

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, aeronautical, economic, environmental, and energy-related 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. 93-ASO-23." 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 Office of the Assistant Chief Counsel for Southern Region, room 530, 1701 Columbia Avenue, College Park, Georgia 30337, 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, Manager, System Management Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. 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. 11-2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Offshore Airspace Area at Puerto Rico. The intended effect of this action is to eliminate the exclusionary language in the legal description. The present exclusions are for additional Class C Airspace. The only effect would be to simplify the airspace and legal description. The coordinates for this airspace docket are based on North American Datum 83. Designations for Offshore Airspace Areas are published in Paragraph 6007 of FAA Order

7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1. The Offshore Airspace Area designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a significant regulatory action under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Para. 6007 Offshore Airspace Areas

* * * * *

San Juan Low, PR [Amended]

Fernando Luis Ribas Dominicki Airport, PR
(lat. 18°27'25"N., long. 66°05'53"W.)

That airspace extending upward from 5,500 feet MSL within a 100-mile radius of the Fernando Luis Ribas Dominicki Airport.

* * * * *

Issued in College Park, Georgia, on November 19, 1993.

Michael J. Powderly,
Acting Manager, Air Traffic Division,
Southern Region.

[FR Doc. 93-29930 Filed 12-7-93; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. 89F-0011]

Irradiation in the Production, Processing, and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Tentative final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing its tentative decision to amend the food additive regulations to provide for the safe use of sources of radiation to irradiate frozen, packaged beefsteak for use in the National Aeronautics and Space Administration (NASA) space flight programs. FDA is also announcing its tentative decision to amend the food additive regulations to permit the use of packaging materials that are not listed in the regulations regarding food irradiation in the irradiation of frozen, packaged beefsteak for use in the NASA space flight programs. This action is in response to a petition filed by NASA.

DATES: Written comments by February 7, 1994.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Patricia A. Hansen, Center for Food Safety and Applied Nutrition (HFS-206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9523.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the Federal Register of February 6, 1989 (54 FR 5679), FDA announced that a food additive petition (FAP 9M4125) had been filed by NASA, Washington, DC 20546, proposing that the food additive regulations be amended to provide for the safe use of sources of radiation to process beefsteaks for use in space flight programs. The agency is publishing a tentative final rule before proceeding to

final action because it is including provisions regarding the packaging materials to be used with the beefsteaks that it did not announce in the notice of filing for this petition.

II. Evaluation of Safety

In assessing the safety of food additives, including the use of irradiation in the processing of food, the agency usually considers the effects of lifetime daily exposure to the additive. The requested use, however, is limited to NASA's space flight programs. The amount of irradiated beefsteak that could be consumed by individuals in the programs would constitute an extremely small fraction of their diets when considered over a lifetime. Because of this factor, questions regarding acute hazards, including those resulting from pathogenic organisms that could be present in the food, are more significant than they would ordinarily be in deciding whether to list a food additive. The petition has requested that FDA authorize the use of irradiation processing only under conditions that ensure the microbial sterility of the product and the integrity of the product packaging. NASA has stated that it will ensure these qualities of sterility and of packaging integrity by requiring adherence to an irradiation processing protocol (scheduled process) that it submitted with the petition (Ref. 1).

Having evaluated the data in the petition and other relevant material in its files, FDA tentatively finds that the total amount of radiolytic products that are produced in the beefsteaks during irradiation processing, and that will be consumed by individuals in the space flight programs, will be too small to be of any toxicological significance. Likewise, FDA tentatively finds that the total amount of radiolytic products that could be formed and migrate from the packaging materials to the food during irradiation processing, and then be consumed by individuals in the space flight programs, is too small to be of any toxicological significance (Ref. 2).

Section 179.25(c) (21 CFR 179.25(c)) restricts packaging materials used in the irradiation of packaged foods to those materials listed in § 179.45 (21 CFR

179.45), namely, those that have been demonstrated to be safe for use during irradiation of prepackaged foods, assuming that those foods would be consumed daily over a lifetime span. The agency tentatively finds that this restriction is unnecessary for packaging to be used only in space flight programs. The tentative final regulation set forth below, therefore, waives the requirement in § 179.25(c) that packaging materials be restricted to those listed in § 179.45, provided that the packaging has been judged to be safe for holding food.

III. Tentative Conclusions

The agency tentatively finds that beefsteaks irradiated at a minimum dose of 44 kiloGrays and handled in accordance with the provisions of § 179.25(d) will meet current standards for commercial sterility and nutritional adequacy. The protocol submitted by NASA (Ref. 1) in its petition is an example of a scheduled process that would satisfy the requirements of § 179.25(d). The agency tentatively concludes, therefore, that the proposed use of a source of radiation is safe, and that § 179.26 of the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its tentative decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch

(address above) between 9 a.m. and 4 p.m., Monday through Friday.

IV. References

1. U.S. Army Natick RD&E Center, "Space Food Prototype, Production Guide No. 60-C," April 13, 1993.
2. Memorandum dated June 26, 1990, from L. Borodinsky, FDA, to C. Takeguchi, FDA.

V. Comments

Interested persons may, on or before February 7, 1994, submit to the Dockets Management Branch (address above) written comments regarding this tentative final rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 179

Food additives, Food labeling, Food packaging, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, it is proposed that 21 CFR part 179 be amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

1. The authority citation for 21 CFR part 179 continues to read as follows:

Authority: Secs. 201, 402, 403, 409, 703, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 343, 348, 373, 374).

2. Section 179.26 is amended in the table in paragraph (b) by adding a new entry "7." under the headings "Use" and "Limitations" to read as follows:

§ 179.26 Ionizing radiation for the treatment of food.

* * * * *
(b) * * *

Use

Limitations

7. For the sterilization of frozen, packaged beefsteaks used solely in the National Aeronautics and Space Administration space flight programs.

Minimum dose 44 kGy (4.4 Mrad). Packaging materials used need not comply with § 179.25(c) provided that their use is otherwise permitted by applicable regulations in parts 174 through 186 of this chapter.

Dated: November 24, 1993.

Douglas L. Archer,
Deputy Director, Center for Food Safety and
Applied Nutrition.
[FR Doc. 93-29905 Filed 12-7-93; 8:45 am]
BILLING CODE 4160-01-F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

North Dakota Permanent Regulatory Program

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

ACTION: Proposed rule; reopening and
extension of public comment period on
proposed amendment.

SUMMARY: OSM is announcing receipt of
additional revisions pertaining to a
previously proposed amendment to the
North Dakota permanent regulatory
program (hereinafter, the "North Dakota
program") under the Surface Mining
Control and Reclamation Act of 1977
(SMCRA). The revisions for North
Dakota's proposed rules pertain to
permit denial for delinquent civil
penalties. The amendment is intended
to revise the North Dakota program to be
consistent with the corresponding
Federal regulations.

This document sets forth the times
and locations that the North Dakota
program and proposed amendment to
that program are available for public
inspection and the reopened comment
period during which interested persons
may submit written comments on the
proposed amendment.

DATES: Written comments must be
received by 4 p.m., m.s.t., December 23,
1993.

ADDRESSES: Written comments should
be mailed or hand delivered to Guy
Padgett at the address listed below.

Copies of the North Dakota program,
the proposed amendment, and all
written comments received in response
to this notice will be available for public
review at the addresses listed below
during normal business hours, Monday
through Friday, excluding holidays.
Each requester may receive one free
copy of the proposed amendment by
contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field
Office; Office of Surface Mining
Reclamation and Enforcement; 100
East B Street, room 2128; Casper, WY

82601-1918. Telephone (307) 261-
5776.

Edward J. Englerth, Director,
Reclamation Division; Public Service
Commission; Capitol Building;
Bismarck, ND 58505-0165. Telephone
(701) 224-4092.

FOR FURTHER INFORMATION CONTACT:

Guy Padgett, Telephone (307) 261-5776.

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program

On December 15, 1980, the Secretary
of the Interior conditionally approved
the North Dakota program as
administered by the Public Service
Commission. General background
information on the North Dakota
program, including the Secretary's
findings, the disposition of comments,
and conditions of approval of the North
Dakota program can be found in the
December 15, 1980 *Federal Register* (45
FR 82214). Subsequent actions
concerning North Dakota's program and
program amendments can be found at
30 CFR 934.15 and 934.16.

II. Submission of Proposed Amendment

By letter dated April 21, 1993
(Administrative Record No. ND-P-01),
North Dakota submitted a proposed
amendment ("Amendment XVII") to its
permanent program pursuant to
SMCRA. North Dakota proposed this
amendment mostly in response to
program amendments required at 30
CFR part 934.16(m), (o), (p), (q), (r), (s),
(t), & (v), codified in the January 9, 1992,
Federal Register (57 FR 827). That is,
most of the proposed amendment was
intended to change the rules of the
North Dakota program to conform to
Federal regulation requirements.

The provisions of the North Dakota
Administrative Code (NDAC) that North
Dakota proposes to amend are: NDAC
69-05.2-06-02(3) [permit applications,
compliance information]; NDAC 69-
05.2-09-01(4) [permit applications,
operations plans, general requirements];
NDAC 69-05.2-10-03(1) [permit
applications, criteria for permit
approval or denial]; NDAC 69-05.2-13-
08(3), (4) [performance standards,
protection of fish, wildlife, and related
environmental values]; NDAC 69-05.2-
16-09(13), (16) [performance standards,
sedimentation ponds]; NDAC 69-05.2-
20-03(3), (4) [performance standards,
coal processing waste impoundments,
design and construction]. North Dakota
also proposed a few minor editorial
revisions, and also one substantive
change not in response to required
amendments: NDAC 69-05.2-15-04(3)

[performance standards, plant growth
material, redistribution].

OSM published a notice in the May
19, 1993, *Federal Register* (58 FR
29153) announcing receipt of the
amendment and inviting public
comment on its adequacy
(Administrative Record No. ND-P-7).
The public comment period ended June
18, 1993.

During its review of the amendment,
OSM identified concerns relating to the
provisions of NDAC 69-05.2-10-03(1)
regarding permit denial for unpaid civil
penalties for certain violations. OSM
notified North Dakota of the concerns by
letter dated October 6, 1993
(Administrative Record No. ND-P-10).
North Dakota responded in a letter
dated November 23, 1993, by submitting
a revised amendment (Administrative
Record No. ND-P-11).

North Dakota proposes additional
revisions to NDAC 69-05.2-10-03(1)(a)
regarding permit denial for delinquent
civil penalties. The proposed revisions
would require that the Commission not
issue a permit if there are delinquent
civil penalties under the North Dakota
Century Code sections 38-14.1-32 and
38-12.1-08, SMCRA, or any law or rule
in any state enacted under federal law
or regulation pertaining to air or water
environmental protection, incurred in
connection with any surface coal
mining and reclamation operation.

III. Public Comment Procedures

OSM is reopening the comment
period on the proposed North Dakota
program amendment to provide the
public an opportunity to reconsider the
adequacy of the proposed amendment
in light of the additional materials
submitted. In accordance with the
provisions of 30 CFR 732.17(h), OSM is
seeking comments on whether the
proposed amendment satisfies the
applicable program approval criteria of
30 CFR 732.15. If the amendment is
deemed adequate, it will become part of
the North Dakota program.

Written comments should be specific,
pertain only to the issues proposed in
this rulemaking, and include
explanations in support of the
commenter's recommendations.
Comments received after the time
indicated under "DATES" or at locations
other than the Casper Field Office will
not necessarily be considered in the
final rulemaking or included in the
administrative record.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface
mining, Underground mining.

Dated: November 30, 1993.

Raymond L. Lowrie,
Assistant Director, Western Support Center.
[FR Doc. 93-29888 Filed 12-7-93; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Part 944

Utah Permanent Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Utah permanent regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of changes to provisions of the Utah backfilling and grading rules pertaining to spoil and waste; refuse piles; previously mined areas, continuously mined areas, and areas subject to the approximate original contour (AOC) requirements; and AOC. The amendment is intended to revise the Utah program to be consistent with the corresponding Federal regulations.

This notice sets forth the times and locations that the Utah program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., m.s.t. January 7, 1994. If requested, a public hearing on the proposed amendment will be held on January 3, 1994. Requests to present oral testimony at the hearing must be received by 4 p.m., m.s.t. on December 23, 1993.

ADDRESSES: Written comments should be mailed or hand delivered to Robert H. Hagen at the address listed below.

Copies of the Utah program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining

Reclamation and Enforcement, 505 Marquette Avenue, NW., suite 1200, Albuquerque, NM 87102, Telephone: (505) 766-1486.

Utah Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, suite 350, Salt Lake City, UT 84180-1203, Telephone: (801) 538-5340.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Telephone: (505) 766-1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, *Federal Register* (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

II. Proposed Amendment

By letter dated November 12, 1993, Utah submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. UT-875). Utah submitted the proposed amendment in response to the required amendment at 944.16 (a), (b), (c), and (d) published in the September 17, 1993, *Federal Register* (58 FR 48600).

Utah proposes to revise Utah Administrative Rule (Utah Admin. R.) 645-301-553.200 by substituting the word "of" for the word "or" with respect to the requirement that "[s]poil and waste materials will be compacted where advisable to ensure stability or to prevent leaching or toxic materials" (emphasis added).

Utah proposes to revise Utah Admin. R. 645-301-553.252 concerning refuse piles by adding the phrase "are met" at the end of this paragraph, which would require that "[t]he Division [of Oil, Gas and Mining] may allow less than four feet of cover material [to be placed over a regraded refuse pile] based on physical and chemical analyses which show that the requirements of R645-301-244.200 and R645-301-353 through Utah Admin. R. 645-301-357 are met" (emphasis added).

Utah proposes to revise the existing title "[p]reviously mined areas" of Utah Admin. R. 645-301-553.500 to read "[p]reviously mined areas, continuously mined areas, and areas subject to the approximate original contour requirements."

Utah proposes to revise Utah Admin. R. 645-301-553.520 by requiring that highwalls need not be eliminated for underground mining operations conducted prior to August 3, 1977, and continued after that date.

Utah proposes to revise Utah Admin. R. 645-301-553.523 by (1) clarifying that the stability criteria of proposed Utah Admin. R. 645-301-553.523 apply to the AOC criteria at Utah Admin. R. 645-301-553.650 and (2) specifying that a highwall remnant or retained highwall must not pose a hazard to the environment.

Utah proposes to revise Utah Admin. R. 654-301-553.600 and .620 to allow postmining slopes to vary from AOC only when AOC cannot be met, and approval is obtained from the Division for incomplete elimination of highwalls in previously mined areas or continuously mined areas.

Utah proposes to revise Utah Admin. R. 654-301-553.650 to require that, prior to obtaining Utah's approval for the retention of a highwall, the operator will establish and the Division will find in writing that the proposed highwall will achieve the stability requirements of Utah Admin. R. 645-301-553.523 and that the proposed highwall will meet the AOC criteria of Utah Admin. R. 645-301-553.651 through .655.

Utah proposes the following revisions to Utah Admin. R. 645-301-651 that allows the retention of a highwall if "[t]he retained highwall is not [significantly] greater in height than the [dimensions of existing] cliffs [in the surrounding area] and cliff-like escarpments that were replaced or disturbed by the mining operations" (brackets and emphasis added). Utah proposes to delete the bracketed language and add the emphasized language.

Utah proposes to revise Utah Admin. R. 645-301-553.652 by stating that the applicability of Utah Admin. R. 645-301-553.651 through 553.655 is such that the standards for AOC apply for any highwall created after December 13, 1982.

Utah proposes to revise Utah Admin. R. 645-301-553.653 by requiring that the retained highwall will be modified if necessary to restore cliff-type habitats required by the flora and fauna existing prior to mining.

Utah proposes to revise Utah Admin. R. 645-301-553.654 by requiring that the retained highwall will be compatible with both the approved postmining land use and the visual attributes of the area.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking