

LA. However, an error was made in the legal description for the Lake Charles, LA Class E airspace area. The location of the Sulphy nondirectional radio beacon (NDB) and the legal description of the Class E airspace area relating to the Sulphy NDB were omitted. This action corrects these errors.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the legal description of the Class E airspace area at Lake Charles, LA, as published in the **Federal Register** on April 1, 1999 (64 FR 15676), is corrected as follows:

§ 71.1 [Corrected]

* * * * *

ASW LA E5 Lake Charles, LA [Corrected]

Lake Charles Regional Airport, LA
(Lat. 30°07'34"N., long. 93°13'24"W.)

Lake Charles, Chennault International
Airport, LA

(Lat. 30°12'25"N., long. 93°08'37"W.)

Sulphur, Southland Field, LA

(Lat. 30°07'53"N., long. 93°22'34"W.)

Sulphy NDB

(Lat. 30°11'55"N., long. 93°25'14"W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Lake Charles Regional Airport and within a 7-mile radius of Chennault International Airport and within 3.5 miles each side of the 155° bearing from the airport extending from the 7-mile radius to 16.7 miles southeast of the airport and within a 6.5-mile radius of Southland Field and within 2.5 miles each side of the 326° bearing from the Sulphy NDB extending from the 6.5-mile radius to 7.5 miles northwest of the airport.

* * * * *

Issued in Fort Worth, TX on April 13, 1999.

Albert L. Viselli,

*Acting Manager, Air Traffic Division,
Southwest Region.*

[FR Doc. 99-9883 Filed 4-19-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 312

[Docket No. 98N-0979]

RIN 0910-AA84

Investigational New Drug Applications; Clinical Holds; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) published in the **Federal Register** of December 14, 1998 (63 FR 68676), a direct final rule. The direct final rule amends FDA's regulations governing investigational new drug applications (IND's) for human drug and biological products. This action amends the IND clinical hold requirements to state that the agency will respond in writing to a sponsor's request that a clinical hold be removed from an investigation within 30-calendar days of the agency's receipt of the request and the sponsor's complete response to the issue(s) that led to the clinical hold. This document confirms the effective date of the direct final rule.

EFFECTIVE DATE: The effective date of the direct final rule published at 63 FR 68676 is confirmed as April 28, 1999.

FOR FURTHER INFORMATION CONTACT:

Murray M. Lumpkin, Center for Drug Evaluation and Research (HFD-2), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-5400, or

Rebecca A. Devine, Center for Biologics Evaluation and Research (HFM-10), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301-827-0373.

SUPPLEMENTARY INFORMATION: FDA solicited comments concerning the direct final rule for a 75-day period ending March 1, 1999. FDA stated that the effective date of the direct final rule would be on April 28, 1999, 60 days after the end of the comment period, unless any significant adverse comment was submitted to FDA during the comment period. FDA did not receive any significant adverse comments.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs, notice is given that no objections were filed in response to the December 14, 1998, final rule. Accordingly, the amendments issued thereby are effective April 28, 1999.

Dated: April 13, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99-9768 Filed 4-19-99; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1327

[Docket No. NHTSA-98-5084]

RIN 2127-AH54

Procedures for Participating in and Receiving Data From the National Driver Register Problem Driver Pointer System

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule announces that changes made to NHTSA's National Driver Register (NDR) regulations, through an interim final rule implementing a recent amendment to the National Driver Register Act of 1982 (the Act), are adopted as final with some changes described below. The amendment to the Act authorized the Commandant of the United States Coast Guard to request and receive information from the NDR regarding the motor vehicle driving records of any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing, and any member of a uniformed service who is assigned to the Coast Guard). NHTSA's interim final rule established the procedures for such individuals to request, and for the Commandant to receive, NDR information. This final rule also puts in place technical amendments affecting the National Driver Register Act of 1982 contained in the Transportation Equity Act for the 21st Century (TEA-21).

DATES: This final rule becomes effective May 20, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. William Holden, Chief, Traffic Records and Driver Register Division, NTS-32, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 366-4800 or Ms. Heidi L. Coleman, Assistant Chief Counsel for General Law, NCC-30, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 366-1834.

SUPPLEMENTARY INFORMATION:

Background

The NDR is a central file of information on individuals whose license to operate a motor vehicle has been denied, revoked, suspended or canceled, for cause, or who have been

convicted of certain serious traffic-related violations such as racing on the highways or driving while impaired by alcohol or other drugs.

The NDR Act of 1982, 49 U.S.C. 30301 *et seq.*, authorizes State chief driver licensing officials to request and receive information from the NDR for driver licensing and driver improvement purposes. When an individual applies for a driver's license, for example, the Act authorizes the chief driver licensing official in the State to request and receive NDR information in order to determine whether the applicant's driver's license has been withdrawn for cause in any other State. Because the NDR is a national database, State chief driver licensing officials need to submit only a single inquiry to obtain this information.

The Act also authorizes State chief driver licensing officials to request NDR information on behalf of other NDR users for transportation safety purposes. Until October 1996, the Act authorized the following entities to receive NDR information through requests to State chief driver licensing officials for the limited purpose of transportation safety: the National Transportation Safety Board (NTSB) and the Federal Highway Administration (FHWA) for accident investigations; employers and prospective employers of motor vehicle operators; the Federal Aviation Administration (FAA) regarding any individual who holds or has applied for an Airman's Certificate; air carriers regarding individuals who are seeking employment with the air carrier; the Federal Railroad Administration (FRA) and employers or prospective employers of locomotive operators; and the U.S. Coast Guard regarding any individual who holds or who has applied for a license, certificate of registry, or a merchant mariner's document. The Act also provided that the U.S. Coast Guard could not obtain NDR information that was entered in the register more than three years before the date of the request. In addition, the Act allowed individuals to learn whether information about themselves was in the NDR file and to receive any such information.

Expanded Access to the Coast Guard

On October 19, 1996, Public Law 104-324 was enacted. Section 207 of that law contained an amendment to the Act authorizing the Commandant of the Coast Guard to request and receive NDR information regarding any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the

foregoing, and any member of a uniformed service who is assigned to the Coast Guard).

On December 2, 1997 (62 FR 63655), NHTSA published an interim final rule in the **Federal Register** amending the regulations that implement the Act. The interim final rule provided that the procedures that the Commandant of the Coast Guard would use to receive NDR information on Coast Guard personnel would be the same as those previously used by the Coast Guard to receive information regarding individuals who hold or who have applied for a license, certificate of registry, or a merchant mariner's document.

The interim final rule explained that the Commandant of the Coast Guard may not initiate a request for NDR information. Rather, the individual member or applicant must do so. The interim final rule stated that to initiate a request, the individual must either complete, sign, and submit a request for an NDR file search, or the individual must authorize the Commandant of the Coast Guard to request the NDR file search by completing and signing a written consent. The request or written consent must explain that NDR records are being requested; state specifically who is authorized to receive the records; be dated and signed by the individual (the member or applicant); and specifically state that the authorization is valid for only one search of the NDR. The consent also must state specifically that the NDR identifies "probable" matches that require further inquiry for verification, that it is recommended (but not required) that the Commandant of the Coast Guard verify matches with the State of record, and the consent must explain that individuals have the right to request their own NDR records in order to verify the accuracy of that information.

The interim final rule indicated that the Commandant of the Coast Guard may receive such information and shall make the information available to the individual. The interim final rule provided that the Commandant will not receive any information that was entered in the Register more than three years before the date of the request, unless the information relates to a revocation or suspension still in effect on the date of the request.

The interim final rule stated, in accordance with Public Law 104-324, that requests to transmit NDR information to the Commandant were to be submitted through a State chief driver licensing official.

The interim rule explained that the NDR response would be sent to the chief driver licensing official who would

provide it to the Commandant and would indicate whether a match (probable identification) was found and, if so, the response would identify the State in which the full substantive record can be found (the State of record). The interim final rule encouraged the Commandant to obtain the substantive data relating to the match from the State of record to determine whether the person described in the record is in fact the subject individual before taking further action.

Request for Comments

NHTSA requested comments from interested persons on the procedures put in place by the interim final rule published in the **Federal Register** on December 2, 1997. Those comments were due no later than February 2, 1998. The interim final rule explained that the agency would consider and respond to all comments and, if appropriate, would make further amendments to the applicable provisions of 23 CFR Part 1327. Since NHTSA received no comments on the interim final rule, this final rule adopts the interim final rule subject to the changes described below, which NHTSA is adopting in conformance with the amendments to the Act contained in TEA-21.

TEA-21 Amendments

The Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, was signed into law on June 9, 1998. Section 2006 of the law contained amendments to the access provisions of the NDR Act of 1982, as amended, 49 U.S.C. 30305(b).

Federal Transportation Licensing Officials

TEA-21 amended the NDR Act of 1982 to permit the head of a Federal department or agency that issues motor vehicle operator's licenses, such as the State Department, to receive NDR information. This final rule puts in place this change to the NDR procedures.

Other Federal Entities Can Directly Request NDR Information for Limited Transportation Safety Purposes

The TEA-21 amendments also provide that any Federal department or agency authorized to receive NDR information may request NDR information directly from the NDR, rather than requesting the information through State chief driver licensing officials. These Federal departments and agencies now include: the Chairman of the National Transportation Safety Board (NTSB) and the Administrator of the Federal Highway Administration

(FHWA) regarding an individual who is the subject of an accident investigation conducted by the Board or Administrator; the Federal Aviation Administration (FAA) regarding an individual who has received or applied for an Airman's Certificate; the Federal Railroad Administration (FRA) regarding a locomotive operator; the Commandant of the United States Coast Guard regarding an individual who holds or who has applied for a license, certificate of registry, or a merchant mariner's document, and also regarding any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing, and any member of a uniformed service who is assigned to the Coast Guard); and the head of a Federal department or agency that issues motor vehicle operator's licenses regarding an applicant for a motor vehicle operator's license from such department or agency.

As a result of this change, these Federal departments and agencies have a choice between continuing to request NDR information through State driver licensing officials or, alternatively, requesting the NDR information themselves, directly from the NDR.

This final rule incorporates this change into the NDR implementing regulations. The change is expected to reduce administrative burdens on both these Federal entities and the participating States with respect to requests for and the receipt of NDR information.

Suspensions or Revocations Still in Effect

Prior to the enactment of TEA-21, the Act provided that employers or prospective employers of motor vehicle operators could not receive NDR information that was entered into the Register more than three years before the date of the request. Other requesters, such as the Commandant of the U.S. Coast Guard, were subject to the same restraints, except that these entities could receive NDR information received more than three years prior to the date of the request if the information concerned a suspension or revocation still in effect on the date of the request.

TEA-21 amended the Act to apply this exception to employers and prospective employers of motor vehicle operators. This final rule effects this change to the NDR implementing regulations.

Other Changes

This final rule also amends the NDR regulations with non-substantive

changes designed to simplify the regulations, reduce redundancies, and make the regulations easier to follow.

Regulatory Analyses and Notice

Executive Order 12778 (Civil Justice Reform)

This final rule will not have any preemptive or retroactive effect. The enabling legislation does not establish a procedure for judicial review of final rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or other administrative proceedings before they may file suit in court.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The agency has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or Department of Transportation Regulatory Policies and Procedures. The changes in this interim final rule merely reflect amendments contained in Public Law 104-324. Accordingly, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Public Law 96-354, 5 U.S.C. 601-612), the agency has evaluated the effects of this action on small entities. Based on the evaluation, we certify that this action will not have a significant impact on a substantial number of small entities. Accordingly, the preparation of a Regulatory Flexibility Analysis is unnecessary.

Paperwork Reduction Act

There are reporting requirements contained in the regulation that this rule is amending that are considered to be "collection of information" requirements, as defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. Accordingly, these requirements have been submitted previously to and approved by OMB, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*). These requirements have been approved through September 30, 2000, under OMB No. 2127-0001.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it will not have any significant impact on the quality of the human environment.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

List of Subjects in 23 CFR Part 1327

Highway safety, Intergovernmental relations, National Driver Register, Reporting and recordkeeping requirements, Transportation safety.

In consideration of the foregoing, the interim final rule published in the **Federal Register** of December 2, 1997, 62 CFR 63655, amending 23 CFR Part 1327, is adopted as final, with the following changes:

PART 1327—PROCEDURES FOR PARTICIPATING IN AND RECEIVING INFORMATION FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

1. The authority citation for part 1327 continues to read as follows:

Authority: Pub. L. 97-364, 96 Stat. 1740, as amended (49 U.S.C. 30301 *et seq.*); delegation of authority at 49 CFR 1.50.

§ 1327.5 [Amended]

2. Amend § 1327.5 as follows:
- a. Paragraph (a)(1)(ii) is amended by revising "ii)" to read "(ii)";
 - b. Paragraph (c)(2) introductory text is amended by adding a sentence at the end to read as set forth below; and
 - c. Redesignating paragraph (c)(3) as paragraph (c)(4) and by adding a new paragraph (c)(3) to read as follows:

§ 1327.5 Conditions for becoming a participating State.

* * * * *

(c) * * *

(2) * * * Information may not be obtained from the National Driver Register under this paragraph (c) if the information was entered in the Register more than three years before the date of the request unless the information is about a revocation or suspension still in effect on the date of the request.

* * * * *

(3) The head of a Federal department or agency that issues motor vehicle operator's licenses about an individual applicant for a motor vehicle operator's license from such department or agency. The head of the department or agency may request NDR information through the chief driver licensing official of a State and may receive the information, provided the requesting Federal department or agency participates in the NDR as a reporting agency.

(i) A reporting agency is an agency that transmits to the NDR a report regarding any individual who has been denied a motor vehicle operator's license for cause; whose motor vehicle operator's license is revoked, suspended, or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle related offenses listed in paragraph (a)(1)(iii) of this section and Appendix A to this part and over whom the department or agency has licensing authority.

(ii) All reports transmitted by a reporting agency shall contain the following data:

(A) The legal name, date of birth (including day, month, and year), sex, and, if available to the agency, height, weight, and eye color;

(B) The name of the agency transmitting such information; and

(C) The social security account number, if used by the reporting agency for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number); except that

(D) Any report concerning an occurrence identified in paragraph (c)(3)(i) of this section which occurs during the two-year period preceding the date on which the agency becomes a participating agency shall be sufficient if it contains all such information as is available to the agency on such date.

* * * * *

3. Section 1327.6 is amended by redesignating paragraphs (g) and (h) as paragraphs (h) and (i), by revising paragraphs (a) through (f), and by adding a new paragraph (g) to read as follows:

§ 1327.6 Conditions and procedures for other authorized users of the NDR.

(a) *NTSB and FHWA.* To initiate an NDR file check before a fully electronic Register system has been established, the National Transportation Safety Board or the Federal Highway Administration (Office of Motor Carriers) shall submit a request for such check to the State with which previous arrangements have been made, in accordance with procedures established by that State for this purpose. To initiate an NDR file check once a fully electronic Register system has been established, the NTSB or FHWA shall submit a request for such check to the participating State with which previous arrangements have been made, in accordance with procedures established by that State for this purpose. The NTSB

or FHWA may also submit a request for an NDR file check to the NDR directly.

(b) *Federal departments or agencies that issue motor vehicle operator's licenses.* To initiate an NDR file check, a Federal department or agency that issues motor vehicle operator's licenses shall submit a request for such check to a participating State, in accordance with procedures established by that State for this purpose. The Federal department or agency that issues motor vehicle operator's licenses may also submit a request for an NDR file check to the NDR directly, in accordance with procedures established by the NDR for that purpose.

(c) *Employers or prospective employers of motor vehicle operators (including Federal Agencies).* (1) To initiate an NDR file check, the individual who is employed or seeking employment as a motor vehicle operator shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the employer/prospective employer shall make the information available to the employee/prospective employee.

(3) In the case of a match (probable identification), the employer/prospective employer should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the employee/prospective employee before using the information as the basis for any action against the individual.

(d) *Federal Aviation Administration.*

(1) To initiate an NDR file check, the individual who has applied for or received an airman's certificate shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the FAA shall make the information available to the airman for review and written comment.

(3) In the case of a match (probable identification), the FAA should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the airman concerned before using the information as the basis of any action against the individual.

(e) *Federal Railroad Administration and/or employers or prospective employers of railroad locomotive operators.* (1) To initiate an NDR file check, the individual employed or seeking employment as a locomotive operator shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the FRA or the employer/prospective

employer, as applicable, shall make the information available to the individual.

(3) In the case of a match (probable identification), the FRA or the employer/prospective employer, as applicable, should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(f) *U.S. Coast Guard.* (1) To initiate an NDR file check, the individual who holds or who has applied for a license, certificate of registry, or a merchant mariner's document or the officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the U.S. Coast Guard shall make the information available to the individual for review and written comment before denying, suspending or revoking the license, certificate of registry, or merchant mariner's document of the individual based on that information and before using that information in any action taken under chapter 77 of title 46, U.S. Code.

(3) In the case of a match (probable identification), the U.S. Coast Guard should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(g) *Air carriers.* (1) To initiate an NDR file check, the individual seeking employment as a pilot with an air carrier shall follow the procedures specified in § 1327.7 and also must specifically state that, pursuant to Section 502 of the Pilot Records Improvement Act of 1996, Public Law 104-264, 110 Stat. 3259 (49 U.S.C. 30305), the request (or written consent) serves as notice of a request for NDR information concerning the individual's motor vehicle driving record and of the individual's right to receive a copy of such information.

(2) Air carriers that maintain, or request and receive NDR information about an individual must provide the individual a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

(3) In the case of a match (probable identification), the air carrier should obtain the substantive data relating to the record from the State of Record and

verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

* * * * *

4. Add a new section, 1327.7, to read as follows:

§ 1327.7 Procedures for NDR information requests.

(a) To initiate an NDR file check, an individual who is employed or seeking employment as a motor vehicle operator; who has applied for or received an airman's certificate; who is employed or seeking employment as a locomotive operator; who holds or has applied for a license, certificate of registry, or a merchant mariner's document or is an officer, chief warrant officer, or enlisted member of the U.S. Coast Guard or Coast Guard Reserve; or who is seeking employment as a pilot with an air carrier; shall either:

(1) Complete, sign and submit a request for an NDR file check directly to the chief driver licensing official of a participating State in accordance with procedures established by that State for this purpose; or

(2) Authorize, by completing and signing a written consent, the authorized NDR user to request a file check through the chief driver licensing official of a participating State in accordance with the procedures established by that State for this purpose.

(b) If the authorized NDR user is an employer or prospective employer of a motor vehicle operator, the request for an NDR file check must be submitted through the chief driver licensing official of the State in which the individual is licensed to operate a motor vehicle.

(c) If the authorized NDR user is the head of a Federal department or agency, the request for an NDR file check may be submitted instead directly to the NDR in accordance with procedures established by the NDR for this purpose.

(d) The request for an NDR file check or the written consent, whichever is used, must:

(1) State that the NDR records are to be released;

(2) State as specifically as possible who is authorized to receive the records;

(3) Be signed and dated by the individual (or the individual's legal representative as appropriate);

(4) Specifically state that the authorization is valid for only one search of the NDR; and

(5) Specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is

recommended, but not required, that the employer/prospective employer verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

Issued on: April 13, 1999.

Ricardo Martinez,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 99-9653 Filed 4-19-99; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF JUSTICE

28 CFR Part 77

[AG Order No. 2216-99]

Ethical Standards for Attorneys for the Government

AGENCY: Department of Justice.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule supersedes the Department of Justice regulations relating to Communications with Represented Persons and implements 28 U.S.C. 530B pertaining to ethical standards for attorneys for the government. Under that provision, an attorney for the Government shall be subject to State laws and rules, and local federal court rules governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State. This rule fulfills the Attorney General's obligation under section 530B and provides guidance to all Department of Justice employees who are subject to section 530B regarding their obligations and responsibilities under this new provision.

DATES: *Effective Date:* This interim rule is effective April 19, 1999.

Comment Date: Written comments must be submitted on or before June 21, 1999.

ADDRESSES: Please submit written comments, in triplicate, to Department of Justice, Justice Management Division, 950 Pennsylvania Ave., NW., Room 1110, Washington, DC 20530-0001 Attn: Juliet A. Eurich. To ensure proper handling, please refer to 28 U.S.C. 530B on your correspondence. Comments are available for public inspection at the above address by calling 202-353-7300 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Juliet A. Eurich, Justice Management Division, Department of Justice, 202-353-7300.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 1998, the President signed the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. 105-277. Division A, section 801 of that Act enacted into law 28 U.S.C. 530B, entitled "Ethical Standards for Federal Prosecutors." That statute provides as follows:

"(a) An attorney for the Government shall be subject to State laws and rules, and local Federal court rules, governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State.

(b) The Attorney General shall make and amend rules of the Department of Justice to assure compliance with this section.

(c) As used in this section, the term "attorney for the Government" includes any attorney described in § 77.2(a) of part 77 of title 28 of the Code of Federal Regulations and also includes any independent counsel, or employees of such a counsel, appointed under chapter 40."

Absent further congressional action, 28 U.S.C. 530B will become effective on April 19, 1999.

The Department is publishing this interim rule to meet the requirement of section 530B(b) that the Attorney General "make and amend rules * * * to assure compliance" with the legislation. Section 530B adopts the definition of the "attorney for the government" that was contained in § 77.2(a) of part 77 (now replaced), with the exception that the scope of the definition has been expanded to include an independent counsel, or employee of such counsel, appointed pursuant to chapter 40 of title 28, United States Code. As made clear by this definition, section 530B applies only to Department of Justice attorneys and attorneys acting pursuant to Department authorization. It does not apply to investigative agents (even if they are attorneys), although, under the regulations, agents operating under the direction of a covered attorney will be required to conform their conduct if so required by the ethical rules that apply to the attorney. Section 530B also does not apply to attorneys in other federal government agencies, unless they are appointed as Special Assistant United States Attorneys.

The Department has concluded that the text, title, and legislative history demonstrate that Section 530B applies only to rules of ethical conduct, such as codes of professional responsibility