

Guard approved lifejackets while the children are on deck and their vessels are under way. Children's safety is the ultimate objective and the delay of the rule should not stand in the way of sound judgment.

Dated: March 20 2002.

**Kenneth T. Venuto,**

*Rear Admiral, U.S. Coast Guard, Acting Assistant Commandant for Operations.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 55

[Alaska 001; FRL-7158-2]

### Outer Continental Shelf Air Regulations; Consistency Update for Alaska

**AGENCY:** Environmental Protection Agency ("EPA").

**ACTION:** Final rule.

**SUMMARY:** EPA is updating the Outer Continental Shelf ("OCS") Air Regulations as they apply to OCS sources off the coast of Alaska. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area ("COA"), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 ("the Act"). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the State of Alaska is the designated COA. The intended effect of incorporating the State of Alaska requirements applicable to OCS sources in effect as of July 2, 2000, is to regulate emissions from OCS sources consistent with the requirements onshore.

**EFFECTIVE DATE:** The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of April 26, 2002.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

**FOR FURTHER INFORMATION CONTACT:** Dan Meyer, Office of Air Quality (OAQ-107),

U.S. EPA Region 10, 1200 Sixth Avenue, Seattle WA 98101, Telephone: (206) 553-4150.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 1, 2001, the EPA published a direct final rule (66 FR 12982), and an accompanying proposed rule (66 FR 12986) updating the OCS Air Regulations as they apply to OCS sources off the coast of Alaska. In the direct final rule, EPA indicated that if adverse comment was received, EPA would publish a withdrawal of the direct final rule in the **Federal Register**. On March 9, 2001, EPA received adverse comments from the International Association of Drilling Contractors (Association). Accordingly on October 23, 2001, EPA removed the amendment made by that final rule due to the adverse public comments received and reinstated the previous regulatory text (66 FR 53533). In this action, EPA is summarizing and responding to the comments while also finalizing the amendments as previously proposed on March 1, 2001.

##### Response to Comments

On March 1, 2001, the EPA proposed to incorporate the State of Alaska requirements that are applicable to OCS sources, July 2, 2000, into 40 CFR part 55. The State of Alaska requirements applicable to OCS sources included the State of Alaska's revised marine vessel visible emission standards, 18 AAC 50.070, effective June 21, 1998. The standards limit visible emissions from marine vessels within three miles of the Alaska coastline. Note, the State of Alaska's seaward boundary extends out three miles from its coastline. Alaska's jurisdiction does not extend beyond this three mile limit. When EPA proposed to incorporate into 40 CFR part 55 the marine vessel emission standards in the State of Alaska requirements applicable to OCS sources, EPA intended for the standards to apply outside the seaward boundary of the State of Alaska despite the fact that 18 AAC 50.070, on its face, applies only to marine vessel visible emissions within Alaska's seaward boundary. 18 AAC 50.070, provides in part that "visible emissions, excluding condensed water vapor, may not reduce visibility through the exhaust effluent of a marine vessel by more than 20 percent. \* \* \*

EPA received adverse comments from the Association regarding the applicability of the marine vessel visible emission standards, 18 AAC 50.070, to activity on the OCS. The Association believes that 18 AAC 50.070 should be excluded from 40 CFR part 55 because

the emission standards, as written, apply only to vessels within three miles of the Alaska coastline. The Association also commented that the 18 AAC 50.070 should not be incorporated into 40 CFR part 55 for the same reasons that 18 AAC 50.300(g) and (h)(11) are excluded. In response to the Association's comments, EPA is providing the rationale to support the incorporation of 18 AAC 50.070 into 40 CFR part 55.

Pursuant to section 328(a)(1) of the Clean Air Act, EPA shall establish requirements to control air pollution from OCS sources to attain and maintain Federal and State ambient air quality standards and to comply with the provisions of part C of title I of the Act. Such requirements shall be the same as would be applicable if the source were located in the COA. The marine vessel visible emission standards are rationally related to the attainment and maintenance of Federal and State ambient air quality standards for particulate matter and part C of title I of the Act. Visible emissions from marine vessels consist, in part, of particulate matter. Limiting these visible emissions also limits particulate matter emissions, thus assisting in the protection of the particulate matter ambient air quality standards and the prevention of significant air quality deterioration. The marine vessel visible emission standards are not designed expressly to prevent exploration and development of the OCS as evidenced by the fact that the same standards apply to exploration and development projects in Alaskan waters. It is appropriate that the marine vessel visible emission standards are applied to OCS sources because marine vessels are capable of generating visible emissions and the vessels operate on the OCS; thus, the vessels should be subject to requirements that are "the same as" the requirements that apply within three miles of the Alaska coastline. In response to the second part of the Association's comments, the visible emission requirements in 18 AAC 50.070 are very different from the requirements of 18 AAC 50.300(g) and (h)(11). By their terms, 18 AAC 50.300(g) and (h)(11) apply only to Anchorage. Thus, contrary to the Association's comment, the rationale for excluding 18 AAC 50.300(g) and (h)(11) is not applicable to 18 AAC 50.070 and provides no basis for excluding 18 AAC 50.070 from 40 CFR part 55. Lastly, the marine vessel emission standards are not arbitrary or capricious and EPA's incorporation of these standards into 40 CFR part 55 is not arbitrary or capricious as evidenced by the reasoning provided above.

EPA has evaluated the COA requirements to ensure that they are rationally related to the attainment or maintenance of Federal or State ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS, and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure that they are not arbitrary or capricious. 40 CFR 55.12(e). In addition, EPA has excluded administrative or procedural rules.

#### **EPA Action**

In this document, EPA takes final action under section 328(a)(1) of the Act, 42 U.S.C. 7627, to incorporate the State of Alaska requirements applicable to OCS sources, July 2, 2000, into 40 CFR part 55. Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into 40 CFR part 55.

#### **Administrative Requirements**

##### *A. Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

##### *B. Executive Order 13045*

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

##### *C. Executive Order 13132*

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132

requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

##### *D. Executive Order 13175*

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

##### *E. Executive Order 13211*

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is

not a significant regulatory action under Executive Order 12866.

#### **F. Regulatory Flexibility**

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because consistency updates under section 328(a) of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the consistency update approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action.

#### **G. Unfunded Mandates**

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

### H. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective April 26, 2002.

### I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

### J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 28, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. 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 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen

dioxide, Nitrogen oxides, Outer continental shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 6, 2002.

**L. John Iani,**

*Regional Administrator, Region 10.*

Title 40 of the Code of Federal Regulations, part 55, is to be amended as follows:

### PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

**Authority:** Section 328 of the Act (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101-549.

2. Section 55.14 is amended by revising paragraph (e)(2)(i)(A) to read as follows:

#### § 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

(i) \* \* \*

(A) State of Alaska Requirements Applicable to OCS Sources, July 2, 2000.

\* \* \* \* \*

3. Appendix A to CFR part 55 is amended by revising paragraph (a)(1) under the heading "Alaska" to read as follows:

#### APPENDIX A TO 40 CFR PART 55—LISTING OF STATE AND LOCAL REQUIREMENTS INCORPORATED BY REFERENCE INTO PART 55, BY STATE

\* \* \* \* \*

#### Alaska

(a) \* \* \*

(1) The following State of Alaska requirements are applicable to OCS Sources, July 2, 2000. Alaska Administrative Code—Department of Environmental Conservation. The following sections of Title 18, Chapter 50:

#### Article 1. Ambient Air Quality Management

18 AAC 50.005. Purpose and Applicability of Chapter. (effective 1/18/1997)

18 AAC 50.010. Ambient Air Quality Standards. (effective 6/21/1998)

18 AAC 50.015. Air Quality Designations, Classifications, And Control Regions. (effective 1/18/1997)

Table 1. Air Quality Classifications

18 AAC 50.020. Baseline Dates, Maximum Allowable Increases, And Maximum Allowable Ambient Concentrations. (effective 6/21/1998)

Table 2. Baseline Dates

Table 3. Maximum Allowable Increases

- 18 AAC 50.025. Visibility and Other Special Protection Areas. (effective 1/18/1997) (a) [untitled]
- 18 AAC 50.030. State Air Quality Control Plan. (effective 9/04/1998)
- 18 AAC 50.035. Documents, Procedures, and Methods Adopted by Reference. (effective 7/02/2000)
- 18 AAC 50.045. Prohibitions. (effective 1/18/1997)
- 18 AAC 50.050. Incinerator Emission Standards. (effective 1/18/1997) Table 4. Particulate Matter Standards for Incinerators
- 18 AAC 50.055. Industrial Processes and Fuel-burning Equipment. (effective 11/04/1999)
- 18 AAC 50.065. Open Burning. (effective 1/18/1997) (a) General Requirements. (b) Black Smoke Prohibited. (c) Toxic and Acid Gases and Particulate Matter Prohibited. (d) Adverse Effects Prohibited. (e) Air Quality Advisory. (i) Firefighter Training: Fuel Burning. (j) Public Notice. (k) Complaints.
- 18 AAC 50.070. Marine Vessel Visible Emission Standards. (effective 6/21/1998)
- 18 AAC 50.080. Ice Fog Standards. (effective 1/18/1997)
- 18 AAC 50.100. Nonroad engines. (effective 1/18/1997)
- 18 AAC 50.110. Air Pollution Prohibited. (effective 5/26/1972)

#### Article 2. Program Administration

- 18 AAC 50.201. Ambient Air Quality Investigation. (effective 1/18/1997)
- 18 AAC 50.205. Certification. (effective 1/18/1997)
- 18 AAC 50.210. Potential to Emit. (effective 1/18/1997)
- 18 AAC 50.215. Ambient Air Quality Analysis Methods. (effective 6/21/1998)
- 18 AAC 50.220. Enforceable Test Methods. (effective 1/18/1997)
- 18 AAC 50.225. Owner-requested Limits. (effective 6/21/1998)
- 18 AAC 50.230. Preapproved Limits. (effective 6/21/1998)
- 18 AAC 50.235. Unavoidable Emergencies and Malfunctions. (effective 6/14/1998)
- 18 AAC 50.240. Excess Emissions. (effective 1/18/1997)

#### Article 3. Permit Procedures and Requirements

- 18 AAC 50.300. Construction Permits: Classifications. (effective 6/21/1998) (a) [untitled] (b) Ambient Air Quality Facilities. (c) Prevention of Significant Deterioration Major Facilities. (d) Nonattainment Major Facilities. (e) Major Facility Near a Nonattainment Area. (f) Hazardous Air Contaminant Major Facilities. (h) Modifications. (paragraphs 1 through 10)
- 18 AAC 50.305. Construction Permit Provisions Requested by the Owner or Operator. (effective 1/18/97)

- 18 AAC 50.310. Construction Permits: Application. (effective 1/18/1997)
- (a) Application Required.
  - (b) Operating Permit Coordination.
  - (c) General Information.
  - (d) Prevention of Significant Deterioration Information. Table 6. Significant Concentrations
  - (e) Excluded Ambient Air Monitoring.
  - (f) Nonattainment Information.
  - (g) Demonstration Required Near A Nonattainment Area.
  - (h) Hazardous Air Contaminant Information.
  - (j) Nonattainment Air Contaminant Reductions.
  - (k) Revising Permit Terms.
  - (l) Requested Limits.
  - (m) Stack Injection.
  - (n) Ambient Air Quality Information.
- 18 AAC 50.320. Construction Permits: Content and Duration. (effective 1/18/1997)
- 18 AAC 50.325. Operating Permits: Classifications. (effective 6/21/1998)
- 18 AAC 50.330. Operating Permits: Exemptions. (effective 1/18/1997)
- 18 AAC 50.335. Operating Permits: Application. (effective 6/21/1998)
- (a) Application Required.
  - (b) Identification.
  - (c) General Emission Information.
  - (d) Fees.
  - (e) Regulated Source Information.
  - (f) Facility-wide Information: Ambient Air Quality.
  - (g) Facility-wide Information: Owner Requested Limits.
  - (h) Facility-wide Information: Emissions Trading.
  - (i) Compliance Information.
  - (j) Proposed Terms and Conditions.
  - (k) Compliance Certifications.
  - (l) Permit Shield.
  - (m) Supporting Documentation.
  - (n) Additional Information.
  - (o) Certification of Accuracy and Completeness.
  - (p) Renewals.
  - (q) Insignificant Sources.
  - (r) Insignificant Sources: Emission Rate Basis.
  - (s) Insignificant Sources: Category Basis.
  - (t) Insignificance Sources: Size or Production Rate Basis.
  - (u) Insignificant Sources: Case-by-Case Basis.
  - (v) Administratively Insignificant Sources.
- 18 AAC 50.340. Operating Permits: Review and Issuance. (effective 1/18/1997)
- (a) Review of Completeness.
  - (b) Evaluation of Complete Applications.
  - (c) Expiration of Application Shield.
- 18 AAC 50.341. Operating Permits: Reopenings. (paragraphs a, b, c, f, and g)(effective 6/14/1998)
- 18 AAC 50.345. Operating Permits: Standard Conditions. (effective 6/21/1998)
- 18 AAC 50.350. Operating Permits: Content. (effective 6/21/1998)
- (a) Purpose of Section
  - (b) Standard Requirements.
  - (c) Fee Information.
  - (d) Source-Specific Permit Requirements.
  - (e) Facility-Wide Permit Requirements.
  - (f) Other Requirements.

- (g) Monitoring Requirements.
  - (h) Records.
  - (i) Reporting Requirements.
  - (j) Compliance Certification.
  - (k) Compliance Plan and Schedule.
  - (l) Permit Shield.
  - (m) Insignificant Sources.
- 18 AAC 50.355. Changes to a Permitted Facility. (effective 1/18/1997)
- 18 AAC 50.360. Facility Changes that Violate a Permit Condition. (effective 1/18/1997)
- 18 AAC 50.365. Facility Changes that do not Violate a Permit Condition. (effective 6/14/1998)
- 18 AAC 50.370. Administrative Revisions. (effective 6/14/1998)
- 18 AAC 50.375. Minor and Significant Permit Revisions. (effective 6/21/1998)
- 18 AAC 50.380. General Operating Permits. (effective 6/14/1998)
- 18 AAC 50.385. Permit-by-rule for Certain Small Storage Tanks. (effective 6/21/1998)

#### Article 5. User Fees

- 18 AAC 50.400. Permit Administration Fees. (effective 6/21/1998)
- 18 AAC 50.410. Emission Fees. (effective 1/18/1997)
- 18 AAC 50.420. Billing Procedures. (effective 1/18/1997)

#### Article 9. General Provisions

- 18 AAC 50.910. Establishing Level of Actual Emissions. (effective 1/18/1997)
- 18 AAC 50.990. Definitions. (effective 1/01/2000)

\* \* \* \* \*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-301225; FRL-6829-3]

RIN 2070-AB78

### Acetamiprid; Pesticide Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of acetamiprid N1-[(6-chloro-3-pyridyl)methyl]-N2-cyano-N1-methylacetamidine in or on citrus dried pulp, citrus fruit group, cotton gin byproducts, cotton undelinted seed, grape, fruiting vegetable group, leafy brassica vegetable group, leafy vegetable (except brassica) group, pome fruit group, and tomato paste; and tolerances for the combined residues of acetamiprid and IM-2-1 N1-[(6-chloro-3-pyridyl) methyl]-N2-cyanoacetamidine in or on fat, meat, and meat byproducts of cattle, hog, horse, goat, and sheep; milk; poultry eggs, fat, liver, and meat. Aventis CropScience

requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

**DATES:** This regulation is effective March 27, 2002. Objections and requests for hearings, identified by docket control number OPP-301225, must be received on or before May 28, 2002.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301225 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Akiva Abramovitch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-8328; e-mail address: abramovitch.akiva@epa.gov.

#### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.