at the end of Appendix D is transferred to the end of the regulatory text preceding Appendix A.

§ 1910.1048 [Amended]

22. In § 1910.1048, the parenthetical at the end of Appendix E is removed and a new parenthetical is added at the end of the regulatory text immediately preceding Appendix A to read as follows:

(Approved by the Office of Management and Budget under control number 1218–0145)

§ 1910.1101 [Amended]

23. In § 1910.1101, the parenthetical at the end of the regulatory text is amended by removing control number "1218–0010" and inserting control number "1218–0133".

§ 1910.1200 [Amended]

24. In § 1910.1200, the parenthetical displaying the OMB control number at the end of Appendix D is transferred to the end of the regulatory text preceding Appendix A.

§§ 1910.68, 1910.252, and 1910.268 [Amended]

25. In §§ 1910.68, 1910.252, and 1910.268, the parenthetical displaying OMB control numbers at the end of the regulatory text are removed.

§ 1915.7 [Amended]

26. In § 1915.7, by adding a parenthetical, as follows, at the end of the regulatory text:

(Approved by the Office of Management and Budget under control number 1218–0011)

§ 1915.95 [Amended]

27. In § 1915.95, the parenthetical at the end of the regulatory text is removed.

§ 1926.250 [Amended]

28. In § 1926.250, the parenthetical at the end of the regulatory text is amended by correcting OMB control number "1218–0003" to read "1218–0093".

§ 1926.404 [Amended]

29. In § 1926.404 the parenthetical at the end of the regulatory text is revised to read as follows:

(Approved by the Office of Management and Budget under control number 1218–0130)

§ 1926.550 [Amended]

30. In § 1926.550 the parenthetical at the end of the regulatory text is revised to read as follows:

(The information collection requirements contained in paragraph (a)(1) are approved by the Office of Management and Budget under control number 1218–0115. The information collection requirements contained in paragraph (a)(6) are approved by the Office of Management and Budget under control number 1218–0113. The information collection requirements contained in paragraph (a)(11) are approved by the Office of Management and Budget under control number 1218–0054.)

31. In §§ 1915.99, 1917.28, 1918.90, and 1926.59, the parenthetical displaying the OMB control number at the end of Appendix D is transferred to the end of the regulatory text preceding Appendix A.

Signed at Washington, DC, this 26th day of May 1989.

Alan C. McMillan,

Acting Assistant Secretary of Labor.

[FR Doc. 89–13460 Filed 6–5–89; 8:45 am]

BILLING CODE 4510–26–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3551–2]

Approval and Promulgation of State Implementation Plans for Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming; Stack Height Analyses and Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: EPA is today approving (1) the stack height regulations for Utah, Montana and Colorado, (2) two stack height definitions for South Dakota, (3) the stack height demonstration analyses for North Dakota, South Dakota, and Wyoming, and (4) the stack height demonstartion analyses for Montana and Utah with the exceptions noted below. Each State was required to review its State Implementation Plan (SIP) for consistency within nine months of final promulgation of the stack height regulations (July 8, 1985, 50 FR 27892). The intended effect of this action is to formally document that these States have satisfied their obligations under Section 406 of the Clean Air Act (CAA) to review their SIPs with respect to EPA's revised stack height regulations.

The July 8, 1985, stack height regulations were challenged by the Natural Resource Defense Council (NRDC) and resulted in the remand of three provisions of the regulations to EPA for reconsideration. The remand is not believed to significantly affect the Utah, Montana, Colorado and South Dakota stack height regulations submittals. EPA's approval of the stack height regulations is given with the understanding that should EPA promulgate revisions to the stack height regulations as a result of the remand, the States will and have agreed to modify their regulations accordingly.

Today's action does not include the ASARCO stack analyses which were submitted as part of the Montana SIP revision. EPA had proposed approval of the ASARCO stacks in 53 PR 3052 (February 3, 1988). Because of procedural concerns relating to discussion of the stacks analyses in the February 3 proposal, EPA is not acting on the ASARCO stacks in this notice. The ASARCO stacks analyses will be reproposed to correct these procedural issues. In addition, the ASARCO facility is being evaluated because of a recent Lead SIP Call on October 1, 1988 (see 53 FR 48642, December 2, 1988). The Lead SIP also must address the stack height issue for the affected emissions. EPA will coordinate with the State to complete the stack height analyses required by the July 8, 1985, promulgation concurrently with Lead SIP (i.e., the Lead SIP submitted by the State in response to the October 1, 1988, Lead SIP Call).

Today's action, also, does not include the Kennecott stack height analyses which were submitted as part of the Utah SIP revision. EPA has addressed that part of the Utah stack height SIP, analyses of the Kennecott stack, in a separate action at 53 FR 48942 (December 5, 1988).

Wyoming originally submitted a commitment to insure consistency with the federal stack height regulations through its new sources review process until its stack height rules were finalized. Such regulations have since been submitted; EPA is acting on them in a separate rulemaking. North Dakota originally submitted a commitment to comply with the Federal regulations until the State adopted the required regulations. North Dakota has since submitted the regulations; EPA has addressed them in a separate rulemaking at 53 FR 45763 (November 14, 1988).

EPA received the Colorado stack height demonstration analyses much latter than the above mentioned States. EPA has addressed the Colorado demonstration analyses in a separate action at 53 FR 47730 (November 25, 1988).

EPA proposed to approve this action in 53 FR 3052 (February 3, 1988). No comments were received.

EFFECTIVE DATES: The rule will become effective on July 7, 1989.

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, Air Programs Branch, Environmental Protection Agency, Denver Place, Suite 500, 999 18th Street, Denver, Colorado 80202, (303) 293–1814, FTS 564–1814.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 1982 (47 FR 5864), EPA promulgated final regulations limiting stack height credits and other dispersion techniques as required by Section 123 of the CAA. These regulations were challenged in the U.S. Court of Appeals for the D.C. Circuit by the Sierra Club Legal Defense Fund, Inc., the Natural Resources Defense Council, Inc., and the Commonwealth of Pennsylvania in *Sierra Club v. EPA*. On October 11, 1983, the court issued its decision ordering EPA to reconsider portions of the stack height regulations, revising certain portions and upholding other portions.

On February 28, 1984, the electric power industry filed a petition for a writ of certiorari with the U.S. Supreme Court. On July 2, 1984, the Supreme Court denied the petition, and on July 18, 1984, the Court of Appeals mandate was formally issued, implementing the court's decision and requiring EPA to promulgate revisions to the stack height regulations within six months. The promulgation deadline was ultimately extended to June 27, 1985.

Revisions to the stack height regulations were proposed on November 9, 1984 (49 FR 44878), and promulgated on July 8, 1985 (50 FR 27892). The revisions redefined a number of specific terms including "excessive concentrations", "dispersion techniques", "nearby", and other important concepts, and modified some of the bases for determining good engineering practice (GEP) stack height.

Pursuant to section 406(d)(2) of the CAA, all States were required to (1) review and revise, as necessary, their State Implementation Plans (SIPs) to include provisions that limit stack height credit and dispersion techniques in accordance with the revised regulations and (2) review all existing emission limitations to determine whether any of these limitations have been affected by stack height credits above GEP or any other dispersion techniques. For any limitations so affected, States were to prepare revised limitations consistent with their revised SIPs. ALL SIP revisions and revised emission limits were to be submitted to EPA within 9 months of the EPA stack height regulations promulgation.

Subsequently, EPA issued detailed guidance on carrying out the necessary reviews. For the review of emission limitations, States were to prepare inventories of stacks greater than 65 meters in height and sources with emissions of sulfur dioxide (SO_2) in excess of 5,000 tons per year. These limits correspond to the *de minimis* stack height and the *de minimis* SO_2 emission exemption from prohibited dispersion techniques. These sources were then subjected to detailed review for conformance with the revised regulations. State submissions were to contain an evaluation of each stack and source in the inventory.

Subsequent to the July 8, 1985 promulgation, the stack height regulations were again challenged in *NRDC v. Thomas*, 838, F.2d 1224 (D.C. Cir. 1988). On January 22, 1988, the U.S. Court of Appeals for the D.C. Circuit issued its decision affirming the regulations for the most part, but remanding three provisions to the EPA for reconsideration. These are:

1. Grandfathering pre-October 11, 1983, within-formula stack height increases from demonstration requirements [40 CFR 51.100(kk)(2)];

2. Dispersion credit for sources originally designed and constructed with merged or multiflue stacks [40 CFR 51.100(hh)(2)(ii)(A)]; and

3. Grandfathering pre-1979 use of the refined H+1.5L formula [40 CFR 51.100(ii)(2)].

State Submissions

A. Demonstration Analyses

EPA has received stack height reviews from Montana, North Dakota, South Dakota, Utah and Wyoming. The Montana review was submitted with a letter dated November 25, 1985, and a subsequent submittal dated January 28, 1986; the North Dakota review with a letter dated April 18, 1986, and subsequent submittal dated July 21, 1987; the South Dakota review with a letter dated August 20, 1986, and subsequent submittal dated December 3, 1986; the Utah review with a letter dated May 2, 1986; and the Wyoming review with a letter dated August 5, 1986. Each State has found that no existing emissions limitations have been affected by stack height credits above GEP or any other dispersion technique prohibited by EPA regulations.

EPA has determined that the States' inventories above *de minimis* height and *de minimis* emission level are complete. EPA has carefully reviewed the States' findings that no emission limits have been affected by prohibited dispersion techniques. EPA concurs in those findings, except with regard to the ASARCO stacks in Montana and the Kennecott stack in Utah. EPA has not completed its evaluation of the ASARCO stacks, which will thus be addressed in a separate action. EPA is not evaluating the Kennecott stack in this **Federal Register** action. The Kennecott stacks have been addressed in a separate action at 53 FR 48942 (December 5, 1988). Summaries of the States' findings are presented in the tables below. Detailed documentation of the States' findings and of EPA's review is contained in EPA's technical support document, its air compliance files, and state files, all of which are available for public inspection.

With this notice, the actual height of those stacks whose GEP height was calculated to be greater than the actual height will now become the GEP height. The GEP height of those stacks whose GEP height was calculated to be less than the actual height and whose emissions were determined or modeling conducted at the lower height will remain the GEP height.

A summary of each State's findings is provided below.

Wyoming

Plant name	Stack I.D.	Actual stack height (M)	Applicable GEP formula	GEP height (M)	SO_2,[1,4] (t/yr)
Basin Electric (Laramie River)	Unit 1	182.9	H+1.5L [5]	193.5	5000+
	Unit 2	182.9	H+1.5L [5]	193.5	
	Unit 3	182.9	H+1.5L	193.5	
Pacific Power & Light					
(Jim Bridger Power Plant)	Unit 1	152.7	H+1.5L [5]	199.0	5000+
	Unit 2	152.7	H+1.5L [5]	199.0	
	Unit 3	152.7	H+1.5L [5]	199.0	
	Unit 4	152.7	H+1.5L [5]	199.0	
(Dave Johnson Power Plt.)	Unit 1	151.1	H+1.5L [5]	160.3	5000+
	Unit 2	151.1	H+1.5L [5]	160.3	
	Unit 3	151.1	H+1.5L [5]	160.3	
	Unit 4	76.3	H+1.5L [5]	160.3	
(Wyodak Power Plant)	Unit 1	122.3	H+1.5L [5]	143.7	5000+
Utah Power & Light (Naughton)	Unit 2	68.21	Grandfathered [2] (1968) [2]		[3] 5000+
	Unit 3	143.29	H+1.5L	144.8	
Black Hills P&L (Neil Simpson)	Unit 5	76.2	H+1.5L [5]	92.96	
FMC Wyoming (Green River)	NS-1-A	91.4	H+1.5L [5]	119.75	5000+
	NS-1-B	91.4	H+1.5L [5]	119.75	
Wyoming Refinery	TCC Unit	69.2	H+1.5L [5]	69.77	

[1] The emissions given below are total SO_2 emissions for those sources above the 5000 tons/yr *de minimis* level. The state has determined that all the listed facilities below did not use dispersion techniques described by 40 CFR 50.100(hh)(1)(ii)-(iii) and prohibited by 40 CFR 50.118(a).

[2] Documentation provided. Grandfathered means stack in existence in given year.

[3] State monitors emissions annually by emission inventory updates and/or inspections. Facility is reviewed on its sulfur in coal content, operating rates and on the SO_2 CEM monitor on the unit stacks (unit stack #3).

[4] EPA guidance was provided to the State in November 1985 on stack evaluation. Because of various conversations between the Region VIII office and the State, Region VIII is confident that the stacks were evaluated for dispersion techniques. Dispersion techniques as defined in 40 CFR 51.100(hh) were not applicable to these sources.

[5] In this analysis, the State used the H+1.5L formula but because of the construction date of the stack, the applicable formula should have been 2.5H. Regardless of the formula used (H+1.5L or 2.5H) the actual stack height is less than the GEP stack height. According to the guidance memorandum dated October 10, 1985, G.T. Helms to Air Branch Chiefs, showing reliance on the 2.5H formula can be accomplished by showing that the stack was actually built to a height less than or equal to 2.5H. EPA believes that reliance on the 2.5H formula can be shown for the stacks indicated.

North Dakota

Plant name	Stack I.D.	Actual stack height(M)	Applicable GEP formula	GEP height (M)	SO_2[4] (t/yr)
Amoco Oil Refinery		60.7	*de minimis*		5583
ANG Coal Gasification Co.		125.2	H+1.5L	127.2	9948
Basin Electric Power Corp.:					
AVS	1	182.9	H+1.5L	189	5615
AVS	2	182.9	H+1.5L	189	
AVS	3	182.9	H+1.5L	210.2	
L. Olds	1	106.7	H+1.5L [5]	191	8718
L. Olds	2	152.4	H+1.5L [5]	191	18110
KOCH Hydrocarbon		65.5	([1])	65.5	1298
Minnkota Power Coop.: M.R. Young	1	91	2.5H [2]	199	12353
Square Butte Elec. Power Corp.; M.R. Young	2	168	2.5H [2]	199	13206
Montana Dakota Utilities:					
Coyote [1]	1	151.8	2.5H [2]	221	15780

Plant name	Stack I.D.	Actual stack height(M)	Applicable GEP formula	GEP height (M)	SO_2[4] (t/yr)
Heskett	1	91.5	H+1.5L [5]	97.5	4635
	2	91.5	H+1.5L [5]	94	4414
Nokota Company		152.4	H+1.5L	152.4	
United Power Association [3]	1 & 10	78	H+1.5L	111.3	11121
UPA/CPA:					
Coal Creek	1	201	2.5H [2]	222	20196
Coal Creek	2	201	2.5H [2]	222	21322

[1] A stack height of 65m is used in all dispersion modeling scenarios conducted by the company and the State.
[2] Documentation provided to show reliance.
[3] This is a merged stack. The merging did not result in any increase in the allowable emissions and was associated with the installation of a new boiler (Unit 10) meeting NSPS.
[4] The emissions given below are total SO_2 emissions for those sources above the 5000 tons/yr *de minimis* level. The state has determined that all the listed facilities below did not use dispersion techniques described by 40 CFR 50.100(hh)(1)(ii)-(iii) and prohibited by 40 CFR 50.118(a).
[5] In this analysis, the State used the H+1.5L formula, but because of the construction date of the stack, the applicable formula should have been 2.5H. Regardless of the formula used (H+1.5L or 2.5H), the actual stack height is less than the GEP stack height. According to the guidance memorandum dated October 10, 1985, G.T. Helms to Air Branch Chiefs, showing reliance on the 2.5H can be accomplished by showing that the stack was actually built to a height less than or equal to 2.5H formula. EPA believes that reliance on the 2.5H formula can be shown for the stacks indicated.

Utah

Plant name	Stack I.D.	Actual stack height (M)	Applicable GEP formula	GEP height (M)	SO_2[3] (t/yr)
Deseret	Unit 1	182.9	H+1.5L	[1] 177.9	
	Unit 2 [5]	182.9	H+1.5L	[1] 177.9	
U.P.&L Hunter	Unit 1	183.08	2.5H [7]	185.05	
	Unit 2	183.08	2.5H [7]	185.05	
	Unit 3	183.1	H+1.5L	185.0	
U.P.&L Huntington	Unit 1	182.93	2.5H [7]	[1] 176.83	9448
	Unit 2	182.93	2.5H [7]	[1] 176.83	
I.P.P.	Unit 1	216.46	H+1.5L	230.2	[8] 10975
	Unit 2	216.46	H+1.5L	230.2	—
U.S. Steel Blast Furnace	Unit 1	79.2	Grandfathered [2] (1946) [2]		
	Unit 2	79.2	Grandfathered [2] (1946) [2]		
	Unit 3	68.6	Grandfathered [2] (1946) [2]		
U.S. Steel Coke Combustion	Unit 1	76.2	Grandfathered [2] (1946) [2]		
	Unit 2	76.2	Grandfathered [2] (1946) [2]		
	Unit 3	76.2	Grandfathered [2] (1946) [2]		
	Unit 4	76.2	Grandfathered [2] (1946) [2]		
Chevron USA	HCC Cracker	88.4	Grandfathered [2] (1946) [2]		6085
Chevron Research	Cat. Dis. Air Heater	69.8	(6)	(6)	
Chevron Research	Retort	69.8	(6)	(6)	
AMAX	Melt Reactor	76.22	2.5H [7]	86.13	
	Electroytics	76.22	2.5H [7]	86.13	
	Emerg. Off Gas	76.22	2.5H [7]	86.13	
	Spray Dryer 1	76.22	2.5H [7]	86.13	
	Spray Dryer 2	76.22	2.5H [7]	86.13	
	Spray Dryer 3	76.22	2.5H [7]	86.13	
Phillips Petro 5733	Thermal Cat. Cracking.	80.8	Grandfathered [2] (1952) [2]		
White River (Phase I)	3 Boilers	76.2	H+1.5L	76.2	
White River (Phase II)	1 Boiler	76.2	H+1.5L	76.2	
	2 Retort	76.2	H+1.5L	111.28	
White River (Phase III)	2 Elutriators	76.2	H+1.5L	92.98	
	2 Shale Lifts	76.2	H+1.5L	92.98	
	1 Hydrogen Plant	76.2	H+1.5L	76.2	
	3 Power Plants	76.2	H+1.5L	76.2	
	2 Ball Heaters	76.2	H+1.5L	92.98	
Tosco	Preheat [5]	(4)	H+1.5L	(4)	
	Elutriators [5]	(4)	H+1.5L	(4)	
	Proc. Shale Wetters [5]	(4)	H+1.5L	(4)	
U.P.&L Gadsby	Unit 1	76.2	Grandfathered [2] (1951) [2]		
	Unit 2	76.2	Grandfathered [2] (1952) [2]		
	Unit 3	76.2	Grandfathered [2] (1955) [2]		

[1] Source modeled; no significant difference in emission limitations found.

[2] Documentation provided. Grandfathered means stack in existence in year given.
[3] The emissions given below are total SO_2 emissions for those sources above the 5000 tons/yr *de minimis* level. The state has determined that all the listed facilities below did not use dispersion techniques described by 40 CFR 50.100(hh)(1)(ii)–(iii) and prohibited by 40 CFR 50.118(a).
[4] Feasibility approval issued Dec. 28, 1983; construction still has not started; PSD permit has not been issued; EPA has advised the State that it is not approving a GEP height on these proposed stacks until a permit is issued and in compliance with the GEP regulation requirements. The State in a SIP revision, gives an actual and GEP height for these stacks. However, the State has committed to review plans for emission limitations based on PSD & stack height requirements.
[5] Proposed stacks.
[6] Permit expired; source shut down.
[7] In the proposal of this action, the applicable GEP formula for these stacks was shown to be H+1.5L. However, in light of the remand, EPA reviewed these stacks and found that they were constructed prior to January 12, 1979, and hence should apply the 2.5H formula. EPA confirmed in a telephone conversation with the State on 6/22/88, that it did have dated and certified blueprints that showed the "H" of the nearby structure in all cases. EPA believes that these documents are sufficient enough to show reliance on the 2.5H formula.
[8] In the proposal of this action, EPA indicated that the SO_2 emissions were 17,870 tons/year. Upon further review, EPA has found that the allowable SO_2 emissions are 10,975 tons/year.

Montana

Plant name	Stack I.D.	Actual stack height	Applicable GEP (M) formula	GEP height (M)	SO[3] (t/yr)
Conoco (Billings)	Boiler	82	H+1.5L	75.7 [1]	
Montana-Dakota (Sidney)	Coal Boiler	76	H+1.5L [5]	95.3	
Montana Power (Billings)	Coal Boiler	107	Grandfathered [2]	(1968) [2]	[4] 5000+
Montana Power (Colstrip):					
Coal Boiler 1		152.4	H+1.5L[5]	164.6	
Coal Boiler 2		152.4	H+1.5L[5]	164.6	
Coal Boiler 3		211	H+1.5L	212.6	
Coal Boiler 4		211	H+1.5L	212.6	
Exxon (Billings)					[4] 5000+
Cenex (Laurel)					[4] 5000+

[1] Modeling confirmed no violations of federal ambient SO_2 standard.
[2] Documentation provided. Grandfathered means stack in existence in given year.
[3] The emissions given below are total SO_2 emissions for those sources above the 5000 tons/yr. *de minimis* level. The state has determined that all the listed facilities below did not use dispersion techniques described by 40 CFR 50.100(hh)(1)(ii)–(iii) and prohibited by 40 CFR 50.118(a).
[4] Montana Power (Billings), Exxon (Billings) and Cenex (Laurel). Emissions controlled by stipulations which are part of the SO_2 SIP for the Laurel nonattainment area; proposal 5/9/79 (44 FR 27187), final 1/10/80 (45 FR 2034).
[5] In this analysis, the State used the H+1.5L formula, but because of the construction date of the stack, the applicable formula should have been 2.5H. Regardless of the formula used (H+1.5L or 2.5H), the actual stack height is less than the GEP stack height. According to the guidance memorandum dated October 10, 1985, G.T. Helms to Air Branch Chiefs, showing reliance on the 2.5H formula can be accomplished by showing that the stack was actually built to a height less than or equal to 2.5H. EPA believes that reliance on the 2.5H formula can be shown for the stacks indicated.

South Dakota

Plant name	Stack I.D.	Actual stack height (M)	Applicable GEP formula	GEP height (M)	SO_2[1] (t/yr)
Big Stone Power Plant		152	H+1.5L[2]	161.15	

[1] The State has determined that the listed facility below did not use dispersion techniques described by 40 CFR 50.100(hh)(1)(ii)–(iii) and prohibited by 40 CFR 50.118(a).
[2] In this analysis, the State used the H + 1.5L formula, but because of the construction date of the stack, the applicable formula should have been 2.5H. Regardless of the formula used (H + 1.5L or 2.5H), the actual stack height is less than the GEP stack height. According to the guidance memorandum dated October 10, 1985, G. T. Helms to Air Branch Chiefs, showing reliance on the 2.5H formula can be accomplished by showing that the stack was actually built to a height less than or equal to 2.5H. EPA believes that reliance on the 2.5H formula can be shown for the stacks indicated.

B. Stack Height Regulation

EPA has received stack height regulation revisions from Utah, Montana and Colorado and the stack height definitions for good engineering practice and dispersion technique from South Dakota. Also, EPA received commitments to comply with the federal stack height regulations from North Dakota and Wyoming. The rules from Colorado, Utah and Montana, the definitions from South Dakota and the commitments from Wyoming and North Dakota apply to all new sources and modifications as required in 40 CFR 51.164 (old citation 51.18(1)), as well as existing sources as required in 40 CFR 51.118 (old citation 51.12 (j), (k), (l)). This means that these rules and commitments apply to all sources that were or are constructed, reconstructed or modified subsequent to December 31, 1970. EPA has reviewed the above mentioned revisions and has determined that they are consistent with EPA's requirements for GEP stack height and dispersion techniques as revised on July 8, 1985. (Reference to the old citation is made because on November 7, 1986, 51 FR 40656, EPA restructured 40 CFR Part 51. The regulations themselves have not changed; the numbering sequence has changed.) Although the EPA generally approves Utah, Montana and Colordo's stack height rules and South Dakota's definitions on the grounds that they satisfy 40 CFR Part 51, the EPA also provides notice that this action may be subject to modification when EPA completes rulemaking to respond to the decision in *NRDC* v. *Thomas*, 838 F.2d 1224 (D. C. Cir. 1988). If the EPA's response to the NRDC remand modifies the July 8, 1985, regulations, the EPA will notify Utah, Montana, Colorado, and South Dakota that their rules must be changed to comport with the EPA's modified requirements. Although this potential regulation revision is not expected to result in revised emission limitations or other actions taken by Utah, Montana, Colorado, and South Dakota, EPA has obtained commitments from Utah, Montana, Colorado and South Dakota to change their regulations accordingly. EPA takes these commitments to mean that such States will proceed to process all regulatory changes, including those affecting new source programs, to comport with such

new requirements. Discussion on these States' submittals as well as the status of the North Dakota and Wyoming regulations are given below.

Colorado

In a letter dated May 8, 1986, Governor Richard Lamm submitted revisions to Colorado Regulation No. 3 (Regulation Requiring an Air Contaminant Emission Notice, Emission Permit Fees) of the Colorado SIP modifying stack height evaluations. The changes consisted of (1) new definitions of dispersion techniques, good engineering practice, nearby and excessive concentrations (Section XII. D.) and (2) rules clarifying technical modeling and monitoring requirements (Section XII. C.). These revised rules bring the Colorado regulations into conformity with regulations promulgated by the EPA.

In a letter dated May 9, 1988, Bradley J. Beckham, Director, Air Pollution Control Division, committed to revise Colorado's stack height regulations should the remand affect the July 8, 1985, federal stack height requirements. EPA interprets this to mean that Colorado will proceed to process all regulatory changes, including those affecting new source programs, to comport with such new requirements.

Montana

In a letter dated May 28, 1986, Governor Ted Schwinden, submitted modifications to the Montana SIP which revised rules governing stack height and dispersion techniques. The modifications repeal Administrative Rules of Montana (ARM) 16.8.1201, 16.8.1202 and 16.8.1203 in Sub-Chapter 12 and adds ARM 16.8.1204 (Definition), 16.8.1205 (Requirements), and 16.8.1206 (Exemptions).

Montana regulations do not specifically define "emission limitation and emission standards." However, the regulation, ARM 16.8.1205, subjects the source(s) to all emission limitation requirements in the Montana Clean Air Act. Montana regulations do not specifically define "stack in existence"; however, Montana implies its use in its definition of GEP and in its stack height requirements (ARM 16.8.1205) and exemptions (16.8.1206).

The Montana regulations are designed to limit the use of tall stacks. Further, the State underscores the change in its regulations as reflecting the policy of the State to achieve acceptable levels of ambient air quality through the use of continuous emission reduction and not through the use of dispersion techniques or tall stacks.

In a letter dated May 6, 1988, Jeffrey T. Chaffee, Chief, Air Quality Bureau, committed to revise Montana's stack height regulation should the remand affect the July 8, 1985, federal stack height requirements. EPA interprets this to mean that Montana will proceed to process all regulatory changes, including those affecting new source programs, to comport with such new requirements.

Utah

The Utah SIP revision to comply with the stack height requirement was submitted with a letter dated May 2, 1986, by Governor Norman H. Bangerter. The submittal includes regulations to address (1) GEP Stack height/dispersion techniques (2) a new Section 17 of the SIP that lists all existing stacks in Utah greater than 65 meters and (3) a technical support document for Section 17 of the SIP.

New definitions are added to Part I of the Utah Air Conservation Regulations (UACR). Such regulations have since been recodified. EPA will address the recodified regulations in a separate rulemaking. They are dispersion techniques, UACR 1.1.128 (recodified UACR 1.49); excessive concentration, UACR 1.1.129 (recodified UACR 1.55); good engineering practice, UACR 1.1.130 (recodified UACR 1.71); nearby UACR 1.1.131 (recodified UACR 1.98); stack, UACR 1.1.132 (recodified 1.136); and stack in existence, UACR 1.1.133 (recodified UACR 1.137). Part III of the UACR (UACR 3.8), which defines the stack height exemptions and requirement for source owners or operators, was also revised to be more consistent with federal regulations.

In a letter dated May 27, 1988, F. Burnell Cordner, Director, Bureau of Air Quality, committed to revise Utah's stack height regulations should the remand affect the July 8, 1985, federal stack height requirements. EPA interprets this to mean that Utah will proceed to process all regulatory changes, including those affecting new source programs, to comport with such new requirements.

South Dakota

In a letter dated August 7, 1986, Governor William Janklow submitted revisions to the South Dakota SIP adopting federal stack height regulations. South Dakota has incorporated by reference EPA definitions for good engineering practices [40 CFR 51.1(ii)] and dispersion techniques [40 CFR 51.1(hh)], which were promulgated on July 8, 1985, into the Administrative Rules of South Dakota (ARSD) 74:26:01:12. This is to ensure that new sources comply with emission limitations and other requirements of the CAA. (Note: As stated above, EPA restructured 40 CFR Part 51 on November 7, 1986 (51 FR 40656). The citation in ARSD 74:26:01:12 referenced regulations 40 CFR 51.1 (ii) and (hh) which are 40 CFR 51.100(ii) and 51.100(hh) in the new federal citation. The South Dakota regulation and the federal regulations are one and the same.)

In a letter dated January 30, 1987, Joel Smith, South Dakota Administrator for Air Quality and Solid Waste, committed to adopting the definitions "nearby" and "excessive concentration" (51.100 (jj) and (kk), new citation) with the next regulatory update (mid 1987). In August 1987, EPA received draft regulations from South Dakota which incorporated by reference in ARSD 74:26:01:12 the remainder of the stack height regulations (40 CFR 51.100 (z), (ff), (gg), (jj), (kk), and (nn)). South Dakota submitted such regulations on January 28, 1988. EPA has made a determination that the added stack height regulations in ARSD 74:26:01:12 are consistent with the federal stack height requirements and has addressed them in a separate rulemaking at 53 FR 34077 (September 2, 1988).

In a letter dated May 11, 1988, Joel C. Smith, Administrator, Office of Air Quality and Solid Waste, committed to revise South Dakota's stack height regulations should the remand affect the July 8, 1985, federal stack height requirements. In a separate rulemaking, EPA added this letter to 40 CFR 52.2180. EPA interprets this commitment to mean that South Dakota will proceed to process all regulatory changes, including those affecting new source programs, to comport with such new requirements.

For new or modifying sources, the new source review lies with the State and the prevention of significant deterioration review lies with EPA (this programs has not been delegated to the State).

Thus, EPA believes that requirements for any source in 40 CFR 51.118 are satisfied.

North Dakota and Wyoming

The State of North Dakota submitted a letter of commitment to comply with the federal stack height regulations until it adopted the required regulations. The North Dakota letter, dated April 18, 1986, was submitted by Mr. Dana Mount, Division Director of Environmental Engineering, North Dakota Health Department. The State of Wyoming submitted a letter of commitment insuring consistency with the federal stack height regulations

through its new source review process until its stack height rules were finalized. The Wyoming letter dated December 4, 1986, was submitted by Mr. Charles Collins, Administrator, Wyoming Air Quality Division. North Dakota has since submitted such regulations to EPA with a letter dated January 26, 1988. EPA has made a determination that the North Dakota stack height regulations are consistent with the federal stack height requirements and has addressed them in a separate direct final action at 53 FR 45763 (November 14, 1988). Wyoming has since submitted such rules to EPA with a letter dated September 6, 1988. EPA will be acting on them in a separate rulemaking action.

Final Action

EPA believes that the stack height regulations submitted by Utah, Montana and Colorado and the two definitions submitted by South Dakota are consistent with the revised federal regulations. Although EPA is approving the Utah, Montana and Colorado stack height rules and the two stack height definitions for South Dakota on the grounds that they satisfy 40 CFR Part 51, EPA provides notice that this action may be subject to modification when EPA completes rulemaking to respond to the decision in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). If the EPA's response to the NRDC remand modifies the July 8, 1985, regulations, the EPA will notify Utah, Montana, Colorado and South Dakota that their rules must be changed to comport with the EPA's modified requirements. Although this potential regulation revision is not expected to result in revised emission limitations or other actions taken by Utah, Montana, Colorado and South Dakota, EPA has obtained commitments from Utah, Montana, Colorado and South Dakota to change their regulations accordingly. EPA takes these commitments to mean that such states will proceed to process all regulatory changes, including those affecting new source programs, to comport with such new requirements.

Wyoming originally committed to insure consistency with federal regulations, until adequate state regulations were adopted. Wyoming has since submitted such regulations; EPA is acting on them in a separate rulemaking. North Dakota originally submitted a commitment to comply with the Federal regulations until the State adopted the required regulations. North Dakota has since submitted such regulations; EPA has addressed them in a separate rulemaking action at 53 FR 45763 (November 14, 1988).

The stack height GEP analyses submitted by Utah (with the Kennecott exception), Montana (with the ASARCO exception), Wyoming, North Dakota and South Dakota have been determined to be acceptable. Therefore, EPA is approving these stack height demonstrations. As noted earlier, the ASARCO stack height analyses submitted as part of the Montana SIP revision will be addressed in a separate rulemaking. The Kennecott stack height analysis submitted as part of the Utah SIP has been addressed in a separate action at 53 FR 48942 (December 5, 1988).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 7, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Particulate matter, Sulfur dioxide.

Note: Incorporation by reference of the State Implementation Plan for the States of Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming was approved by the Director of the Federal Register on July 1, 1982.

Date: March 30, 1989.

William K. Reilly,

Administrator.

Part 52 Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation on for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(45) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(45) In a letter dated May 8, 1986, the Governor submitted revisions to the Colorado Regulation No. 3 (Regulation Requiring an Air Contaminant Emission Notice, Emission Permit Fees) of the Colorado SIP modifying stack evaluations. The changes consisted of (1) new definitions of dispersion techniques, good engineering practice, nearby, and excessive concentrations (Section XII.D.) and (2) rules clarifying technical modeling and monitoring requirements (Section XII.C.).

(i) *Incorporation by reference.* (A) Revisions to the Colorado Regulation No. 3 (Regulation Requiring and Air Contaminant Emission Notice, Emission Permit Fees), Section XII, adopted March 20, 1986, by the Colorado Air Quality Control Commission.

3. Add a new § 52.345:

§ 52.345 Stack height regulations.

The State of Colorado has committed to revise its stack height regulations should EPA complete rulemaking to respond to the decision in *NRDC* v. *Thomas*, 838 F. 2d 1224 (D.C. Cir. 1988). In a letter to Mr. Douglas M. Skie, EPA, dated May 9, 1988, Bradley J. Beckham, Director of the Colorado Air Pollution Control Division stated:

* * * We are submitting this letter to allow EPA to continue to process our current SIP submittal with the understanding that if EPA's response to the NRDC remand modified the July 8, 1985 regulations, EPA will notify the state of the rules that must be changed to comply with the EPA's modified requirements. The State of Colorado agrees to make appropriate changes.

Subpart BB—Montana

4. Section 52.1370 is amended by adding paragraph (c)(18) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(18) In a letter dated March 28, 1986, the Governor submitted modifications to the Montana SIP which revised rules governing stack height and dispersion techniques. In a letter dated November 25, 1985, the Chief of the Air Quality Bureau, Montana, submitted the stack height demonstration analysis with supplemental information submitted on January 28, 1986. EPA is approving the demonstration analysis for all of the stacks except the ASARCO stacks.

(i) *Incorporation by reference.* (A) Revisions to the Administrative Rules of Montana effective on June 13, 1986. The modifications repeal Administrative Rules of Montana (ARM 116.8.1201, 116.8.1202 and 16.8.1203 in Subchapter 12 and adds ARM 16.8.1204 (Definitions), 16.8.1205 (Requirements), and 16.8.1206 (Exemptions).

(B) Stack height demonstration analysis submitted by the State on November 25, 1985 (except for materials pertaining to ASARCO), and January 28,

1986 (except for meterials pertaining to ASARCO and Appendix A).

5. Add a new § 52.1387

§ 52.1387 Stack height regulations

The State of Montana has committed to revise its stack height regulations should EPA complete rulemaking to respond to the decision in *NRDC v. Thomas*, 838 F. 2d 1224 (D.C. Cir. 1988). In a letter to Douglas M. Skie, EPA, dated May 6, 1988, Jeffrey T. Chaffee, Chief, Air Quality Bureau, stated:

* * * We are submitting this letter to allow EPA to continue to process our current SIP submittal with the understanding that if EPA's response to the NRDC remand modifies the July 8, 1985 regulations, EPA will notify the State of the rules that must be changed to comply with the EPA's modified requirements. The State of Montana agrees to make the appropriate changes.

Subpart JJ—North Dakota

6. Section 52.1820 is amended by adding paragraph (c)(17) to read as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

(17) In a letter dated April 18, 1986, the Director of the Division of Environmental Engineering, North Dakota Department of Health, submitted the stack height demonstration analysis with supplemental information submitted on July 21, 1987. EPA is approving the demonstration analysis for all of the stacks.

(i) *Incorporation by reference.* (A) Stack height demonstration analysis submitted by the State on April 18, 1986 and July 21, 1987.

Subpart QQ—South Dakota

7. Section 52.2170 is amended by adding paragraph (c)(12) to read as follows:

§ 52.2170 Identification of plan.

* * * * *

(c) * * *

(12) In a letter dated August 7, 1986, the Governor submitted revisions to the South Dakota SIP adopting federal stack height regulations (Administrative Rules of South Dakota 74:26). In a letter dated August 20, 1986, the Administrator, Office of Air Quality and Solid Waste of South Dakota, submitted the stack height demonstration analysis with supplemental information submitted on December 3, 1986.

(i) *Incorporation by reference.* (A) Revisions to the Administrative Rules of South Dakota 74:26 effective on May 21, 1986. The changes consisted of incorporating definitions for good engineering practices and dispersion techniques into 74:26:01:12, standard for the issuance of construction permit.

(B) Stack height demonstration analysis submitted by the State with letters dated August 20, 1986 and December 3, 1986.

Subpart TT—Utah

8. Section 52.2320 is amended by adding paragraph (c)(22) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(22) In a letter dated May 2, 1986, the Governor submitted revisions to the Utah Air Conservation Regulations addressing GEP stack heights/dispersion techniques and a new Section 17 to the SIP addressing GEP stack height demonstration analysis.

(i) *Incorporation by reference.* (A) Revisions to the Utah Air Conservation Regulations adopted April 18, 1986. The revisions consist of adding stack height definitions (UACR 1.1.128 through UACR 1.1.133) and updating stack height exemptions (UACR 3.8).

(B) Stack height demonstration analysis submitted by the State in a letter dated May 2, 1986.

9. Add a new § 52.2347.

§ 52.2347 Stack height regulations.

The State of Utah has committed to revise its stack height regulations should EPA complete rulemaking to respond to the decision in *NRDC v. Thomas*, 838 F. 2d 1224 (D.C. Cir. 1988). In a letter to Douglas M. Skie, EPA, dated May 27, 1988, F. Burnell Cordner, Director, Bureau of Air Quality, stated:

* * * We are submitting this letter to allow EPA to continue to process our current SIP submittal with the understanding that if the EPA's response to the NRDC remand modifies the July 8, 1985 regulations, the EPA will notify the State of the rules that must be changed to comply with the EPA's modified requirements. The State of Utah agrees to process appropriate changes.

Subpart ZZ—Wyoming

10. Section 52.2620 is amended by adding paragraph (c)(19) to read as follows:

§ 52.2620 Identification of plan.

* * * * *

(c) * * *

(19) In a letter dated August 5, 1986, the Administrator of the Air Quality Division of Wyoming, submitted the stack height demonstration analysis. EPA is approving the demonstration analysis for all of the stacks.

(i) *Incorporation by reference.* (A) Stack height demonstration analysis submitted by the State in a letter dated August 5, 1986.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

48 CFR Parts 301, 302, 303, 304, 305, 306, 307, 309, 314, 315, 316, 317, 319, 322, 324, 330, 333, 335, and 352

Acquisition Regulation; Miscellaneous Amendments

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services is amending its acquisition regulation (HHSAR), Title 48 CFR Chapter 3, to make various administrative changes.

EFFECTIVE DATE: June 7, 1989.

FOR FURTHER INFORMATION CONTACT: Ed Lanham, Senior Procurement Analyst, Division of Acquisition Policy, telephone (202) 245-8890.

SUPPLEMENTARY INFORMATION: The Department is amending its acquisition regulation to make numerous administrative changes as a result of a recent reorganization within the Office of the Secretary. Specifically, office designations and approving officials' titles have been changed to reflect the new designations and titles caused by the reorganization.

Changes are also being made to add reference to the use of the "Taxpayer Identification Number" as required by Federal Acquisition Circular 84-40, which was published in the **Federal Register** (53 FR 43386) on October 26, 1988. Additionally, Subpart 324.2, Freedom of Information Act, is being revised as a result of the recent revision to the Department's implementation of the Act in 45 CFR Part 5.

The Department of Health and Human Services adheres to the policy that the public, or certain elements comprising it, should have the opportunity to provide comments on regulations which may have an impact on them. The Department has determined, however, that this rule contains no amendments that would have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the Department. As a result, the Department