such information is required for purposes of section 535 of the Act; and

* * * * *

■ 4. Section 1002.42 is revised to read as follows:

§ 1002.42 Confidentiality of records furnished by dealers and distributors.

All information furnished to manufacturers by dealers and distributors pursuant to this part shall be treated by such manufacturers as confidential information which may be used only as necessary to notify persons pursuant to section 535 of the Act.

PART 1003—NOTIFICATION OF DEFECTS OR FAILURE TO COMPLY

■ 5. The authority citation for 21 CFR part 1003 is revised to read as follows:

Authority: 21 U.S.C. 360hh–360ss.

PART 1004—REPURCHASE, REPAIRS, OR REPLACEMENT OF ELECTRONIC PRODUCTS

■ 6. The authority citation for 21 CFR part 1004 is revised to read as follows:

Authority: 21 U.S.C. 360hh–360ss.

PART 1005—IMPORTATION OF ELECTRONIC PRODUCTS

■ 7. The authority citation for 21 CFR part 1005 is revised to read as follows:

Authority: 21 U.S.C. 360ii, 360mm.

■ 8. In 1005.25, paragraph (c) is revised to read as follows:

§ 1005.25 Service of process on manufacturers.

* * * * *

(c) Service of any process, notice, order, requirement, or decision specified in section 536(d) of Subchapter C—Electronic Product Radiation Control of the Federal Food, Drug, and Cosmetic Act (formerly the Radiation Control for Health and Safety Act of 1968) (21 U.S.C. 360mm(d)) may be made by registered or certified mail addressed to the agent with return receipt requested, or in any other manner authorized by law. In the absence of such a designation or if for any reason service on the designated agent cannot be effected, service may be made as provided in section 536(d) by posting such process, notice, order, requirement, or decision in the Office of the Director, Center for Devices and Radiological Health and publishing a notice that such service was made in the **Federal Register**.

PART 1010—PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS: GENERAL

■ 9. The authority citation for 21 CFR part 1010 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360, 360e–360j, 360hh–360ss, 371, 381.

■ 10. In 1010.4, paragraph (c)(3) is revised to read as follows:

§ 1010.4 Variances.

* * * * *

(c) * * *

(3) All applications for variances and for amendments and extensions thereof and all correspondence (including written notices of approval) on these applications will be available for public disclosure in the office of the Division of Dockets Management, except for information regarded as confidential under section 537(e) of the act.

* * * * *

PART 1020—PERFORMANCE STANDARDS FOR IONIZING RADIATION EMITTING PRODUCTS

■ 11. The authority citation for 21 CFR part 1020 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360e–360j, 360hh–360ss, 371, 381.

PART 1030—PERFORMANCE STANDARDS FOR MICROWAVE AND RADIO FREQUENCY EMITTING PRODUCTS

■ 12. The authority citation for 21 CFR part 1030 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360, 360e–360j, 360hh–360ss, 371, 381.

PART 1040—PERFORMANCE STANDARDS FOR LIGHT-EMITTING PRODUCTS

■ 13. The authority citation for 21 CFR part 1040 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360, 360e–360j, 360hh–360ss, 371, 381.

PART 1050—PERFORMANCE STANDARDS FOR SONIC, INFRASONIC, AND ULTRASONIC RADIATION-EMITTING PRODUCTS

■ 14. The authority citation for 21 CFR part 1050 is revised to read as follows:

Authority: 21 U.S.C. 351, 352, 360, 360e–360j, 360hh–360ss, 371, 381.

Dated: March 29, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–7288 Filed 3–31–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Chapter I

[Docket No. FDA–2010–N–0148]

Revision of Organization and Conforming Changes to Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing this final rule to amend the regulations to reflect organization change in the agency and to make other conforming changes. This action is editorial in nature and is intended to improve the accuracy of the agency's regulations.

DATES: This rule is effective April 1, 2010.

FOR FURTHER INFORMATION CONTACT: Vanessa Starks, Office of Management Programs (HFA–410), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4654; or Sharon Burgess, Division of Human Capital Management (HFA–410), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2065.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is issuing this final rule to amend its regulations by updating the organizational information in part 5 (21 CFR part 5).

The agency has updated the references to part 5, subpart M.

The portion of this final rule updating the organizational information in part 5, subpart M is a rule of agency organization, procedure, or practice. FDA is issuing these provisions as a final rule without publishing a general notice of proposed rulemaking because such notice is not required for rules of agency organization, procedure, or practice under 5 U.S.C. 553(b)(3)(A). For the conforming changes to the other regulations, the agency finds good cause under 5 U.S.C. 553(b)(3)(B) to dispense with prior notice and comment, and good cause under 5 U.S.C. 553(d)(3) to make these conforming changes effective less than 30 days after publication because such notice and comment and delayed effective date are unnecessary and contrary to the public interest. These conforming changes merely update the footnotes in part 5, subpart M. These changes do not result

in any substantive change in the regulations.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority of the Commissioner of Food and Drugs, 21 CFR Part 5 is amended as follows:

■ 1. Part 5 is revised to read as follows:

PART 5—ORGANIZATION

Subparts A–L—[Reserved]

Subpart M—Organization

Authority: 5 U.S.C. 552; 21 U.S.C. 301–397.

Subparts A–L—[Reserved]

Subpart M—Organization

§ 5.1100 Headquarters.

The central organization of the Food and Drug Administration consists of the following:

OFFICE OF THE COMMISSIONER.[1]

Office of the Chief Counsel.[2]

Office of the Administrative Law Judge.[1]

Office of Women's Health.

Office of Policy, Planning & Budget.[1]

Office of Policy.

Policy Development and Coordination Staff.

Regulations Policy and Management Staff.

Regulations Editorial Section.

Office of Planning.[1]

Planning Staff.

Evaluation Staff.

Economics Staff.

Risk Communication Staff.

Business Process Planning Staff.

Office of Budget.[1]

Office of Legislation.[3]

Office of the Counselor to the Commissioner.[1]

Office of Crisis Management.

Office of Emergency Operations.

Office of the Chief Of Staff.[1]

Executive Secretariat.

Office of Special Medical Programs.

Office of Good Clinical Practice.

Office of Combination Products.[4]

Office of Orphan Products Development.

Office of Pediatric Therapeutics.[3]

Office of International Programs.[3]

Office of External Affairs.

Office of External Relations.[3]

Communications Staff.

Office of Public Affairs.[1]

Web Communications Staff.

Office of Special Health Issues.[3]

Medwatch Staff.

Office of Foods.[1]

Office of the Chief Scientist.[1]

Office of Counter-Terrorism and Emerging Threats.[3]

Office of Critical Path Programs.

Office of Scientific Integrity.

Office of Science and Innovation.

Office of International Programs.[3]

Office of Administration.[1]

Office of Equal Employment Opportunity & Diversity Management.[3]

Conflict Prevention and Resolution Staff.

Compliance Staff.

Diversity Staff.

Office of Acquisitions and Grants Services.[5]

Division of Acquisition Operations.

Division of Acquisition Support and Grants.

Division of Acquisition Programs.

Division of Information Technology.

Office of Executive Operations.[1]

Office of Financial Operations.[6]

Office of Financial Management.[6]

Controls, Compliance, and Oversight Staff.

Business Transformation, Administration and Management Staff.

User Fees Staff.

Financial Systems Support Staff.

Division of Accounting.

Division of Budget Execution and Control.

Office of Financial Services.

Division of Payment Services.

Division of Travel Services.

Office of Information Management.[6]

Division of Business Partnership and Support.[6]

Division of Chief Information Officer Support.[6]

Division of Systems Management.[7]

Division of Infrastructure Operations.[8]

Division of Technology.[8]

Office of Management.[3]

Ethics and Integrity Staff.

Office of Business Operations and Human Capital Programs.

Office of Management Programs.

Office of Security Operations.

Office of White Oak Services.[1]

Division of Logistics Services and Facilities Operations.

Division of White Oak Consolidation.

Office of Shared Services.[5]

Office of Real Property Services.

Jefferson Laboratories Complex Staff.

Division of Engineering Services.

Environment, Safety And Strategic Initiatives Staff.

Division of Facilities Operations.

Portfolio Development Staff.

Employee Resource & Information Center.

Office of Public Information and Library Services.

Division of Dockets Management.

Division of Freedom of Information.

FDA Biosciences Library.

Public Services Branch.

Technical Services Branch.

FDA History Office.

CENTER FOR BIOLOGICS EVALUATION AND RESEARCH.[9]

Office of the Center Director.

Regulations Policy Staff.

Quality Assurance Staff.

Office of Management.

Regulatory Information Management Staff.

Division of Planning, Evaluation, and Budget.

Division of Veterinary Services.

Division of Program Services.

Division of Scientific Advisors & Consultants.

Building Operations Staff.

Office of Compliance and Biologics Quality.

[1] Mailing address: 10903 New Hampshire Ave., Silver Spring, MD 20906.

[2] The Office of the Chief Counsel (also known as the Food and Drug Division, Office of the General Counsel, Department of Health and Human Services), while administratively within the Office of the Commissioner, is part of the Office of the General Counsel of the Department of Health and Human Services.

[3] Mailing address: 5600 Fishers Lane, Rockville, MD 20857.

[4] Mailing address: 15800 Crabbs Branch Way, Rockville, MD 20855.

[5] Mailing address: 5630 Fishers Lane, Rockville, MD 20857.

[6] Mailing address: 1350 Piccard Dr., Rockville, MD 20850.

[7] Mailing address: 2094 Gaither Rd., Rockville, MD 20850.

[8] Mailing address: 2098 Gaither Rd., Rockville, MD 20850.

[9] Mailing address: 1401 Rockville Pike, Rockville, MD 20852.

Division of Case Management.
Division of Inspections and Surveillance.
Division of Manufacturing and Product Quality.
Office of Biostatistics and Epidemiology.
Division of Biostatistics.
Division of Epidemiology.
Office of Information Management.
Division of Information Operations.
Division of Information Development.
Office of Blood Research and Review.
Policy and Publications Staff.
Division of Emerging and Transfusion Transmitted Diseases.
Division of Hematology.
Division of Blood Applications.
Office of Vaccines Research and Review.
Program Operation Staff.
Division of Product Quality.
Division of Bacterial, Parasitic, and Allergenic Products.
Division of Viral Products.
Division of Vaccines and Related Product Applications.
Office of Cellular, Tissue, and Gene Therapies.
Regulatory Management Staff.
Division of Cellular and Gene Therapies.
Division of Clinical Evaluation and Pharmacology/Toxicology.
Division of Human Tissues.
Office of Communication, Outreach and Development.
Division of Disclosure and Oversight Management.
Division of Manufacturers Assistance and Training.
Division of Communication and Consumer Affairs.
CENTER FOR DEVICES AND RADIOLOGICAL HEALTH.[1]
Office of the Center Director.
Office of Systems and Management.
Division of Ethics and Management Operations.
Division of Planning, Analysis and Finance.
Division of Information Dissemination.
Division of Information Technology.
Office of Compliance.
Promotion and Advertising Policy Staff.
Division of Bioresearch Monitoring.
Division of Program Operations.
Division of Enforcement A.
Division of Enforcement B.
Office of Device Evaluation.
Program Management Staff.
Program Operations Staff.
Division of Cardiovascular Devices.
Division of Reproductive, Gastro-Renal and Urological Devices.
Division of General, Restorative, and Neurological Devices.
Division of Surgical, Orthopedic and Restorative Devices.
Division of Ophthalmic, and Ear, Nose and Throat Devices.
Division of Anesthesiology, General Hospital, Infection Control, and Dental Devices.
Office of Science and Engineering Laboratories.
Division of Biology.
Management Support Staff.
Standards Management Staff.
Division of Chemistry and Materials Science.
Division of Solid and Fluid Mechanics.
Division of Physics.
Division of Imaging and Applied Mathematics.
Office of Communication, Education and Radiation Programs.
Program Operations Staff.
Regulations Staff.
Staff College.
Division of Device User Programs and Systems Analysis.
Division of Small Manufacturers Assistance.
Division of Mammography Quality and Radiation Programs.
Division of Communication Media.
Office of Surveillance and Biometrics.
Issues Management Staff.
Division of Biostatistics.
Division of Postmarket Surveillance.
Division of Surveillance Systems.
Office of In Vitro Diagnostic Device Evaluation and Safety.
Division of Chemistry and Toxicology Devices.
Division of Immunology and Hematology Devices.
Division of Microbiology Devices.
Division of Radiological Devices.
CENTER FOR DRUG EVALUATION AND RESEARCH.[10]
Office of the Center Director.
Controlled Substance Staff.
Office of Regulatory Policy.
Division of Regulatory Policy I.
Division of Regulatory Policy II.
Division of Regulatory Policy III.
Division of Information Disclosure Policy.
Office of Management.
Division of Management and Budget.
Division of Management Services.
Office of Communications.
Division of Information Services.
Division of Public Affairs.
Division of Drug Information.
Office of Surveillance and Epidemiology.[11]
Review and Management Staff.
Business Process Improvement Staff.
Regulatory Policy Staff.
Division of Medication Error Prevention and Analysis.
Division of Pharmacovigilance I.
Division of Pharmacovigilance II.
Division of Drug Risk Evaluation.
Division of Epidemiology.
Office of Compliance.[1]
Division of Compliance Risk Management and Surveillance.
Division of New Drugs and Labeling Compliance.
Division of Manufacturing and Product Quality.
Division of Scientific Investigations.
Office of New Drugs.[2]
Pediatric and Maternal Health Staff.
Program Management Analysis Staff.
Office of Drug Evaluation I.
Division of Cardiorenal Cardiovascular and Renal Drug Products.
Division of Neurology Products.
Division of Psychiatry Products.
Office of Drug Evaluation II.
Division of Metabolism and Endocrinology Products.
Division of Pulmonary, Allergy and Rheumatology Products.
Division of Anesthesia and Analgesia Products.
Office of Drug Evaluation III.
Division of Gastroenterology Products.
Division of Reproductive and Urologic Products.
Division of Dermatology and Dental Products.
Office of Antimicrobial Products.
Division of Anti-Infective and Ophthalmology Products.
Division of Anti-Viral Products.
Division of Special Pathogen and Transplant Products.
Office of Drug Evaluation IV.
Division of Nonprescription Clinical Evaluation.
Division of Nonprescription Regulation Development.

[10] Mailing address: 10903 New Hampshire Ave., White Oak Bldg. 51, Silver Spring, MD 20993.

[11] Mailing address: 10903 New Hampshire Ave., White Oak Bldg. 22, Silver Spring, MD 20993.

Division of Medical Imaging Products.
Office of Oncology Drug Products.
Division of Drug Oncology Products.
Division of Hematology Products.
Division of Biologic Oncology Products.
Office of Pharmaceutical Science.[1]
Program Activities Review Staff.
Operations Staff.
Science and Research Staff
New Drug Microbiology Staff.
Office of Generic Drugs.[12]
Division of Bioequivalence.
Division of Labeling and Program Support.
Division of Chemistry I.
Division of Chemistry II.
Division of Chemistry III.
Office of New Drug Quality Assessment.[13]
Division of New Drug Quality Assessment I.
Division of New Drug Quality Assessment II.
Branch IV.
Branch V.
Branch VI.
Division of New Drug Quality Assessment III.
Branch VII.
Branch VIII.
Branch IX.
Office of Testing and Research.[2]
Laboratory of Clinical Pharmacology.
Division of Applied Pharmacology Research.
Division of Pharmaceutical Analysis.
Division of Product Quality Research.
Office of Biotechnology Products.[4]
Division of Monoclonal Antibodies.
Division of Therapeutic Protein.
Office of Medical Policy.[2]
Division of Drug Marketing, Advertising and Communication.
Office of Executive Programs.[1]
Division of Training and Development.
Division of Executive Operations.
Division of Advisory Committee and Consultant Management.
Office of Translational Sciences.[4]
Office of Biostatistics.
Division of Biometrics I.
Division of Biometrics II.
Division of Biometrics III.
Division of Biometrics IV.
Division of Biometrics V.
Division of Biometrics VI.
Division of Biometrics VII.
Office of Clinical Pharmacology.[1]
Division of Clinical Pharmacology I.
Division of Clinical Pharmacology II.
Division of Clinical Pharmacology III.
Division of Clinical Pharmacology IV.
Division of Clinical Pharmacology V.
Division of Pharmacometrics.
Office of Counter-Terrorism and Emergency Coordinator.
Office of Planning and Informatics.
Office of Planning and Analysis.
Planning and Evaluation Staff.
Analysis Staff.
Office of Business Informatics.
Division of Records Management.
Division of Regulatory Review Support.
Division of Business Analysis and Reporting.
Division of Project Development.
CENTER FOR FOOD SAFETY AND APPLIED NUTRITION.[14]
Office of the Center Director.
Senior Science Advisor Staff.
Executive Operations Staff.
International Staff.
Office of Management Systems.
Division of Planning and Financial Resources Management.
Division of Program Support Services.
Office of Food Defense, Communication and Emergency Response.
Division of Education and Communication.
Division of Public Health and Biostatistics.
Office of Food Safety.
Retail Food and Cooperative Programs Support Staff.
Division of Seafood Science and Technology.
Division of Food Processing Science and Technology.
Division of Plant and Dairy Food Safety.
Division of Seafood Safety.
Office of Cosmetics and Colors.
Cosmetic Staff.
Division of Color Certification and Technology.
Office of Regulatory Science.
Division of Analytical Chemistry.
Division of Microbiology.
Division of Bioanalytical Chemistry.
Office of Food Additive Safety.
Senior Science and Policy Staff.
Division of Food Contact Notifications.
Division of Biotechnology and GRAS Notice Review.
Office of Compliance.
Division of Enforcement.
Division of Field Programs and Guidance.
Office of Applied Research and Safety Assessment.
Muirkirk Technical Operations Staff.
Division of Molecular Biology.
Division of Virulence Assessment.
Division of Toxicology.
Office of Regulations, Policy and Social Sciences.
Regulations and Special Government Employees Management Staff.
Division of Social Sciences.
Office of Nutrition, Labeling and Dietary Supplements.
Food Labeling and Standards Staff.
Nutrition Programs Staff.
Infant Formula and Medical Foods Staff.
Division of Dietary Supplement Programs.
CENTER FOR TOBACCO PRODUCTS.[15]
Office of the Center Director.
Office of Management.
Office of Policy.
Office of Regulations.
Office of Science.
NATIONAL CENTER FOR TOXICOLOGY RESEARCH.[16]
Office of the Center Director.
Office of Management.
Office of Executive Programs and Services.
Office of Scientific Coordination.
Office of Research.
Division of Biochemical Toxicology.
Division of Genetic and Reproductive Toxicology.
Genetic Toxicology Laboratory.
Reproductive Toxicology Laboratory.
Division of Personalized Nutrition and Medicine.
Biometry Branch.
Pharmacogenomics Branch.
Division of Microbiology.
Division of Neurotoxicology.
Division of Veterinary Services.
Division of Systems Toxicology.
Office of Regulatory Compliance and Risk Management.
OFFICE OF REGULATORY AFFAIRS.[3]
Equal Employment Opportunity Staff.
Office of Resource Management.[3]

[12] Mailing address: 7519 Standish Pl., Bldg. MPN4, Rockville, MD 20855.

[13] Mailing address: 10903 New Hampshire Ave., White Oak Bldg. 21, Silver Spring, MD 20993.

[14] Mailing address: 5100 Paint Branch Pkwy., College Park, MD 20740–3835.

[15] Mailing address: 9200 Corporate Blvd., Rockville, MD 20850.

[16] Mailing address: 3900 NCTR Rd., Jefferson, AR 72079.

Division of Planning, Evaluation, and Management.
Division of Human Resource Development.
Division of Management Operations.
Division of Personnel Operations.
Office of Information Technology.
Office of Enforcement.[5]
Division of Compliance Management and Operations.
Division of Compliance Policy.
Division of Compliance Information and Quality Assurance.
Office of Regional Operations.[3]
Division of Federal-State Relations.
Division of Field Science.
Division of Import Operations and Policy.
Division of Field Investigations.
Office of Criminal Investigations.[17]
Mid-Atlantic Area Office.[3]
Midwest Area Office.[18]
Northeast Area Office.[19]
Pacific Area Office.[20]
Southeast Area Office.[21]
Southwest Area Office.[22]
CENTER FOR VETERINARY MEDICINE.[23]
Office of the Center Director.
Office of Management.[24]
Management Logistics Staff.
Financial Resources Staff.
Human Capital Staff.
Learning Management Staff.
Office of New Animal Drug Evaluation.[25]
Division of Therapeutic Drugs for Non-Food Animals.
Division of Biometrics and Production Drugs.
Division of Therapeutic Drugs for Food Animals.
Division of Human Food Safety.
Division of Manufacturing Technologies.
Division of Scientific Support.
Division of Generic Animal Drugs.
Office of Surveillance and Compliance.[26]
Division of Surveillance.
Division of Animal Feeds.
Division of Compliance.
Division of Epidemiology.
Office of Research.[27]
Administrative Staff
Division of Residue Chemistry.
Division of Animal Research.
Division of Animal and Food Microbiology.
Office of Minor Use and Minor Species Animal Drug Development.[28]

§ 5.1105 Chief Counsel, Food and Drug Administration.

The Office of the Chief Counsel's mailing address is 5600 Fishers Lane, rm. 6–05, Rockville, MD 20857.[1]

§ 5.1110 FDA public information offices.

(a) *Division of Dockets Management.* The Division of Dockets Management public room is located in rm. 1061, 5630 Fishers Lane, Rockville, MD 20852, Telephone: 301–827–6860.

(b) *Division of Freedom of Information.* The Freedom of Information public room is located in rm. 6–30, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–827–6567.

(c) *Press Relations Staff.* Press offices are located in White Oak Bldg. 1, 10903 New Hampshire Ave., Silver Spring, MD 20993, Telephone: 301–827–6242; and at 5100 Paint Branch Pkwy., College Park, MD 20740, Telephone: 301–436–2335.

Dated: March 26, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–7282 Filed 3–31–10; 8:45 am]

BILLING CODE 4160–01–S

[17] Mailing address: 7500 Standish Pl., Rockville, MD 20855.

[18] Mailing address: 901 Warrenville Rd., Lisle, IL 60532.

[19] Mailing address: 10 Exchange Pl., Jersey City, NJ 07302.

[20] Mailing address: 201 Avenida Fabricante, San Clemente, CA 92672.

[21] Mailing address: 865 SW 78th Ave., Plantation, FL 33324.

[22] Mailing address: 5799 Broadmoor St., Mission, KS 66202.

[23] Mailing address: 7519 Standish Pl., Bldg. MPN4, rm. 176, Rockville, MD 20855.

[24] Mailing address: 7529 Standish Pl., Bldg. MPN5, rm. 3577, Rockville, MD 20855.

[25] Mailing address: 7520 Standish Pl., Bldg. MPN2, rm. 239, Rockville, MD 20855.

[26] Mailing Address: 7519 Standish Pl., Bldg. MPN5, rm. 300, Rockville, MD 20855.

[27] Mailing address: 8401 Muirkirk Rd., Bldg. MOD2, rm. G101, Laurel, MD 20708.

[28] Mailing address: 7500 Standish Pl., Bldg. MPN2, rm. N378, Rockville, MD 20855.

[1] The Office of the Chief Counsel (also known as the Food and Drug Division, Office of the General Counsel, Department of Health and Human Services), while administratively within the Office of the Commissioner, is part of the Office of the General Counsel of the Department of Health and Human Services.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 23

[Docket No. OST–2010–0022]

RIN 2105–AD88

Participation by Disadvantaged Business Enterprises in Airport Concessions

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Final rule.

SUMMARY: The Department of Transportation is removing the "sunset" provision from its rule governing the airport concessions disadvantaged business enterprise (ACDBE) program. The revised rule instead provides reviewing the program to ensure that it is being effectively implemented.

DATES: This rule is effective April 1, 2010.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, Room W94–302, 202–366–9310, *bob.ashby@dot.gov*.

SUPPLEMENTARY INFORMATION: When the Department issued its final rule revising its ACDBE rule (49 CFR part 23) in 2005, the rule included at section 23.7 a "sunset" provision. This provision said, unless extended by the Department, the provisions of part 23 would terminate and become inoperative on April 21, 2010. The preamble to the rule explained the rationale for this provision as follows:

> The Department is introducing a "sunset" provision into the final rule as a way of addressing the durational element of narrow tailoring. A narrowly-tailored rule is not intended to remain in effect indefinitely. Rather, the rule should be reviewed periodically to ensure that it continues to be needed and that it remains a constitutionally appropriate way of implementing its objectives. Consequently, this provision states that this rule will terminate and cease being operative in five years, unless the Department extends it. We intend, beginning four years from now, to review the rule to determine whether it should be extended, modified, or allowed to expire. Of course, the underlying DBE statute remains in place, and its requirements continue to apply regardless of the status of this regulation, absent future Congressional action. (70 FR 14502; March 22, 2005).

The Department believes that it is useful to begin reviewing the provisions of part 23 at this time, for the purpose of