

National Oceanic and Atmospheric Administration

Public Hearings on the Draft Environmental Impact Statement/Management Plan for the Proposed Cordell Bank National Marine Sanctuary

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is considering Cordell Bank, located off the coast of northern California, for designation as a national marine sanctuary. NOAA will hold public hearings on a draft environmental impact statement/management plan for the proposed sanctuary. The purpose of the hearings is to receive the views of interested parties on the proposed designation and the draft environmental impact statement/management plan. The views expressed at these hearings, as well as written comments received on the draft, will be considered in the preparation of the final environmental impact statement/management plan.

The hearings will be held on September 29, 1987, from 7:00 to 10:00 PM at the Grange Hall, Bodega Avenue and Highway 1, Bodega Bay, California, and on September 30, 1987, from 7:30 to 10:30 PM at the Golden Gate National Recreation Area Conference Room, Bldg. 201 (First Floor), Fort Mason, San Francisco, California. All interested persons are invited to attend.

FOR FURTHER INFORMATION CONTACT: William W. Windom, (202) 673-5122, Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1825 Connecticut Avenue NW., Washington, DC 20235. Copies of the draft environmental impact statement/management plan are available upon request to the Marine and Estuarine Management Division.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection Research, and Sanctuaries Act, as amended (16 U.S.C. 1431 *et seq.*) ("Act"), authorizes the Secretary of Commerce to designate discrete areas of the marine environment as national marine sanctuaries if, as required by section 303 of the Act (16 U.S.C. 1433), the Secretary finds, in consultation with the Congress, a variety of specified officials, and other interested persons, that the designation will fulfill the purposes and policies of Title III (set forth in section 301(b) of the

Act (16 U.S.C. 1431(b)) and: (1) The area proposed for designation is of special national significance due to its resource or human-use values; (2) existing state and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education; (3) designation of the area as a national marine sanctuary will facilitate the coordinated and comprehensive conservation and management of the area; and (4) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

The authority of the Secretary to designate national marine sanctuaries and administer the other provisions of the Act has been delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management in the National Oceanic and Atmospheric Administration (DOC/DOO 25-5A, section 301(z), August 25, 1985).

The waters surrounding Cordell Bank were nominated for status as a national marine sanctuary in July 1981. On June 30, 1983, NOAA declared the area an active candidate for further consideration as a national marine sanctuary. A public scoping meeting to gather information to determine the range and significance of issues related to sanctuary designation and management was held on April 25, 1984. The draft environmental impact statement/management plan was prepared, and a notice of its availability was published in the *Federal Register* on August 28, 1987. On the same date, a summary of the draft management plan and the proposed designation document and regulations for the sanctuary were also published in the *Federal Register*. Written comments on the draft environmental impact statement/management plan must be received by October 12, 1987.

Cordell Bank and its surrounding waters, because of a rare combination of oceanic conditions and undersea topography, provide a highly productive marine environment in a discrete, well defined area. The prevailing California current flows southward along the coast bringing nutrients to the upper levels of the Bank, while the upwelling of nutrient-rich, bottom waters stimulates the growth of planktonic organisms. These nutrients support the entire food chain from small Crustaceans to the fish, marine mammals and seabirds that form the exceptionally vigorous, ecological community flourishing at Cordell Bank. Designation of the area as a national marine sanctuary is proposed

for the purposes of protecting and conserving this special ecological community.

With regard to a proposal to designate an area as a national marine sanctuary, section 304(a)(4) of the Act requires that the proposed designation include the geographic area proposed to be included within the sanctuary; the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational or esthetic value; and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. The draft environmental impact statement/management plan contains the terms of the proposed designation and the proposed regulations, discusses the environment and resources of the proposed sanctuary, and describes proposed sanctuary goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement, including surveillance activities, for the area.

(Federal Domestic Assistance Catalog Number 11.429 Marine and Estuarine Management Program)

Dated: September 8, 1987.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 87-21027 Filed 9-11-87; 8:45 am]

BILLING CODE 3510-08-M

CONSUMER PRODUCT SAFETY COMMISSION

Labeling of Certain Household Products Containing Methylene Chloride; Statement of Interpretation and Enforcement Policy

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of interpretation and enforcement policy.

SUMMARY: The Commission¹ is issuing an interpretation and a statement of

¹ The Commission voted 2-1 to issue this statement of interpretation and enforcement policy. Commissioners Carol G. Dawson and Anne Graham voted in favor of the policy; Chairman Terrence Scanlon dissented, preferring instead to issue the Commission's determination in the form of a rule under section 3(a) of the Federal Hazardous Substances Act. Each Commissioner filed a separate opinion or statement concerning his or her vote; these opinions can be obtained from the Office of the Secretary Consumer Product Safety Commission, Washington, DC 20207, phone (301) 492-6800.

enforcement policy for household products that contain methylene chloride and that expose consumers to significant amounts of methylene chloride vapor. The Commission considers such products to be hazardous substances, under the provisions of the Federal Hazardous Substances Act, basing its determination on animal test results that indicate such products may pose a carcinogenic risk to humans. Accordingly, if such products are not labeled properly, they are misbranded hazardous substances. This action by the Commission results from concerns raised by tests showing that inhalation of methylene chloride vapor can cause an increased incidence of benign mammary tumors in male and female rats and can cause an increased incidence of carcinomas and adenomas in male and female mice. The evidence currently available to the Commission shows that products in a number of classes present sufficient exposure of consumers to methylene chloride vapor that they should be considered to be hazardous substances. These product classes are named in the following enforcement policy. Additional information may become available in the future showing that additional products are also hazardous substances. Once the enforcement policy becomes effective, the Commission intends to bring individual enforcement actions against products that are not properly labeled (or against the products' manufacturers, distributors, or importers). Such actions will provide full opportunities for the Commission's technical data and legal conclusions to be contested. In addition, such enforcement actions will be preceded by opportunities for industry members and Commission staff to discuss the applicability of the enforcement policy to particular products containing methylene chloride.

DATE: The interpretation and enforcement policy becomes effective on March 14, 1988, as to products whose labels are printed after that date and September 14, 1988 as to products that are packaged after that date.

FOR FURTHER INFORMATION CONTACT: Charles M. Jacobson, Division of Regulatory Management, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6400.

SUPPLEMENTARY INFORMATION:

A. Background

Previous Commission Action

On August 20, 1986, the Commission published a proposed rule that would declare household products containing

other than contaminant levels of methylene chloride to be hazardous substances. 51 FR 29778. The proposal was prompted by a concern that methylene chloride might pose a carcinogenic risk to humans that was raised by tests showing that inhalation of methylene chloride vapor increased the incidence of various types of benign and malignant tumors in rats and mice.

In 1980, an industry inhalation bioassay in Sprague-Dawley rats and in hamsters was completed. This bioassay (the "Dow study"), published in 1984, showed salivary gland tumors in male rats and an increased number of mammary gland tumors per tumor-bearing rat. There was no carcinogenic effect noted in hamsters. Since then, a number of other bioassays have been published.

The National Toxicology Program ("NTP") of the Public Health Service, Department of Health and Human Services, undertook cancer bioassays of methylene chloride by the oral (gavage) and inhalation routes of exposure. The gavage bioassay was completed first, and the draft report was reviewed by the NTP Board of Scientific Counselors in September of 1982. The study results showed evidence of carcinogenicity in rats. However, an audit of the contractor that performed the bioassay, conducted by the Toxicology Audit Subcommittee of the Health and Science Committee of the Halogenated Solvents Industry Alliance, uncovered a number of discrepancies in the conduct of the bioassay. A subsequent audit, performed by NTP, confirmed these discrepancies. As a result, the NTP withdrew the draft report on the gavage bioassay. The inhalation bioassay report was released after a complete audit was performed.

On March 29, 1985, the NTP Board of Scientific Counselors reviewed the NTP inhalation bioassay and concluded that there was "clear evidence" of carcinogenicity of methylene chloride in female rats, as shown by an increased incidence of benign neoplasms of the mammary gland, and in male and female mice, as shown by increased incidences of alveolar/bronchiolar carcinomas and adenomas and of hepatocellular carcinomas and adenomas (lung and liver cancers). There was also "some evidence" of carcinogenicity in male rats as shown by an increased incidence of benign neoplasms of the mammary gland. Methylene chloride also has been found to be genotoxic in several test systems.

After receiving additional information from the staff and from other parties, the Commission preliminarily decided that scientific evidence indicated that

exposure to products containing methylene chloride should be presumed to pose a carcinogenic risk to consumers, but that there was also some uncertainty concerning the potential cancer risk to humans which should be explored further. The Commission therefore decided to initiate formal rulemaking under section 3(a) of the Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. 1262(a), in order to resolve this uncertainty. A proposed rule to declare methylene chloride a hazardous substance, based on concerns raised by the test results in animals, was published in the *Federal Register* on August 20, 1986 (51 FR 29778).

The Commission received 17 comments on its proposed rule. Additional information concerning the background of the Commission's activities concerning methylene chloride is contained in the August 20, 1986, *Federal Register* notice.

B. Determination of Hazardous Substance

After considering the comments on the proposed rule described above, the Commission has concluded that the animal test data showing increases in the incidence of various types of benign and malignant tumors in rats and mice are sufficient to warrant a concern that methylene chloride may pose a carcinogenic risk to humans and that products containing it should be considered hazardous substances.

In the comments on the proposed rule, a number of arguments were raised by persons who opposed any determination by the Commission that methylene chloride poses a carcinogenic risk to humans. These arguments examined the available data and presented contentions that, if established, would cast doubt on the presumption that methylene chloride is a human carcinogen or would indicate that the possible risk to humans from various exposures would be much less than that predicted by the Commission's staff. The Commission's staff examined the comments in opposition to a determination that methylene chloride is carcinogenic to humans and presented arguments to either refute the commenters' contentions or to show why the data do not demonstrate the commenters' hypotheses. The Commission's staff also reviewed comments relating to the magnitude of the presumed risk, as well as newly available data, and revised its risk estimates to account for the new data. The Commission's staff's views are contained in various memoranda addressing the comments on the

proposal and in a draft Federal Register notice prepared for the Commission's consideration of whether to issue a final rule.

The comments of two industry associations, the Halogenated Solvents Industry Alliance and the National Paint and Coatings Association, also opposed an express finding by the Commission that methylene chloride is a likely human carcinogen. However, these industry associations also indicated that they did not oppose a determination that at least some household products containing methylene chloride are hazardous substances if that determination were based on a concern that the products are hazardous on the basis of the animal test results, in the absence of strong indications to the contrary. In other words, the industry did not feel that the scientific data demonstrates that methylene chloride is a human carcinogen and that, as additional information is obtained on the response of humans to methylene chloride, it is possible that methylene chloride will be shown to not be carcinogenic to humans. Nevertheless, the industry acknowledges that the animal test results are a sufficient cause for concern that methylene chloride should be considered a hazardous substance until conclusive evidence on the various points of contention is obtained.

After considering the comments on the proposed rule, and the other available evidence, the Commission has concluded that there is little or no uncertainty involved in a determination that household products containing methylene chloride, and presenting significant exposures to consumers, may pose a carcinogenic risk to humans unless and until persuasive evidence to the contrary is obtained. While the Commission supports the analysis of the scientific issues prepared by its staff, it is unnecessary to make a conclusive determination of all these issues at this time for the purpose of determining that there is sufficient uncontested evidence to warrant a finding that methylene chloride may pose a carcinogenic risk to humans and, therefore, is a hazardous substance. Therefore, the Commission concludes that, as to the core findings required to make a determination that household products containing methylene chloride are hazardous substances, there is no significant controversy, and it is unnecessary to continue with the rulemaking proceeding, which is intended to avoid or resolve uncertainty.

Rather than continue with the rulemaking, the Commission believes it

is preferable to issue this statement of interpretation and enforcement policy. If the rulemaking proceeding were continued, there is a potential that there would be a subsequent adjudicatory hearing, as well as subsequent appeals to the Commission and to a court of appeals, which could delay the effective date of the rule for up to several years. Issuing this statement of the Commission's views, however, will advise affected manufacturers of the Commission's interpretation that certain household products containing methylene chloride are hazardous substances. The Commission believes that most manufacturers will begin steps immediately to incorporate appropriate labeling, discussed below, that is required by the FHSA. The major industry associations mentioned above have indicated their willingness to adopt appropriate labeling, and a broad cross-section of industry represented in the Steering Committee for Methylene Chloride came to consensus agreement on such labeling.

As discussed below, the Commission intends to allow a sufficient time for manufacturers to adopt revised labels without unnecessary costs involved in overlabeling products or discarding previously printed labels. After that time, the Commission intends to bring individual enforcement actions against improperly labeled products, or against the manufacturers, distributors, or retailers of such products. In such enforcement actions, the defendants will have full opportunity to contest the toxicity of methylene chloride, the exposure to consumers presented by the particular product, or any other technical or legal principle relied on by the Commission.

The publication of this notice expresses the Commission's view that the issues raised in the proposed rule can be best dealt with by issuing this statement of interpretation and enforcement policy; however, it is not intended to withdraw the proposed rule. Therefore, if it appears in the future that voluntary compliance with the Commission's interpretation, supported by enforcement actions against noncomplying firms, is inadequate to obtain uniform compliance with the FHSA, the Commission will have the option of resuming the rulemaking proceeding.

c. Products Believed To Be Hazardous

The data presently available to the Commission indicate that products in the following classes that contain methylene chloride can expose consumers to significant amounts of

methylene chloride vapor and are thus hazardous substances.

- (1) Paint strippers.
- (2) Adhesive removers.
- (3) Spray shoe polish.
- (4) Adhesives and glues.
- (5) Paint thinners.
- (6) Glass frosting and artificial snow.
- (7) Water repellants.
- (8) Wood stains and varnishes.
- (9) Spray paints.
- (10) Cleaning fluids and degreasers.
- (11) Aerosol spray paint for automobiles.
- (12) Automobile spray primers.
- (13) Products sold as methylene chloride.

In order to provide some definiteness to manufacturers, the Commission states that it does not presently have information showing that products in these categories that contain one percent or less of methylene chloride are hazardous substances.

However, the fact that a product is not specifically named above, or that it contains one percent or less of methylene chloride, does not mean that the product is *not* a hazardous substance. Since the available data on the unnamed categories are not definitive, the status of the unnamed products as hazardous substances could be reconsidered by the Commission if additional information showing significant exposures became available.

Since the FHSA applies to, among other things, all toxic household substances that may cause substantial personal injury or substantial illness as a proximate result of any customary or reasonably foreseeable handling or use, if additional information becomes available showing that products that are not now specifically identified present significant exposures, labeling for such products would be automatically required by section 2(p)(1) of the Act. 15 U.S.C. 1261(p)(1). In this event, the Commission could bring enforcement actions against manufacturers of such products that refused to provide appropriate labeling. In such actions, the Commission would have to establish that the product was a hazardous substance, and all issues relied on by the Commission could be contested by the defendant.

D. Required Labeling

General FHSA Labeling Requirements

One of the statutes administered by the Commission is the Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. 1261-1276, which establishes certain requirements and gives the Commission certain remedial powers

with respect to hazardous household substances. Under section 2(g) of the FHSA, 15 U.S.C. 1261(g), a "toxic" substance is defined as "any substance (other than a radioactive substance) which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface." Section 2(f)(1) of the FHSA defines "hazardous substance" as including:

(A) Any substance or mixture of substances which (i) is toxic, [or other enumerated hazards] . . . if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

15 U.S.C. 1261(f)(1).

Under section 2(p)(1) of the FHSA, a hazardous substance that is intended, or packaged in a form suitable, for use in the household is misbranded if it fails to bear a label with certain specified labeling. Included in the required labeling is:

(D) the signal word "WARNING" or "CAUTION" . . . (E) an affirmative statement of the principal hazard or hazards, such as "Flammable", "Combustible," "Vapor Harmful", "Causes Burns", "Absorbed Through Skin", or similar wording descriptive of the hazard; (F) precautionary measures describing the action to be followed or avoided, . . ."

15 U.S.C. 1261(p)(1).

Since the Commission has determined that household products which can expose consumers to methylene chloride vapor are hazardous substances because they may pose a carcinogenic risk to humans, such products will be required to bear labeling that meets the requirements of section 2(p)(1) of the FHSA.

Also, the labels for all products subject to the FHSA are expected to comply with the Commission's regulations, at 16 CFR 1500.121, for the prominence, placement, and conspicuousness of labeling required by the FHSA. These regulations provide that all items of labeling required by the FHSA may be placed on the "principal display panel" (hereinafter called the "front panel") on the immediate container and, if appropriate, on any other container or wrapper. The signal word (*i.e.*, "DANGER", "WARNING", or "CAUTION") and the statement of principal hazard(s) are required to be on the front panel. The other items of required labeling may be placed on some other display panel on the container (hereinafter called the "back panel"), provided that the front panel contains the statement "Read carefully

other cautions on the [back] panel" or its practical equivalent.

Labeling for Potential Cancer Hazards

1. General Principles

The Commission believes that labeling for potential cancer hazards under the FHSA must adhere to three general principles. These principles may be applied somewhat differently to different products, depending on the degree of exposure presented by a product. These principles are discussed immediately below. Following that discussion, this notice discusses how the application of these principles can result in different labeling for different products, depending on whether the particular product involved presents a potentially high or low degree of exposure in reasonably foreseeable use or misuse.

a. *Indication of a potential cancer hazard.* The nature of the hazard of being exposed to a substance that may cause adverse chronic effects is that the hazard does not necessarily present itself to the senses of persons exposed to the substance. Where a product presents only acute hazards, preliminary symptoms of the acute exposure, such as dizziness, eye watering, or headaches, may serve to warn the user that he or she is being exposed to an excessive amount of the substance. With a presumed chronic hazard, however, the exposure level that may cause acute symptoms may exceed the exposure level that could present a significant chronic risk to persons using a product containing the substance. Since the product itself may not warn of the chronic hazard associated with exposure to the substance, it is especially important that the product's label communicate the hazard to the user in a way that will motivate the user to take adequate precautions against overexposure.

The Commission believes that in order for a label to motivate the user to take adequate precautions against overexposure to a potential cancer hazard, the label should indicate that exposure to the product may present a cancer hazard. This could be accomplished by having the front panel carry the statement of principal hazard, "vapor harmful" or the equivalent, while the back panel would contain a more specific indication of a possible cancer hazard, such as "cancer hazard" or "this product contains methylene chloride, which has been shown to cause cancer in certain laboratory animal tests," or the like. Alternatively, the statement of principal hazard on the front panel could state both "vapor harmful" or the

equivalent and the more specific indication that one of the hazards presented is that of carcinogenicity.

b. *An explanation of factors that control the degree of risk.* The Commission believes that the labeling for a potential cancer hazard should indicate that the risk to the user is related to the level and duration of exposure. Products involving greater exposure need an explicit statement that both the concentration of the vapors to which one is exposed and the length of exposure are factors affecting risk to the user. This will also have the effect of reinforcing in the user the notion that there are actions that the user can take to reduce the risks associated with using the product. As discussed further below, products presenting lower exposures in reasonably foreseeable use scenarios can use labeling that is less explicit to satisfy this aspect of FHSA labeling.

c. *Precautions to be taken.* Products presenting the higher degrees of exposure should bear detailed descriptions of the particular precautions that are necessary. This element of required labeling includes an explanation of the specific actions that should be taken or avoided by users. An example of such instructions, developed for products such as paint strippers by the Steering Committee for Methylene Chloride, is given below. Statements such as "use with adequate ventilation," that have been used commonly in the past with respect to acute inhalation hazards, are insufficient for products that present a chronic hazard at levels where no acute symptoms are manifested. As explained in more detail below, however, for products presenting low exposures, a direction to use the product outdoors or with windows opened or to not use the product in a small room, or the like, could adequately satisfy this element of FHSA labeling.

2. How Labeling May Vary With Different Products

There are wide variations in the concentrations of methylene chloride in different product classes and in different products within a single class. Furthermore, there are differences in the reasonably foreseeable ways that the various products containing methylene chloride are used. Accordingly, the exposures associated with various products vary widely. This fact caused the Commission to consider the extent to which different labeling might be appropriate for those products that present the highest exposures than is appropriate for those products where exposure is lower.

After considering this issue, the Commission has concluded that the three general principles of chronic hazard labeling under the FHSA, described above, should apply to all products that are considered to be hazardous substances because they contain methylene chloride. However, the particular information on the labels of products in the high and low exposure categories could be considerably different and still comply with these general principles.

The strongest labeling is required for the products involving the higher exposures. Of the product classes on which the Commission currently has data, the ones involving the greatest exposure to the individual user are paint strippers and adhesive removers. A description of suitable labeling for paint strippers containing relatively large amounts of methylene chloride is given below. Similar labeling, with appropriate modifications to reflect the different manners of use, would be required for those adhesive removers that present similar exposures. Any attempt to qualify or limit the apparent seriousness of the required warnings would be inappropriate for these high-concentration products.

On the other hand, the presently available information indicates that certain products in the remaining product classes subject to the rule may present lesser hazards, in varying degrees. As to these products, it may be appropriate to provide additional explanation on the label to inform the user or potential purchaser that, when properly used, the exposure can be considered slight. For example, products that are rarely used indoors or that have low concentrations of methylene chloride and otherwise result in low exposures in normal use may be able to appropriately use additional label language to help consumers put the hazard presented by the product in context. However, the Commission believes that such labeling qualifications should not be used unless methylene chloride is the only ingredient that requires cautionary labeling and the manufacturer has a sound basis for concluding that the product in fact presents a suitably low concentration of methylene chloride or that the exposure expected from the product is otherwise very low.

Another difference from the labeling practices used for the highest exposure products that might be appropriate for lower exposure products involves the need for the product's label to indicate that the potential risk depends on the length and severity of the exposure.

Where a product's normal exposure is either short or low, the label may not need to specifically point out that aspect of the factors relating to risk.

As provided in 16 CFR 1500.128, the Commission's staff routinely provides labeling advice to manufacturers on labeling necessary to comply with the FHSA. The staff remains available for such informal advice, where desired, for products containing methylene chloride.

3. Detailed Example of Labeling for Paint Strippers

The Steering Committee for Methylene Chloride, a group of industry and consumer interest representatives working with the Commission's staff, previously considered the question of labeling language that will adequately convey to users the information needed to enable users to protect themselves and that will also comply with the requirements of the FHSA. The Steering Committee recommended the following labeling for products, such as some paint strippers, that contain high percentages of methylene chloride. The Commission believes that this labeling meets, and in certain respects exceeds, the minimum requirements of section 2(p)(1) of the FHSA.

[Front Panel]

CAUTION: Vapor Harmful, Read Other
Cautions and HEALTH HAZARD
INFORMATION on Back Panel

[or equivalent language]

[Back Panel]

Contains methylene chloride, which has been shown to cause cancer in certain laboratory animals. Risk to your health depends on level and duration of exposure.

[Or equivalent language]

[The back panel labeling given above would be placed separately from use precaution information such as the following.]

Use this product outdoors, if possible. If you must use it indoors, open all windows and doors or use other means to ensure fresh air movement during application and drying. If properly used, a respirator may offer additional protection.* Obtain professional advice before using.* A dust mask does not provide protection against vapors.* Do not use in basement or other unventilated area.

Open container carefully and close after each use. Clean up rags, papers, and waste promptly. Allow solvent to evaporate, then dispose of in metal containers.

*The use of respirators may not be a practical way for most consumers to protect themselves from methylene chloride vapors. Accordingly, the Commission should point out that the statement concerning respirators in the above labeling example that was recommended by the Steering Committee on Methylene Chloride is not required by the FHSA.

[Or equivalent language suitable for the particular product involved.]

A label such as that stated above would be required by the potential carcinogenic inhalation hazard from paint strippers, although some of the precautions stated also may serve to protect against acute hazards that might be presented. Of course, the product's labeling would also have to meet the other requirements of the FHSA and to address other hazards that the product may present. For example, the label may have to address the acute toxicity of methylene chloride, flammability hazards associated with a product, toxic gases that can be produced by contact with flame or hot surfaces, or the need to avoid contact with skin or eyes because of irritant or corrosive qualities in a product. Also, the label would have to include, when necessary or appropriate, instructions for first aid treatment, including instructions on actions to take if overcome by vapors.

Also, the particular precautions about actions to be taken or avoided that are given in the above example are intended primarily for paint removers, and these precautions may not apply to other products containing methylene chloride. For example, some products may not involve rags or other items that need to be disposed of separately.

E. Effect on State and Local Laws

Section 18(b)(1)(A) of the FHSA, 15 U.S.C. 1261n, provides:

(b)(1)(A) Except as provided in paragraphs (2) and (3) [15 U.S.C. 1261n], if hazardous substance or its packaging is subject to a cautionary labeling requirement under section 2(p) or 3(b) [15 U.S.C. 1261(p), 1262(b)] designed to protect against a risk of illness or injury associated with the substance, no State or political subdivision of a State may establish or continue in effect a cautionary labeling requirement applicable to such substance or packaging and designed to protect against the same risk of illness or injury unless such cautionary labeling requirement is identical to the labeling requirement under section 2(p) or 3(b).

Under the Commission's interpretation, products that contain methylene chloride and that expose consumers to significant amounts of methylene chloride vapor are hazardous substances subject to the requirements of section 2(p)(1) of the FHSA. Therefore, under the terms of section 18(b)(1)(A) of the FHSA, the Commission concludes that any statutes or regulations of state or local governments establishing cautionary labeling requirements designed to protect against the risk are void and unenforceable to the extent that the state or local requirements are not

identical to the requirements under section 2(p)(1) of the FHSA.

F. Administration of the Enforcement Policy

Under the FHSA, firms are responsible for deciding whether their products containing methylene chloride meet the definition of hazardous substance. This involves consideration of the concentration of methylene chloride in the product and of the ways the product is used to determine if the product presents a significant exposure to methylene chloride vapor. The Commission recognizes that this decision can be difficult, and the Commission has attempted to give as much guidance as possible in this notice. In addition, the Commission will assist firms to the fullest extent possible.

Before an enforcement action is brought against a firm that is thought to be improperly labeling a product containing methylene chloride, the firm will be given an opportunity to informally present evidence to the Commission staff that its product does not present a significant exposure to methylene chloride vapor in reasonably foreseeable handling or use of the product. The policy can be fairly administered only with such a case-by-case approach that recognizes differences in the levels of risk presented by different household products containing methylene chloride.

G. Effective date

In order to minimize any adverse economic effects to firms who must change labels in order to comply with the FHSA, this enforcement policy will be effective March 14, 1988 as to products whose labels are printed after that date and September 14, 1988 as to products that are packaged after that date.

H. Conclusion

For the reasons explained above, the Commission believes that household products that present a significant exposure to methylene chloride vapor are hazardous substances due to a potential hazard of human carcinogenicity. Labeling required by the FHSA will be enforced in accordance with the policy explained above. This policy is not a binding rule, but is merely a notice of the Commission's intention to bring appropriate enforcement actions under the FHSA. In any such actions, any parties who disagree about whether particular products containing methylene chloride are hazardous substances will have the opportunity to challenge the Commission's technical

data and legal conclusions in federal district court.

Because this enforcement policy is not a proposed or final rule, the Regulatory Flexibility Act is inapplicable. Further, neither the publication of this notice nor the bringing of enforcement cases under the policy has any significant potential for affecting the environment, and no environmental assessment or environmental impact statement is required.

Dated: September 9, 1987.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 87-21094 Filed 9-11-87; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.004C]

Notice Inviting Applications for New Awards Under Desegregation of Public Education; State Educational Agency Desegregation Program for Fiscal Year 1988.

Purpose: Provides grants to State Educational Agencies (SEAs) to enable them to provide technical assistance (including training) at the request of school boards and other responsible governmental agencies, in the preparation, adoption, and implementation of plans for the desegregation of public schools and in the development of effective methods of coping with special educational problems occasioned by desegregation.

Deadline for Transmittal of Applications: November 9, 1987.

Deadline for Intergovernmental Review Comments: January 11, 1988.

Applications Available: September 25, 1987.

Available Funds Anticipated: The Administration's budget request for fiscal year 1988 does not include funds for this program. However, applications are being invited to allow sufficient time to evaluate applications and complete the grant process before the end of the fiscal year, should the Congress appropriate funds for this program.

Estimated Range of Awards: \$100,000 to \$750,000.

Estimated Average Size of Awards: \$303,846.

Estimated Number of Awards: 52.

Project Period: 12 Months.

Applicable Regulations: (a) The Desegregation of Public Education Regulations, 34 CFR Parts 270 and 271, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, and 79, except

that 34 CFR 75.200 through 75.217 (relating to the evaluation and competitive review of grants) do not apply to grants awarded under 34 CFR Part 271.

For Applications or Information, Contact: Steven L. Brockhouse, U.S. Department of Education, 400 Maryland Avenue SW., Room 2059, Washington, DC 20202, Mail Stop 6264. Telephone: (202) 732-4342.

Program Authority: 42 U.S.C. 2000c-2000c-2; 2000c-5.

Dated: August 28, 1987.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 87-21053 Filed 9-11-87; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP87-118-000]

Proposed Changes in FERC Gas Tariff; Williams Natural Gas Co.

September 8, 1987.

Take notice that Williams Natural Gas Company (WNG) on August 31, 1987, tendered for filing First Revised Sheet Nos. 59, 69, 76 and 94 to its FERC Gas Tariff, Original Volume No. 1 and First Revised Sheet Nos. 10, 21, 31, 56, 59, 78, 92 and 267 to its FERC Gas Tariff, Original Volume No. 2.

WNG states that the purpose of this filing is to enable WNG to change its accounting and billing procedures from a fiscal month basis to a calendar month basis.

The proposed effective date of the above tariff sheets is October 1, 1987.

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any persons desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 15, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies