

Subchapter 11—B Underground Oil Storage Facilities and Groundwater Protection.

Section 561—Findings; Purpose

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Section 563—A—Prohibition of nonconforming underground oil storage facilities and tanks

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Section 568—A—Fund coverage requirements

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Section 569—A—Ground water Oil Clean-up Fund

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(b) The regulatory provisions include State of Maine, Department of Environmental Protection, Regulation for Registration, Installation, Operation and Closure of Underground Storage Facilities Chapter 691, September 16, 1991:

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A. Applicability

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Appendix A: Cathodic Protection Monitoring

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Appendix C: Requirements for Pneumatic Testing

Appendix D: Installation of Underground Tanks

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Appendix K: Requirements for Abandonment in Place

[FR Doc. 96-3587 Filed 2-20-96; 8:45 am]

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40 CFR Part 300

[FRL-5421-8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deletion of the Lewisburg Dump Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Lewisburg Dump site in Lewisburg, Tennessee, from the National Priorities List (NPL), which is appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA and the State have determined that all appropriate Fund-financed responses under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that remedial actions conducted at the site to date have been protective of public health, welfare, and the environment. This deletion does not preclude future actions under Superfund.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Femi Akindele, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, North Superfund Remedial Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 347-7791, extension 2042.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Lewisburg Dump Superfund Site, Lewisburg, Tennessee.

A Notice of Intent to Delete for this site was published on December 20, 1995, (60 FR 65616). The closing date for comments on the Notice of Intent to

Delete was January 11, 1996. EPA received no comments.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action in the future. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous Waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 2 of appendix B to part 300 is amended by removing the site for Lewisburg Dump, Lewisburg, Tennessee.

Dated: January 31, 1996.

Phyllis P. Harris,

Acting Regional Administrator, U.S. EPA Region 4.

[FR Doc. 96-3581 Filed 2-20-96; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 24

Senior Biomedical Research Service

AGENCY: Public Health Service (PHS), DHHS.

ACTION: Interim final rule with request for comments.

SUMMARY: The Secretary of Health and Human Services (DHHS) is issuing

interim final regulations implementing section 228 of the Public Health Service Act, as amended by section 304 of Public Law 101-509 and section 2001 of Public Law 103-43, which establish in the Public Health Service a Senior Biomedical Research Service.

These regulations are being published as an interim final rule with request for comment. Although the Administrative Procedure Act does not apply to a matter relating to agency management or personnel [5 U.S.C. 553(a)(2)] and although the Act itself permits publication of a final rule without a notice and comment period for rules of agency organization or procedure [5 U.S.C. 553(b)], these regulations are considered a significant enough change in policy to benefit from public comment.

EFFECTIVE DATE: This interim rule is effective February 21, 1996. Comments should be received within thirty days from the date of publication.

ADDRESSES: Comments may be sent or delivered to Rosemary Taylor, Office of the Assistant Secretary for Management and Budget, Office of the Secretary, Department of Health and Human Services, Hubert H. Humphrey Building, Room 522-A, 200 Independence Ave., S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Rosemary Taylor at (202) 690-7358, Office of the Assistant Secretary for Management and Budget, Office of the Secretary, Department of Health and Human Services, Hubert H. Humphrey Building, Room 522-A, 200 Independence Ave., S.W., Washington, D.C. 20201.

SUPPLEMENTARY INFORMATION: Section 304 of Public Law 101-509 amended the Public Health Service Act by adding a new section 228, which establishes the Senior Biomedical Research Service (SBRS) in the PHS. Section 2001 of Public Law 103-43 amended the Public Health Service Act by increasing the number of authorized positions to 500. Members of the SBRS are to be appointed by the Secretary without regard to the provisions of title 5, U.S. Code, regarding appointment, and are to be individuals outstanding in the field of biomedical research or clinical research evaluation. Appointments to the SBRS will be only to individuals actively engaged in either peer-reviewed original biomedical research of clinical research evaluation. These regulations establish the basic eligibility criteria, pay rates, performance appraisal system, optional retirement system, and procedure for removal from the SBRS. These regulations may be supplemented by HHS personnel instructions.

Executive Order 12866

I have examined the impacts of the interim final rule under Executive Order 12866. I believe that this interim final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the interim final rule is a significant regulatory action as defined by the Executive Order and, therefore, is subject to OMB review.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only a small number of federal employees who are members of the Senior Biomedical Research Service.

List of Subjects in 42 CFR Part 24

Government employees, Health professions, Reporting and recordkeeping requirements, wages.

Accordingly, the Department of Health and Human Services is amending 42 CFR by adding a new Part 24, reading as follows:

PART 24—SENIOR BIOMEDICAL RESEARCH SERVICE

Sec.

- 24.1 Establishment.
- 24.2 Allocation.
- 24.3 Policy Board.
- 24.4 Eligibility.
- 24.5 Peer review.
- 24.6 Pay and compensation.
- 24.7 Performance appraisal system.
- 24.8 Applicability of provisions of Title 5, U.S. Code.
- 24.9 Removal from the Service.
- 24.10 Reporting.

Authority: Section 228(g) of the Public Health Service Act; 5 U.S.C. 301.

§ 24.1 Establishment.

There is established in the Public Health Service (PHS) a Senior Biomedical Research Service (SBRS) consisting of members the maximum number of which is prescribed by law.

§ 24.2 Allocation.

(a) The Secretary, within the number authorized in the PHS Act, shall determine the number of SBRS slots to be allocated to each participating Operating Division.

(b) The SBRS Policy Board may advise the Secretary to make adjustments to the allocation at any time.

(c) The majority of the SBRS allocation is to be reserved for recruitment. The remaining SBRS allocation may be used for the retention of current employees.

(d) SBRS slots will be used judiciously, resulting in SBRS appointments only where other senior-level appointing authorities are not sufficient to recruit or retain scientific talent.

(e) The Secretary will ensure that SBRS slots are used in support of high priority programs authorized by Congress and which directly support the research goals and priorities of the Department.

§ 24.3 Policy Board.

The Secretary or his/her designee shall establish an SBRS Policy Board to serve in an advisory capacity, recommending SBRS allocations among the participating Operating Divisions, reviewing the operations of the SBRS and ensuring consistent application of regulations, policies, and procedural guidelines, and recommending changes to the Secretary as necessary. Membership, to the extent possible, will include SBRS eligibles nominated by their respective Operating Divisions, will be weighted in proportion to Operating Divisions' SBRS allocations, and will include representation from the Office of the Secretary. The Secretary or his/her designee will select the board membership and the Chair.

§ 24.4 Eligibility.

To be eligible for appointment to the Service an individual must have a doctoral-level degree in biomedicine or a related field and must meet the qualification standards prescribed by the U.S. Office of Personnel Management for appointment to a position at GS-15 of the General Schedule. In addition, the individual must be outstanding in the field of biomedical research or clinical research evaluation. Appointment to the Service will be made only to individuals actively engaged in either biomedical research or clinical research evaluation.

(a) Outstanding in the field of biomedical research means an individual who is actively engaged in peer-reviewed original biomedical research and whose work in this area is considered by his or her peers to be outstanding. In order to meet the eligibility criteria, an individual must have conducted original peer-reviewed biomedical research resulting in major accomplishments reflected by a steady and current record of highly cited publications in peer-reviewed journals of high stature. In addition, the individual should be the recipient of major prizes and awards (such as visiting professorships and named lectureships) in recognition of original contributions to research.

(b) Outstanding in the field of clinical research evaluation means that an individual is actively engaged in clinical research evaluation and is considered by his or her peers to be outstanding. In order to meet the eligibility criteria, an individual, by force of his or her own technical expertise, must be in a position to shape the course of drug or device evaluation or exert a similar influence on the PHS handling of other agents that may affect the public health. The individual would normally have dealt with complex, precedent-setting evaluation issues that involved significant scientific controversy, had far reaching implications for clinical research or resulted in a widespread economic effect in the health-care delivery system. In addition, the individual should have been involved in the development of scientific or regulatory guidelines for clinical research and been the recipient of invitations to speak at or to chair major national or international meetings and symposia.

§ 24.5 Peer review.

An individual may not be considered for appointment into the SBRS unless his/her qualifications have been reviewed by a PHS peer review committee and the committee has recommended appointment to the Service.

§ 24.6 Pay and compensation.

The SBRS is an ungraded system, with a single, flexible pay range to include all members.

(a) Pay of the members of the Service shall be determined by the Secretary or his/her designee.

(b) The pay of a member of the Service shall be not less than the minimum rate payable for GS-15 of the General Schedule and shall not exceed:

(1) The rate payable for level I of the Executive Schedule unless a higher rate of pay is expressly approved on an individual basis by the President, pursuant to 5 U.S.C. 5377(d)(2), or

(2) The rate payable for level II of the Executive Schedule unless a higher rate of pay is expressly approved on an individual basis by the Secretary.

(c) While the full pay range will be used, individual pay at the higher end of the range will be used only as needed to recognize individual scientific value and as necessary to recruit or retain an exceptionally well-qualified scientist.

(d) The following factors will be used in establishing appropriate pay rates for individual members:

(1) Impact of the individual on the scientific field;

(2) Recognition of the individual by the scientific community;

(3) Originality of the individual's ideas/work products;

(4) Specific "clinical" or highly technical skills of the individual which are of benefit to the agency and which are in addition to requirements of the basic scientific assignment;

(5) The individual's earnings and monetary benefits;

(6) Salary surveys of similar skills in pertinent labor markets; and

(7) Other relevant factors.

(e) Annual adjustments to pay rates may be made effective on the first day of the first pay period on or after January 1 of each calendar year. The rate of such adjustments will be at the discretion of the Secretary or his/her designee, except that the minimum rate payable in the SBRS will be increased to the amount of the minimum rate of the GS-15 of the General Schedule.

(f) Other pay adjustments will be made on an individual basis by the Secretary or his/her designee.

(g) Except as provided in paragraph (h) of this section, new appointees to the Service, who are not covered by the Civil Service Retirement System, will be covered by the Federal Employees Retirement System.

(h) Upon the request of a member who performed service in the employ of an institution of higher education immediately prior to his appointment as a member of the Service, and retains the right to make contributions to the retirement system of such institution, the Department of Health and Human Services may contribute an amount not to exceed ten percent per annum of the member's basic pay to such institution's retirement system on behalf of such member. A member who participates in this program shall not be covered by any retirement system established for employees of the United States under title 5, United States Code.

§ 24.7 Performance appraisal system.

The members of the Service shall be subject to a performance appraisal system which shall be designed to encourage excellence in performance and shall provide for a periodic and systematic appraisal of the performance of the members.

§ 24.8 Applicability of provisions of Title 5, U.S. Code.

(a) Appointments to the Service shall be made without regard to the provisions of title 5, U.S. Code regarding appointments.

(b) Members of the Service shall not be covered by the following provisions of title 5, U.S. Code:

(1) Subchapter I of Chapter 35 (relating to retention preference in the event of reduction in force);

(2) Chapter 43, Performance Appraisal (and performance-based actions);

(3) Chapter 51 (relating to classification);

(4) Subchapter III of Chapter 53, The General Schedule; and

(5) Chapter 75, Adverse Actions.

(c) Other provisions of Title 5 will be applied as administratively determined by the Secretary or his/her designee.

§ 24.9 Removal from the Service.

(a) A member of the Service may be subject to disciplinary action, including removal from the Service, for substandard performance of duty as a member of the service, for misconduct, for reasons of national security or for other reasons as determined by the Secretary.

(b) A member for whom disciplinary action is proposed is entitled to:

(1) Written notice of the proposed action and the basis therefor;

(2) A reasonable opportunity to answer the notice of proposed action both orally and in writing;

(3) The right to be represented by an attorney or other representative in making such answer; and

(4) A written decision on the proposal.

(c) The decision may be made by an official with delegated authority to take such action, but in no case may the official be at a level below the head of the Operating Division where the member is assigned.

(d) A member who is separated from the Service involuntarily and without cause and who, immediately prior to his appointment to the Service, was a career appointee in the civil service or the Senior Executive Service, may be appointed to a position in the competitive civil service at grade GS-15 of the General Schedule. Such an appointment may be made by the Secretary or his/her designee without regard to the provisions of title 5, U.S. Code regarding appointments in the civil service.

(e) A member who is separated from the Service involuntarily and without cause and who, immediately prior to appointment to the Service, was not a career appointee in the civil service or the Senior Executive Service may be appointed to a position in the excepted civil service at grade GS-15 of the General Schedule for a period not to exceed two years.

(f) There shall be no right to further review of the final decision on a disciplinary action. At his/her discretion, the Secretary may review an

action taken under this section and may reduce, suspend, or overrule the action taken.

(g) A member of the Service may be removed from the Service for such other reasons as may be prescribed by the Secretary.

§ 24.10 Reporting.

For each quarter of the first year of implementation and annually thereafter, participating Operating Divisions shall maintain reports on the operation of the SBRS. At a minimum, these reports should include the number of appointees, the source of those appointees, their earnings immediately prior to appointment, and their SBRS pay at appointment.

Dated: October 10, 1995.

Donna E. Shalala,
Secretary.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows: