Issued in Kansas City, MO on August 2, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05–16519 Filed 8–19–05; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–21707; Airspace Docket No. 05–ACE–22]

Modification of Class E Airspace; Lincoln, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; correction.

SUMMARY: This action corrects a direct final rule; request for comments that was published in the **Federal Register** on Friday, July 29, 2005 (70 FR 43741) (FR Doc. 05–21707). It removes the reference to Class C Airspace at Lincoln, NE.

DATES: This direct final rule is effective on 0901 UTC, October 27, 2005.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION:

History

Federal Register document 05–21707, published on Friday, July 29, 2005 (70 FR 43741), corrected the airport name and removed references to ''effective dates and times established in advance by a Notice to Airmen'' from the legal descriptions for Class C and Class E airspace at Lincoln, NE. However, changes to the Class C airspace were incorrectly included in the direct final rule; request for comments.

■ Accordingly, pursuant to the authority delegated to me, the legal description of the Class E airspace area at Lincoln, NE, as published in the **Federal Register** on Friday, October 29, 2005 (70 FR 43741) (FR Doc. 05–21707), is corrected as follows:

■ On page 43741, Column 2, Docket Title, delete the words ''Class C and''. On page 43741, Column 3, under **SUMMARY**, delete the words ''Class C and''. On page 43741 Column 3, under **SUPPLEMENTARY INFORMATION**, delete the words ''Class C airspace''. On page 43742, Column 2, under Adoption of the Amendment, delete the legal description of Class C airspace.

Issued in Kansas City, MO on August 2, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

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BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 648

[Docket No. 050520137–5220–02; I.D. 050905F]

RIN 0648–AT10

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 17

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule implements Framework 17 to the Atlantic Sea Scallop Fishery Management Plan (Framework 17), which was developed and submitted by the New England Fishery Management Council (Council) and approved by NMFS. Framework 17 requires that vessels issued a general category scallop permit and that intend to land over 40 lb (18.14 kg) of shucked, or 5 bu (176.2 L) of in-shell scallops, install and operate vessel monitoring systems (VMS). Framework 17 also allows general category scallop vessels with VMS units to turn off (power-down) their VMS units after they have offloaded scallops and while they are tied to a fixed dock or mooring. Finally, Framework 17 revises the broken trip adjustment provision for limited access scallop vessels fishing in the Sea Scallop Area Access Program. The intent of this action is to provide more complete monitoring of the general category scallop fleet, to reduce VMS operating costs, and to eliminate a provision that may have a negative influence on vessel operator decisions at sea and facilitate safety.

DATES: All provisions in this final rule are effective October 21, 2005, except 50 CFR 648.60(c)(5), which is effective August 22, 2005.

ADDRESSES: Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be submitted to Patricia A. Kurkul, Regional Administrator (RA), NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930; and to the Office of Management and Budget (OMB), by e-mail at *David_Rostker@omb.eop.gov* or fax to (202) 395–7285.

Copies of Framework 17, its Regulatory Impact Review (RIR), including the Initial Regulatory Flexibility Analysis (IRFA), and the Environmental Assessment (EA) are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at *http://www.nefmc.org*.

FOR FURTHER INFORMATION CONTACT: Peter W. Christopher, Fishery Policy Analyst, (978) 281–9288; fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

Framework 17 was adopted by the Council on February 1, 2005, and was submitted to NMFS by the Council on March 11, 2005, with a supplement submitted on April 4, 2005. A proposed rule for Framework 17 was published in the **Federal Register** on June 2, 2005 (70 FR 32282), with a comment period ending on June 17, 2005. The issues that led to the development of Framework 17 are discussed in detail in the preamble of the proposed rule, and are summarized briefly in this final rule. Framework 17 was developed by the Council to address concerns resulting from reports that vessels issued Atlantic scallop open access general category permits were making undocumented scallop landings and violating the 400–lb (181.44–kg)/50–bu (17.62–hL) possession limit restriction. In addition, the Council made a modification to the procedure that authorizes limited access scallop vessels to terminate Area Access trips prior to fully harvesting the allowed amount of scallops (the broken trip provision).

Framework 17 requires all general category vessels that land, or intend to land, more than 40 lb (18.14 kg) of shucked, or 5 bu (176.2 L) unshucked scallops, to install and operate a VMS onboard the vessel. The use of VMS is expected to assist with monitoring of general category vessel activity and facilitate the enforcement of the possession limit regulations. Because of

the cost of installing and operating VMS, the requirement may also help distinguish the active fleet of general category vessels that target scallops from all of the currently permitted vessels, which number over 2,500. VMS will provide better data for fishery management, particularly to specifically identify areas that are more frequently targeted by small vessels fishing outside of the typical scallop fishing areas (e.g., inshore areas of the Gulf of Maine). Transmission of location information through VMS could also assist U.S. Coast Guard search and rescue operations by automatically tracking vessel position.

In order to administer and effectively enforce the new VMS requirement for general category vessels, this final rule establishes a new general category scallop permit designation, under NMFS's Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), section 305(d) authority. Framework 17 requires vessel owners requesting general category scallop permits to determine whether they will fish under the non-VMS general category vessel permit, which authorizes possession of 40 lb (18.14 kg) of shucked, or 5 bu (176.2 L) of unshucked scallops, or under the VMS general category vessel permit, which authorizes the possession of up to 400 lb (181.44 kg) of shucked or 50 bu (17.62 hL) of unshucked scallops. Owners who apply for the VMS general category vessel permit must submit a copy of the vendor installation receipt from a NMFS-approved VMS vendor with their permit application. Vessel owners who have not submitted proof of VMS installation, or who have not submitted a completed application for a VMS general category vessel permit by the effective date of this action will be issued a non-VMS general category vessel permit at that time. Vessel owners may change from one general scallop permit category to another within 45 days of the issuance of the new general category vessel permit.

This final rule also implements a VMS power-down provision to accommodate vessels that do not have continuous power sources at their docks or moorings. Many vessels in the general category fleet are moored or docked in locations that have limited electrical power. The power-down provision was established to address this issue, and it allows vessel operators to turn off their VMS units and notify NMFS once the vessel is in port, has offloaded its catch, and is tied to a permanent dock or mooring. Vessel operators must turn on their VMS units and log into the system before leaving the fixed dock or mooring for any purpose.

This final rule also removes the automatic days-at-sea (DAS) charge and possession limit reduction under the current regulatory provision for limited access scallop vessels that terminate scallop trips in the Area Access Program (the broken trip provision). Under the previous measure, such vessels could resume trips, but the possession limit for the compensation trip was reduced to discourage unnecessary broken trips. This final rule modifies the broken trip provision to allow vessels that break a scallop trip to fully harvest the remainder of their possession limit on a makeup trip. The measure is intended to provide added flexibility for vessel operators in determining if a trip should be terminated prior to catching the full possession limit. Some vessel owners and operators were concerned that the reduced flexibility of the prior measure compromised safety; this final rule should alleviate that concern. The new measure retroactively applies to all broken trips that began on or after March 1, 2005. NMFS will automatically restore all scallop poundage deducted under the prior regulations, and send notification to vessel owners authorizing the harvest of the restored poundage on a subsequent trip. Vessel owners may not harvest this restored poundage until they receive notification from NMFS. This restored poundage can be used on any authorized compensation trip into a specified Access Area, and may be combined with other compensation trips for that specific Access Area, as long as the overall possession limit is not exceeded. Restored poundage can be harvested at any time during the remainder of the fishing year that ends February 28, 2006, provided there are no seasonal restrictions pertaining to the specific Access Area.

Comments and Responses

NMFS received nine comment letters on the proposed rule for Framework 17 (70 FR 32282). Upon review, one comment was found to have no relation to the proposed measures and was not considered during the review of this action. The remaining eight commenters made comments specific to this action. Comments were submitted by the Maine Department of Marine Resources (MEDMR), Stonington Fisheries Alliance (SFA), Associated Fisheries of Maine (AFM), Fisheries Survival Fund (FSF), and five individuals. NMFS has considered all of the comments on the proposed measures, and has approved all of the measures in Framework 17. Responses to specific comments follow:

Comment 1: FSF and an individual support the VMS measures because in their view VMS will result in improved information about the performance of the general category fishery, and will improve the enforceability of the regulations for that sector of the fishery.

Response: NMFS agrees that the VMS will provide better information about vessel activities in this sector of the scallop fishery. Improved information about the fishery will improve management in several ways, including enforcement of the regulations. NMFS notes, however, that representatives of NOAA's Office of Law Enforcement (OLE) expressed concern at the Council meeting in February 2005 that exempting some general category vessels from the VMS requirement would complicate enforcement because it provides an opportunity for general category vessels to fish for and land scallops without using VMS. Despite OLE's concern, the Council concluded that it should exempt that portion of the fishery due to concern about the costs of the system purchase, installation and operation for vessels that make very low scallop landings. NMFS has approved the program as proposed by the Council rather than disapproving it completely because, even with the exemption, the provision improves enforceability of the general category fleet and addresses the need for better data concerning the fishing activity of the active vessels in the general category sector. If there are problems in effectively enforcing this rule, NMFS will urge the Council to modify this provision in a future action.

Comment 2: For several reasons, MEDMR, SFA, AFM, and four individuals oppose the imposition of the VMS requirement as proposed in Framework 17. Most of the specific information in their comments pertains to the fishery in Maine, which they state is composed of vessels that participate in several fisheries over the course of the year, and fish for scallops on a limited scale, usually inshore and usually during December-April. Additional specific points made by these commenters are outlined below, but they all express the same general concern that it is inappropriate to impose the VMS requirement and associated costs on Maine vessel owners given the relatively limited extent of their participation in the scallop fishery. MEDMR specifically notes concern that Framework 17 will require over 2,500 general category vessels to acquire a VMS system to monitor the actions of a few is excessive, especially when the vast majority have not landed significant amounts of scallops in recent years.

Response: The VMS requirement was developed to address enforcement and monitoring issues that are fleet-wide, not confined to specific areas. Landings by general category vessels fleet-wide require closer monitoring, including incidental catches of scallops by vessels fishing in other fisheries (such as the multispecies fishery). It is necessary to be able to monitor effectively vessel activity at all times because scallop catch and landings occur during other fishery operations (such as multispecies fishing). It is not necessary to determine what species is being targeted, but rather, whether excessive scallop landings are occurring regardless of reported fishing activity.

As to the concern noted by MEDMR about imposing the VMS requirement on 2,500 general category vessels, the VMS measure in Framework 17 specifically allows vessels that possess less than 40 lb (18.14 kg) of scallops per trip on all scallop trips to obtain the non-VMS general category vessel permit. The Framework 17 analysis identifies 276 general category vessels that actively fished for scallops and reported landings in 2003. The number of active vessels increased in 2004 and 2005, but most general category scallop vessels remain inactive. Therefore, far fewer than 2,500 vessels will be impacted by the VMS requirement.

Comment 3: One individual suggests that vessels should be exempted from the VMS requirement under the existing state waters exemption provision in the scallop regulations. MEDMR suggests that VMS should not be required for general category scallop vessels north of 42°20′ N. latitude. If this is not possible, then MEDMR suggests that general category scallop vessels should be allowed to declare into the scallop fishery for a minimum of 3 months at a time and be required to operate VMS only when they are declared into the fishery. The SFA also urged NMFS to consider a different approach for the Maine inshore sea scallop fishery.

Response: As noted in Response 2, the VMS requirement was developed to address enforcement and monitoring issues that are fleet-wide, not confined to specific areas. The Council considered alternatives to the measures being enacted in this action, and determined that exemptions from the requirement would weaken enforceability. Further, some Council members questioned the equitability of exemptions specifically proposed for vessels from Maine or vessels fishing in the Gulf of Maine because there was no information presented to support the differential treatment of such vessels. At this stage of the regulatory process, NMFS has only the option of approving or disapproving the proposed measure, and NMFS has approved it.

Comment 4: MEDMR commented that the power-down provision in Framework 17 is ineffective as a cost-saving measure because many vessels will have to have the VMS operating even when targeting other species such as lobster or groundfish. MEDMR believes that this also will create an enforcement nightmare because there will be no indication through the VMS what species is being targeted.

Response: The Council recommended, and NMFS has approved, the measure that allows the VMS to be powered-down only when the vessel is secured to a mooring or dock. The power-down provision is intended to provide relief from the costs of having to operate VMS around the clock for vessels that have limited shore power. The VMS must be operating at all other times to ensure that all trips that land scallops are monitored. Scallop catch and landings often occur on trips that are also targeting other species, such as groundfish.

Comment 5: AFA commented that requiring VMS on general category scallop vessels will not achieve the proposed objectives of documenting landings and preventing unaccounted landings. However, if NMFS decides to approve the measure, AFA favors approval of the power-down measure as well, because is will provide relief for many vessels that do not have the resources to operate a VMS at all times.

Response: Documenting landings is not the sole purpose of the measure. The measure also will better identify vessels that are making landings under the general category permit. VMS will improve efforts to enforce and monitor landings of scallops by general category vessels by providing information about fishing and landing locations. Although VMS does not eliminate the possibility that vessels will make landings in excess of the possession limits, VMS provides an essential enforcement tool to allow agents to check vessels for compliance with those requirements. VMS will also provide valuable data about this sector of the fishery, including fishing effort information that can be used for analytical purposes and in the development of future management measures.

The Council proposed the power-down allowance to reduce impacts on vessels in this sector, and it is being implemented by this final rule. The analyses in Framework 17 project that the initial costs of VMS can be offset if the scallop landings per vessel increase minimally. The measures are expected to better define the active general category fleet and allow the Council to obtain better information to develop management measures in the future. Active vessels should experience benefits from improved management of the scallop resource overall.

Comment 6: MEDMR commented that many boats lack the computer and electrical systems needed to operate VMS; therefore, they will also have to make significant system upgrades at a considerable expense to comply with the requirement.

Response: Framework 17 does not identify the need for ''significant system upgrades'' to accommodate VMS. As discussed in the Framework 17 document, the Skymate VMS unit does require a supporting personal computer, which is accounted for in the cost estimates.

Comment 7: MEDMR commented that there are virtually no landings of scallops from the Gulf of Maine (GOM) in recent years, yet there are hundreds of fishermen currently active in other fisheries who should be able to fish for scallops in the GOM when the stock rebuilds.

Response: Framework 17 does not prevent vessels from continuing to fish for scallops and does not prohibit future fishing opportunities.

Comment 8: MEDMR and two industry representatives commented that the considerable costs of purchasing and operating VMS will cause general category vessel owners in Maine to cancel their general category permits, thus losing their scallop landings and revenue. MEDMR and an industry representative both expressed concern that owners who cancel their permits may then lose their future eligibility for this fishery, because there is a November 1, 2004, control date for the general category scallop fishery. The industry representative contends that if the Council develops a limited access program for the general category fishery, vessel owners who stop participating in the scallop fishery because of the VMS requirement will fail to qualify for the limited access vessel permit.

Response: NMFS understands that participants in the general category scallop fishery are mindful of the fact that the Council may determine in the future to develop a limited access program. The Council's rationale for the requirement is in large part because the Council requires better information about the fishery in order to consider the issue of limited access. At this point, individual vessel owners must make their own decisions about the best course of action to take for the future. The analyses in Framework 17 project

that active general category scallop vessels are likely to increase their scallop landings to offset the costs of VMS purchase, installation, and operation costs, rather than opting into the non-VMS scallop vessel permit category, particularly in light of the November 1, 2004, control date. Previously inactive vessels may also begin to fish for scallops to offset the costs of VMS. However, some vessel owners may decide to reduce their participation to the level allowed under the non-VMS scallop vessel permit.

The Framework 17 analyses do not indicate that the VMS requirement would eliminate any fisheries. Some vessel owners may choose to obtain the non-VMS general category vessel permit and elect to catch a small amount of scallops per trip. Owners of vessels that do not traditionally land more than 40 lb (18.14 kg) will have to consider whether or not purchasing a VMS and landing more scallops would be cost effective for their circumstances.

A review of the analyses in Framework 17 shows that the concerns expressed by the commenters do not appear to be confined to Maine vessels. As is the case for owners in other states, the owners of general category vessels in Maine may choose to constrain their scallop landings to 40 lb (18.14 kg) of scallops and avoid the VMS requirement, or they may opt to install VMS unit and land up to 400 lb (181.44 kg) of scallops.

Comment 9: Two commenters supported the modification of the broken trip provision for the Access Area fishery. One of these commenters stated that vessels with broken trips should be allowed to make up the balance of their trip without penalties.

Response: NMFS agrees and implements the revision to the broken trip provision that eliminates the automatic DAS and possession limit deduction for compensation trips. Further, vessels with broken trips that occurred after March 1, 2005, will receive automatic rebates of scallop pounds that were deducted for the associated compensation trips.

Changes from the Proposed Rule

In § 648.4, paragraphs (a)(2)(ii)(D) and (E) have been added to specify the initial permit application process for general category permit designation.

Pursuant to the Paperwork Reduction Act (PRA), part 902 of title 15 CFR displays control numbers assigned to NMFS information collection requirements by OMB. This part fulfills the requirements of section 3506(c)(1)(B)(i) of the PRA, which requires that agencies display a current control number, assigned by the Director of OMB, for each agency information collection requirement. This final rule codifies OMB control numbers for 0648–0529 for §§ 648.4, 648.9, and 648.10.

Under NOAA Administrative Order 205–11, 7/01, dated December 17, 1990, the under Secretary for Oceans and Atmosphere has delegated authority to sign material for publication in the **Federal Register** to the Assistant Administrator for Fisheries, NOAA (AA).

Classification

The RA determined that the framework adjustment implemented by this final rule is necessary for the conservation and management of the Atlantic sea scallop fishery and is consistent with the Magnuson-Stevens Act and other applicable law.

For the following reasons, the AA has determined that there is good cause to waive the 30-day delayed effectiveness provision of the APA pursuant to 5 U.S.C. 553(d)(3), for the revision to the broken trip provision under Framework 17. The revision to the broken trip provision specified in § 648.60(c)(5) in this final rule is less restrictive than the current broken trip provision and promotes safety at sea. The revision allows vessels to return to an Access Area to harvest the full remainder of the scallop possession limit. Vessel owners and operators believe that the automatic deduction of DAS and possession limit has resulted in compromised safety at sea because owners and operators claim that vessels may remain at sea in unsafe conditions (e.g., in severe weather, the event of an injury, or mechanical failure) in order to avoid losing a portion of the trip, which could be worth several thousand dollars. Removal of the automatic deduction therefore, may improve safety at sea by eliminating a source of uncertainty in vessel operator decisions when faced with an unforseen event such as bad weather, injury, and mechanical failure. NMFS expects that it will receive several broken trip compensation request forms in the 30 days following publication of the final rule. Although it is uncertain, there is a likelihood that vessels will be forced to break a trip as a result of bad weather in the next 30 days because of the variable effects of weather on different vessels. Weather events have different effects on vessels depending on the size of the vessel and other physical vessel characteristics. Large vessels may be able to remain at sea safely in storms, only coming into port in severe weather, while smaller vessels may be in unsafe conditions in moderately bad weather. Crew injuries and mechanical failures which jeopardize the safety of the crews on vessels may also cause vessels to return to port following publication of the final rule. If faced with the possibility of continuing penalties for breaking trips as a result of bad weather, injury, or mechanical failure, while the final rule is delayed, vessel operators may believe that they should avoid the penalty, thereby compromising safety. Numerous other reasons cause broken trips, including depletion of supplies, ice, and fuel, on vessels, minor mechanical and gear malfunctions, and minor illnesses. While these problems may not specifically jeopardize the safety of the crew, vessel operators may continue to be reluctant to terminate trips even for these reasons if faced with a penalty. If the delayed effectiveness provision is not waived, each request will be subject to the penalty for 30 additional days after the final rule is published. Given that the penalty is administrative, appears to be unnecessary for the management and enforcement of the Access Area program, and may compromise safety, there is good cause to waive the 30-day delay in effectiveness.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS, pursuant to section 604 of the Regulatory Flexibility Act (RFA), has prepared a FRFA in support of Framework 17. The FRFA describes the economic impact that this final rule, along with other non-preferred alternatives, will have on small entities.

The Final RFA (FRFA) incorporates the economic impacts and analysis summarized in the IRFA for the proposed rule to implement Framework 17 (70 FR 32282, June 2, 2005), the comments and responses in this final rule, and the corresponding economic analyses prepared for Framework 17 (e.g., the EA and the RIR). The contents of these incorporated documents are not repeated in detail here. A copy of the IRFA, the RIR, and the EA are available upon request (see **ADDRESSES**). Measures in Framework 17 are intended to improve the management of the scallop fishery. A full description of the action and why it is being considered are contained in the preamble to this final rule. The Magnuson-Stevens Act and the Atlantic Sea Scallop Fishery Management Plan, which allow for framework adjustments and amendments to improve the management of the scallop fishery, are the legal basis for this action. This final rule does not duplicate, overlap or

conflict with any relevant Federal rules. A summary of the analysis follows:

Description of Small Entities to Which the Proposed Rule Will Apply

Framework 17 will affect vessels with limited access and general category scallop permits. The vessels in the Atlantic sea scallop fishery are all considered small business entities because all of them grossed less than $3.5 million according to dealer data for the 2001, 2002, and 2003 fishing years. Therefore, there is no disproportionate impact between small and large vessels.

According to the recent permit data, 289 vessels obtained full-time limited access permits in 2003, including 37 small-dredge and 16 scallop trawl permits. In the same year, there were also 34 part-time and 10 occasional limited access permits in the scallop fishery. In addition, 2,554 permits were issued to vessels in the open access general category. Annual revenue from all species, including scallops, averaged about $814,000 per full-time vessel, $405,800 per part-time vessel, and $121,800 per occasional vessel during the 2003 fishing year. The average annual revenue per vessel that participated in the general category scallop fishery was $235,300 in 2003. The average annual revenue per vessel that would be impacted by this action was estimated to be $165,845 for the 2003 fishing year.

Regulatory impacts on profitability were also evaluated and are discussed in the section of this FRFA summary entitled: Description of the Significant Economic Impacts.

A Summary of the Comments and Statement of Changes

The State of Maine, four individuals, and two fishing industry representatives commented that the VMS requirements included in Framework 17 would result in extreme hardship for Maine vessels that have had general category scallop permits and that fish for scallops for part of the year. Comments suggested that the measures may eliminate an inshore Maine scallop fishery and most of the comments opposed to Framework 17 stated that Maine vessels would give up their scallop permit rather than incur the expense of the VMS. These comments are provided in detail in the ''Comments and Responses'' portion of this final rule.

NMFS considered these comments and reviewed the analysis in Framework 17. The Framework 17 document and analyses thoroughly evaluate potential economic impacts (see Section 6.2 of the Framework 17 document and EA). The EA concludes that there would not be significant economic impacts as a result of any of the measures under Framework 17 because very few of the vessels with general category scallop permits (276 out of 2,544) have reported landings of scallops greater than 40 lb (18.14 kg) per trip, resulting in few vessel owners actually being subject to the VMS requirement. Most of the general category fleet is expected to be unaffected by the requirement to install and operate VMS. Further, the Framework 17 document provides a thorough analysis of the cost of VMS units and the expected amount of additional fishing that would be necessary to cover the initial and ongoing costs of the units. As discussed below under ''Description of the Significant Economic Impacts'' the number of trips that it would take to cover the cost of VMS the first year would be about 5 to 7 trips landing 400 lb (181.44 kg) each. Additional trips would begin to generate profits. Operating costs for subsequent years would require minimal additional effort (e.g., one additional 400–lb (181.44–kg) trip). Finally, the economic and social impacts analysis thoroughly evaluated state-by-state participation in the general category fishery. The analysis does not indicate that impacts would be particularly severe in Maine. In particular, Tables 29 through 31 demonstrate that landings of scallops in Maine are relatively low compared to other states. Therefore, NMFS expects that while some vessel owners in Maine may increase effort in order to pay for VMS units, others would continue to land less than 40 lb (18.14 kg) per trip or would not fish for scallops at all, and would elect not to purchase and install VMS units.

Description of the Significant Economic Impacts

1. VMS Requirement for General Category Vessels

This final rule implements the VMS requirement for all general category scallop vessels that possess more than 40 lb (18.14 kg) of scallops at any time. NMFS expects that the exception for vessels that land 40 lb (18.14 kg) of scallops or less will limit the number of vessels required to comply with the new VMS requirement to those that are most active. Other vessels would be able to continue fishing without VMS provided they continue to land 40 lb (18.14 kg) of scallops or less per trip. There were 2,554 vessels with general category permits in the 2003 fishing year; 2,278 of these vessels either did not have any scallop landings or landed no more than 40 lb (18.14 kg) of scallops per trip. A total of 276 general category vessels landed over 40 lb (18.14 kg) of scallops per trip during the 2003 fishing year. These 276 vessels accounted for approximately 99.9 percent of the general category scallop landings in 2003, and 53 of these vessels already have VMS units. Therefore, the action is expected to affect the remaining 223 vessels that do not already have VMS. If all 223 vessels choose to install and operate a VMS, the total costs to the industry of installing VMS could range from $795,000 to $1,307,000 during the initial year of implementation. Total costs would be higher if additional vessel owners seek the option of landing more than 40 lb (18.14 kg) of scallops per trip. However, examining the costs to individual vessels and the amount of scallop trips necessary to offset the initial costs demonstrates that it is likely that initial costs could be offset by increased scallop landings.

The cost of VMS for each vessel is considered in the economic impact analysis in the Framework 17 document. Costs include the initial cost of purchasing and installing the VMS units and ongoing costs of service fees. The initial investment costs for VMS, including the installation charge, activation fee, and monthly service, are estimated to be $3,565 for Skymate and $4,735 for Boatracs. After this initial investment, the costs of VMS for vessels will decline substantially, and will consist of annual service charges estimated to be $1,260 for Boatracs and $647 for Skymate. The initial purchase and installation costs for each vessel would be offset by vessels taking an additional 5 to 7 1-day trips landing 400 lb (181.44 kg) of scallops. Continuing costs would be offset with only 1 to 2 additional trips landing 400 lb (181.44 kg) of scallops.

General category vessels that would be impacted by this action are distinguished by their scallop revenue relative to VMS costs. One group consists of 79 to 87 vessels (depending on the VMS unit installed), which could not cover the cost of the VMS units with their landings of scallops if they continue to harvest scallops at their historical level. Scallop landings per trip for this group of vessels were less than 90 lb (40.8 kg), and annual revenue per vessel from scallops averaged about $1,323 to $1,569. Another group consists of 136 to 144 vessels, depending on the VMS unit installed, which historically make scallop landings that generate revenue to equal or exceed the costs of the VMS units. The majority of these vessels targeted scallops and earned, on average,

$50,000 or more in scallop revenue during the 2003 fishing year.

This action would have negative economic impacts on vessels if they choose to install a VMS and do not increase their scallop landings enough to cover the cost of VMS. Without additional landings, the cost of installing and operating VMS will reduce their profits. Some vessels may therefore choose to lower their scallop landings to the incidental amount (40 lb; 18.14 kg) in order to retain their general category permit without having a VMS onboard. Other vessels could increase trips and landings to the level that would cover the cost of VMS. The analysis notes that vessels fishing for scallops for the first time would have to make landings to cover the cost of VMS before generating any profits. To cover the initial purchase and installation costs, each vessel would need to take approximately 5 to 7 one-day trips landing 400 lb (181.44 kg) of scallops. Continuing costs would be offset with only 1 to 2 trips. For vessels that are likely to increase the number of trips to cover the cost of VMS, this represents only a marginal increase in effort. It is unlikely that such vessels would purchase VMS and not increase effort given the recent high scallop catch rates and product value.

There are several mitigating factors that could minimize the negative economic impacts of VMS implementation for the general category vessels that are required to operate a VMS. Framework 17 provides the flexibility to any vessel with a general category permit to retain the permit without having a VMS on board, as long as scallop catch per trip is limited to the incidental amount (40 lb/18.14 kg per trip). Therefore, many vessels that do not land any scallops per trip, or that land only a small amount of scallops per trip can avoid VMS costs without experiencing a significant amount of revenue loss and without giving up their general category permit. For other general category vessels that already earn significant amounts of revenue from scallop trips in excess of the VMS costs, costs can be covered fully or in part by taking additional trips and/or by increasing the scallop catch per trip. Between 2,000 and 2,600 lb (907.2 and 1,179.3 kg) of scallops would be necessary to cover the initial and ongoing operational costs of the VMS, depending on the unit purchased, and assuming that scallops constitute the only source of revenue from those trips. This catch translates into an additional five to seven 1-day trips at landings of 400 lb (181.44 kg) of scallops per trip. Vessels could also offset VMS costs through additional revenue from other species landed. In the long term, there may be indirect benefits from better enforcement and monitoring of general category vessel landings, and as a result of the safety benefits associated with VMS position data in case of an accident.

NMFS considered and rejected four significant alternatives to the action implemented in this final rule. One alternative would have required all vessels with general category permits, 2,554 vessels or more, to have operable VMS units. This alternative was expected to have excessive costs to the fleet overall, equal to approximately $8 to $12 million. It also was expected to negatively impact 2,344 vessels that do not currently have VMS. It would have affected all general category scallop vessels regardless of their level of landings and such action could not be justified given the costs. Three other alternatives were considered that would have required smaller subsets of the general category scallop vessels to have operable VMS units. Rather than exempting vessels possessing 40 lb (18.14 kg) or less, the alternatives would have exempted vessels from the VMS requirement if they possess less than 100 lb (45.36 kg), 200 lb (90.71 kg), or 300 lb (136.08 kg). While these three alternatives would have impacted a smaller subset of vessels, it would have severely compromised enforcement of the general category possession limit by continuing to facilitate vessels making unreported and illegal landings. These alternatives would be inconsistent with the goals of improving enforcement of the general category fleet under Framework 17.

2. VMS Power-down Exemption

This action implements the power-down provision to allow vessels to turn the VMS off while in port and tied to a dock or mooring. This provision is expected to help to reduce costs associated with the VMS requirement by reducing polling costs and eliminating the cost of generating electricity while the vessel is tied to a dock or mooring without continuous power. Alternatives would have required that vessels keep the VMS unit operable at all times, which could have increased costs and would be difficult for vessels without continuous electrical supply to docks or moorings.

3. Modification of Broken Trip Provision

This action modifies the broken trip provision by eliminating the requirement for a reduction in the scallop possession limit when a broken trip occurs. This measure is expected to have positive economic impacts by reducing the losses from broken trips for the limited access scallop vessels that fish under the Area Access Program. This measure will prevent such revenue loss because it allows vessels to fully harvest the uncaught portion of the possession limit on a subsequent trip. Since the 2005 fishing year is not yet complete, the analysis assumes that the number of broken trips would be approximately the same as the 2004 fishing year. It is not possible to predict the amount of broken trips since they result mainly from random and unforseen events such as severe weather, mechanical problems, and injury. Assuming that the number of broken trip applications are approximately the same as they were during 2004 fishing year, approximately $1.6 million in revenue for the scallop fishery could be recovered by eliminating the possession limit reduction. If the number of broken trips increases in the 2005 fishing year, potential lost revenue from the automatic deduction would be even higher without the Framework 17 revision. Adopting the status quo alternative, i.e., maintaining the automatic DAS and possession limit deduction, would result in continued loss of potential revenues from the scallop access areas.

Economic Impacts of Significant and Other Non-selected Alternatives

This action minimizes the costs for the small business entities operating in the general category scallop fishery as compared to the non-selected alternative 1, under which all vessels with general category permits would be required to operate a VMS. This non-selected alternative would expand the VMS requirement to apply to the 2,278 vessels with general category permits that historically catch no more than 40 lb (18.14 kg) of scallops. The VMS unit costs would require these vessels to either increase their scallop harvest to cover the costs of VMS, or cancel their general category permit, thus losing all scallop revenue. Three other alternatives considered by the Council would have required VMS on general category vessels if the vessel's landings were over 100 lb (45.4 kg), 200 lb (90.7 kg), or 300 lb (136.1 kg) for each alternative. These alternatives would require a smaller subset of vessels to operate VMS, and would result in lower overall costs to the general category fleet compared to the proposed action. However, concerns about the enforcement problems associated with exempting a large number of general category vessels resulted in adoption of

the measure being implemented by this action.

The alternative to the power-down exemption would have required VMS operation at all times. It would not minimize economic impacts on small entities compared to the proposed measure. In addition to continuous costs associated with automatic polling of vessel location, requiring vessels to operate VMS units without a power-down provision could present compliance problems for vessels that do not have sufficient power to run the VMS unit while the vessel is tied to a dock or mooring. It may, in turn, be costly for these vessels to devise a way to keep power supply to the VMS units while the vessel is moored.

Similarly, maintaining the automatic DAS and possession limit charge for broken trips could continue to have negative economic impacts on limited access vessels, and would not minimize economic impacts on small entities. As noted above, approximately $1.6 million in revenue for the scallop fishery could be recovered by eliminating the automatic DAS and possession limit charge. If the number of broken trips increases in the 2005 fishing year, the potential for forgone revenues from the automatic DAS and possession limit charge would be even higher.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide has been prepared. The guide will be sent to all holders of permits issued for the Atlantic scallop fishery. In addition, copies of this final rule and guide (i.e., permit holder letter) are available from the RA and are also available from NMFS, Northeast Region (see **ADDRESSES**).

This final rule contains new collection-of-information requirements approved by OMB under the PRA. These new requirements apply to general category vessels only (the requirements already exist for and/or do not apply to other scallop vessels). Public reporting burden for these collections of information are estimated to average as follows:

1. Purchase and installation of VMS units, OMB control number 0648–0529 (1 hr per response);

2. Verification of VMS units, OMB control number 0648–0529 (5 min per response);

3. Notification and application for appropriate general category permit designation, OMB control number 0648–0529 (30 min per response);

4. VMS power-down notification, OMB control number 0648–0529 (2 min per response); and

5. VMS re-power and trip notification, OMB control number 0648–0529 (2 min per response).

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS and to OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: August 16, 2005.

John Oliver

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

15 CFR Chapter IX

■ For the reasons stated in the preamble, 15 CFR chapter IX, part 902, and 50 CFR chapter VI, part 648 are amended as follows:

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for 15 CFR part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

§ 902.1 [Amended]

■ 2. In § 902.1, amend the table in paragraph (b) under the CFR part ''50 CFR'' by adding the entry ''-0529'' in numerical order to sections ''648.4'', ''648.9'', and ''648.10'' under the OMB control number column.

50 CFR Chapter VI

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 3. The authority citation for 50 CFR part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 4. In § 648.4, paragraph (a)(2)(ii) is revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(2) * * *

(ii) *General scallop permit.* Any vessel of the United States that is not in possession of a limited access scallop permit, and that possesses, or lands per trip, 400 lb (181.44 kg) of shucked meats, or 50 bu (17.62 hL) of in-shell scallops, or less, except vessels that fish exclusively in state waters for scallops, must comply with one of the permit requirements described in paragraphs (a)(2)(ii)(A) or (B) of this section, unless otherwise exempted under paragraph (a)(2)(ii)(C) of this section, and must comply with the application procedures specified in paragraphs (a)(2)(ii)(D) and (E) of this section.

(A) *Non-VMS general scallop permit.* To possess or land up to, but not more than 40 lb (18.14 kg) of shucked or 5 bu (176.2 L) in-shell scallops per trip that are sold or are intended to be sold, a vessel must apply for and be issued a non-VMS general scallop permit. A vessel issued a non-VMS general scallop permit may not possess or land more than 40 lb (18.14 kg) of shucked or 5 bu (176.2 L) of in-shell scallops at any time.

(B) *VMS general scallop permit.* To possess or land more than 40 lb (18.14 kg) of shucked or 5 bu (176.2 L) of in-shell scallops, up to 400 lb (181.44 kg) of shucked meats, or 50 bu (17.62 hL) of in-shell scallops, a vessel must apply for and be issued a VMS general scallop permit. Issuance of a VMS general scallop permit requires the vessel owner to submit a copy of the vendor installation receipt from a NMFS-

approved VMS vendor as described in § 648.9.

(C) *Vessels without general scallop permits.* No scallop permit is required for a vessel that possess or lands up to 40 lb (18.14 kg) of shucked or 5 bu (176.2 L) per trip, provided such scallops are not, or are not intended to be, sold, traded, or bartered.

(D) *General scallop permit category designation.* The owner of a vessel issued a general scallop permit for the 2005 fishing year is required to complete and submit an application to the Regional Administrator for the appropriate permit designation as specified in paragraphs (a)(2)(ii)(A) and (B) of this section by September 21, 2005. Vessels shall be issued the appropriate permit category by October 21, 2005 based on the application submitted by the vessel owner. Initial general scallop permit category designations are effective October 21, 2005. A vessel owner who fails to submit a copy of the vendor installation receipt from a NMFS-approved VMS vendor as described in 648.9 by October 21, 2005, shall automatically be issued the non-VMS general scallop permit. If no application is received by October 21, 2005 for vessels previously issued a general scallop permit for the 2005 fishing year, such vessels shall be reissued non-VMS general scallop permits. Vessel owners may request a change in permit category for their general category vessel no later than 45 days from October 21, 2005.

(E) *General scallop permit restrictions.* A vessel may be issued a general scallop permit in only one category during a fishing year. The owner of a vessel issued a general scallop permit must elect a permit category upon the vessel's permit application and shall have one opportunity to request a change in permit category by submitting an application to the Regional Administrator within 45 days of the effective date of the vessel's permit. After that date, the vessel must remain in that permit category for the duration of the fishing year.

* * * * *

■ 5. In § 648.9, paragraph (c)(1) introductory text is revised, and paragraphs (c)(1)(iii) and (c)(2)(i)(D) are added to read as follows:

§ 648.9 VMS requirements.

* * * * *

(c) * * *

(1) Except as provided in paragraph (c)(2) of this section, or unless otherwise required by paragraph (c)(1)(ii) or (iii) of this section, all required VMS units must transmit a signal indicating the vessel's accurate position, as specified under paragraph (c)(1)(i) of this section.

* * * * *

(iii) At least twice per hour, 24 hours a day, throughout the year, for vessels issued a general scallop permit and subject to the requirements of § 648.4(a)(2)(ii)(C), or a limited access scallop permit.

* * * * *

(2) * * *

(i) * * *

(D) The vessel has been issued a general scallop permit and is required to operate VMS as specified in § 648.10(b)(1)(iv), is not in possession of any scallops onboard the vessel, is tied to a permanent dock or mooring, and the vessel operator has notified NMFS through VMS that the VMS will be powered down, unless required by other permit requirements for other fisheries to transmit the vessel's location at all times. Such a vessel must repower the VMS prior to moving from the fixed dock or mooring.

* * * * *

■ 6. In § 648.10, the section heading and paragraph (b)(1)(iv) are revised to read as follows:

§ 648.10 DAS and VMS notification requirements.

* * * * *

(b) * * *

(1) * * *

(iv) A scallop vessel issued a general scallop permit that possesses, or lands per trip, more than 40 lb (18.14 kg) shucked or 5 bu (176.2 L) in shell scallops, or when fishing under the Sea Scallop Area Access Program specified under § 648.60 and in the Sea Scallop Access Areas described in § 648.59(b) through (d);

* * * * *

■ 7. In § 648.14, paragraphs (i)(11) and (12) are added to read as follows:

§ 648.14 Prohibitions.

* * * * *

(i) * * *

(11) Fail to have an approved, operational, and functioning VMS unit that meets the specifications of § 648.9 on board the vessel at all times, unless the vessel is not subject to the VMS requirements specified in § 648.10.

(12) If the vessel is not subject to VMS requirements specified in § 648.10, possess more than 40 lb (18.14 kg) shucked or 5 bu (176.2 L) in-shell scallops at any time.

* * * * *

■ 8. In § 648.52, paragraph (c) is revised to read as follows:

§ 648.52 Possession and landing limits.

* * * * *

(c) Owners or operators of vessels with a limited access scallop permit that have declared into the Sea Scallop Area Access Program as described in § 648.60 are prohibited from fishing for or landing per trip, or possessing at any time, more than any sea scallop possession and landing limit specified in or specified by the Regional Administrator in accordance with § 648.60(a)(5).

* * * * *

■ 9. In § 648.60, paragraph (c)(5) is revised to read as follows:

§ 648.60 Sea scallop area access program requirements.

* * * * *

(c) * * *

(5) The Regional Administrator shall authorize the vessel to take an additional trip and shall specify the amount of scallops that the vessel may land on such trip and the number of DAS charged for such trip, pursuant to the calculation specified in paragraph (c)(5)(i) of this section. Such authorization shall be made within 10 days of receipt of the formal written request for compensation.

(i) The amount of scallops that can be landed on an authorized additional Sea Scallop Access Area trip shall equal the possession limit specified in paragraph (a)(5) of this section minus the amount of scallops landed on the terminated trip. For example, in the 2005 fishing year, if a full-time scallop vessel lands 6,500 lb (2,948.4 kg) of scallops and requests compensation for the terminated trip, the possession limit for the additional trip is 11,500 lb (5,216.3 kg) or 18,000 lb (8,164.7 kg) minus 6,500 lb (2,948.4 kg).

(ii) If a vessel is authorized more than one additional trip for compensation into any Sea Scallop Access Area as the result of more than one terminated trip in the same Access Area, the possession limits for the authorized trips may be combined, provided the total possession limit on a combined compensation trip does not exceed the possession limit for a trip as specified in paragraph (a)(5) of this section. For example, a vessel that has two broken trips with corresponding compensation trip authorizations of 10,000 lb (4,535.9 kg) and 8,000 lb (3,628.7 kg) may combine the authorizations to allow one compensation trip with a possession limit of 18,000 lb (8,164.6 kg).

(iii) A vessel that terminated a 2005 access area trip after March 1, 2005, but before August 22, 2005, shall be issued authorization to harvest the amount of

pounds deducted from the possession limit for the additional trip. The Regional Administrator will issue this authorization automatically, without request from the vessel owner. A rebated possession limit may be combined with other additional trips as described in paragraph (c)(5)(ii) of this section.

* * * * *

[FR Doc. 05–16613 Filed 8–19–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Flunixin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The supplemental ANADA provides for veterinary prescription use of flunixin meglumine solution by intravenous injection in lactating dairy cattle for control of fever associated with bovine respiratory disease and endotoxemia, and for control of inflammation in endotoxemia.

DATES: This rule is effective August 22, 2005.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–9808, e-mail: *john.harshman@fda.gov*.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th Street Ter., St. Joseph, MO 64503, filed a supplemental ANADA 200 124 that provides for veterinary prescription use of Flunixin Meglumine Injection intravenously in lactating dairy cattle for control of fever associated with bovine respiratory disease and endotoxemia, and for control of inflammation in endotoxemia. The supplemental ANADA is approved as of July 18, 2005, and the regulations are amended in 21 CFR 522.970 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subject in 21 CFR Part 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. Section 522.970 is amended by revising paragraph (e)(2)(iii) to read as follows:

§ 522.970 Flunixin.

* * * * *

(e) * * *

(2) * * *

(iii) *Limitations*. Do not slaughter for food use within 4 days of last treatment. A withdrawal period has not been established for use in preruminating calves. Do not use in calves to be processed for veal. For Nos. 000061 and 059130: Do not use in dry dairy cows. Milk that has been taken during treatment and for 36 hours after the last treatment must not be used for food. For Nos. 055529 and 057561: Not for use in lactating or dry dairy cows.

Dated: August 10, 2005.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 05–16499 Filed 8–19–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9220]

RIN 1545–BE66

Converting an IRA Annuity to a Roth IRA

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary Regulations.

SUMMARY: This document contains temporary regulations under section 408A of the Internal Revenue Code (Code). These temporary regulations provide guidance concerning the tax consequences of converting a non-Roth IRA annuity to a Roth IRA. These temporary regulations affect individuals establishing Roth IRAs, beneficiaries under Roth IRAs, and trustees, custodians and issuers of Roth IRAs. The text of these temporary regulations also serves as the text of proposed regulations set forth in a notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective August 19, 2005.

Applicability Date: These regulations are applicable to any Roth IRA conversion where an annuity contract is distributed or treated as distributed from a traditional IRA on or after August 19, 2005.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Cathy A. Vohs, 202–622–6060.

SUPPLEMENTARY INFORMATION:

Background

Roth IRAs and Conversions

This document contains temporary regulations that amend the Income Tax Regulations (26 CFR part 1) under section 408A of Code relating to Roth IRAs. Section 408A of the Code, which was added by section 302 of the Taxpayer Relief Act of 1997, Public Law 105–34 (111 Stat. 788), establishes the Roth IRA as a type of individual retirement plan, effective for taxable years beginning on or after January 1, 1998.

Under Code section 408A, a Roth IRA is treated like a traditional IRA with several significant exceptions. Like amounts held in traditional IRAs, amounts held in Roth IRAs generally are exempt from Federal income tax under Code section 408(e)(1). Likewise, contributions to traditional IRAs and