

waiver in conformity with § 385.2001 of this chapter, if it fails patently to comply with applicable statutory requirements or Commission rules, regulations and orders; and

(v) Take appropriate action on petitions to permit after an initial 60-day period one additional 60-day period of exemption pursuant to § 284.264(b) of this chapter where the application for extension arrives at the Commission no later than 45 days after the commencement of the initial period of exemption and where only services are involved.

(11) *Regulation of Oil Pipelines Under the Interstate Commerce Act.* (i) Accept any uncontested item that has been filed consistent with Commission regulations and policy;

(ii) Reject any filing, unless accompanied by a request for waiver in conformity with § 385.2001 of this chapter, that patently fails to comply with applicable statutory requirements and with all applicable Commission rules, regulations and orders; and

(iii) Prescribe for carriers the classes of property for which depreciation charges may be properly included under operating expenses, review the fully documented depreciation studies filed by the carriers, and authorize or revise the depreciation rates reflected in the depreciation study with respect to each of the designated classes of property.

(b) *General, Non-Program-Specific Delegated Authority.* (1) Take appropriate action on:

(i) Any notice of intervention or motion to intervene, filed in an uncontested proceeding processed by the Office of Energy Markets and Reliability; and

(ii) Applications for extensions of time to file required filings, reports, data and information and to perform other acts required at or within a specific time by any rule, regulation, license, permit, certificate, or order by the Commission.

(2) Take appropriate action on requests or petitions for waivers of:

(i) Filing requirements for the appropriate statements and reports processed by the Office of Energy Markets and Reliability under Parts 46, 141, 260 and 357 of this chapter, §§ 284.13 and 284.126 of this chapter, and other relevant Commission orders; and

(ii) Fees prescribed in §§ 381.403 and 381.505 of this chapter in accordance with § 381.106(b) of this chapter.

(3) Undertake the following actions:

(i) Issue reports for public information purposes. Any report issued without Commission approval must:

(A) Be of a noncontroversial nature, and

(B) Contain the statement, "This report does not necessarily reflect the views of the Commission," in bold face type on the cover;

(ii) Issue and sign requests for additional information regarding applications, filings, reports and data processed by the Office of Energy Markets and Reliability; and

(iii) Accept for filing, data and reports required by Commission regulations, rules or orders, or presiding officers' initial decisions upon which the Commission has taken no further action, if such filings are in compliance with such regulations, rules, orders or decisions and, when appropriate, notify the filing party of such acceptance.

#### § 375.308 [Amended]

■ 63. Section 375.308 is amended by amending paragraph (a) to add the phrase "in opposition" following the phrase "motion or notice of intervention."

#### § 375.311 [Removed and Redesignated]

■ 64. Remove § 375.311 and redesignate § 375.314 as new § 375.311.

### PART 376—ORGANIZATION, MISSION, AND FUNCTIONS; OPERATIONS DURING EMERGENCY CONDITIONS

■ 65. The authority citation for part 376 continues to read as follows:

**Authority:** 5 U.S.C. 553; 42 U.S.C. 7101–7352; E.O. 12009; 3 CFR 1978 Comp., p. 142.

#### § 376.204 [Amended]

■ 66. Section 376.204 is amended by amending paragraph (b)(2)(x) to remove the phrase "Assistant General Counsels" and add in its place the phrase "Deputy Associate General Counsels."

#### § 376.207 [Amended]

■ 67. Section 376.207 is amended by removing the phrase "Director of the Office of Finance, Accounting and Operations" and adding in its place the phrase "Executive Director."

### PART 380—REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

■ 68. The authority citation for part 380 continues to read as follows:

**Authority:** 42 U.S.C. 4321–4370a, 7101–7352; E.O. 12009, 3 CFR, 1978 Comp., p. 142.

#### § 380.12 [Amended]

■ 69. Section 380.12 is amended by amending paragraph (a)(3) to remove the phrase "OPR" and add in its place the phrase "the Office of Energy Projects," by amending paragraphs (c)(3)(ii), (c)(3)(iii), and (f)(5) to remove the

phrase "Pipeline Regulation" and add in its place the phrase "Energy Projects," and by amending paragraph (f) to remove the phrase "OPR's" and add in its place the phrase "Office of Energy Projects' (OEP)."

#### § 380.13 [Amended]

■ 70. Section 380.13 is amended by amending paragraphs (b)(2)(iii), (b)(5)(iv), and (c) to remove the phrase "Pipeline Regulation" and add in its place the phrase "Energy Projects" and by amending paragraph (b)(5)(iv) to remove the phrase "OPR" and add in its place the phrase "OEP."

#### § 380.14 [Amended]

■ 71. Section 380.14 is amended by amending paragraph (a)(3) to remove the phrase "Pipeline Regulation" and add in its place the phrase "Energy Projects."

### PART 385—RULES OF PRACTICE AND PROCEDURE

■ 72. The authority citation for part 385 continues to read as follows:

**Authority:** 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825v, 2601–2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101–7352, 16441, 16451–16463; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

#### § 385.2201 [Amended]

■ 73. Section 385.2201 is amended by amending paragraph (h)(1) to remove the phrase "paragraph (f)(1)" and add in its place the phrase "paragraph (f)(2)."

[FR Doc. E7–15664 Filed 8–13–07; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 74

[Docket No. 1995C–0286] (formerly Docket No. 95C–0286)

#### Listing of Color Additives Subject to Certification; D&C Black No. 3; Confirmation of Effective Date

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; confirmation of effective date.

**SUMMARY:** The Food and Drug Administration (FDA) is confirming the effective date of July 20, 2007, for the final rule that appeared in the **Federal Register** of June 19, 2007 (72 FR 33664). The final rule amended the color

additive regulations to provide for the safe use of D&C Black No. 3 (bone black, subject to FDA batch certification) as a color additive in the following cosmetics: Eyeliner, eye shadow, mascara, and face powder.

**DATES:** Effective date confirmed: July 20, 2007.

**FOR FURTHER INFORMATION CONTACT:** Judith Kidwell, Center for Food Safety and Applied Nutrition (HFS-265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740-3835, 301-436-1071.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of June 19, 2007 (72 FR 33664), FDA amended the color additive regulations to add § 74.2053 (21 CFR 74.2053) to provide for the safe use of D&C Black No. 3 as a color additive in the following cosmetics: Eyeliner, eye shadow, mascara, and face powder.

FDA gave interested persons until July 19, 2007, to file objections or requests for a hearing. The agency received no objections or requests for a hearing on the final rule. Therefore, FDA finds that the effective date of the final rule that published in the **Federal Register** of June 19, 2007, should be confirmed.

#### List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e) and under authority delegated to the Commissioner of Food and Drugs (1410.10 of the FDA Staff Manual Guide), notice is given that no objections or requests for a hearing were filed in response to the June 19, 2007, final rule. Accordingly, the amendments issued thereby became effective July 20, 2007.

Dated: August 7, 2007.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. E7-15831 Filed 8-13-07; 8:45 am]

**BILLING CODE 4160-01-S**

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 23 CFR Parts 630, 635, and 636

[FHWA Docket No. FHWA-2006-22477]

RIN 2125-AF12

#### Design-Build Contracting

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FHWA is amending its regulations for design-build contracting as mandated by section 1503 of the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" (SAFETEA-LU). This rule will allow State transportation departments or local transportation agencies to issue request-for-proposal documents, award contracts, and issue notices-to-proceed for preliminary design work prior to the conclusion of the National Environmental Policy Act (NEPA) process.

**EFFECTIVE DATE:** September 13, 2007.

**FOR FURTHER INFORMATION CONTACT:** For technical information: Mr. Gerald Yakowenko, Office of Program Administration (HIPA), (202) 366-1562. For legal information: Mr. Michael Harkins, Office of the Chief Counsel (HCC-30), (202) 366-4928, Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This document and all comments received by the DOT Dockets, Room PL-401, may be viewed through the Docket Management System (DMS) at <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of this Web site.

An electronic copy of this document may be downloaded from the **Federal Register's** home page at <http://www.archives.gov> and the Government Printing Office's Web page at <http://www.access.gpo.gov/nara>.

##### Background

Section 1503 of the SAFETEA-LU (Pub. L. 109-59; August 10, 2005, 119 Stat. 1144) revises the definition of a design-build "qualified project" (23 U.S.C. 112(b)(3)). This change removes a previous monetary threshold for design-build projects, thus eliminating the requirement to approve Federal-aid design-build projects exceeding certain dollar thresholds under Special Experimental Project No. 14 (SEP-14).<sup>1</sup> When appropriate, the FHWA will continue to make SEP-14 available for

projects that do not conform to the requirements of 23 CFR part 636.

Section 1503 also requires the Secretary of Transportation to make certain changes to the design-build regulations at 23 CFR part 636. Generally, section 1503 requires the Secretary to amend the design-build rule to permit a State transportation department to release requests for proposals and award design-build contracts prior to the completion of the NEPA process, but preclude a contractor from proceeding with final design or construction before NEPA is complete.

#### Notice of Proposed Rulemaking (NPRM)

The FHWA published a NPRM on May 25, 2006, (71 FR 30100) proposing certain changes to comply with section 1503 of SAFETEA-LU. All comments received in response to the NPRM have been considered in drafting this final rule. We received 36 comments. The commenters include: one private individual, one Federal agency, the Governor of the State of Indiana, 18 State departments of transportation (State DOTs), 3 local public agencies, 8 industry organizations, and 4 firms that provide engineering and construction services. We classified the American Association of State Highway and Transportation Officials (AASHTO) as a State DOT, because it represents State DOT interests. It is noted that the State DOTs of Idaho, Montana, North Dakota, and South Dakota submitted a combined comment. It is also noted that these State DOTs, as well as the Wyoming Department of Transportation, simply commented that they support the comments submitted by AASHTO. Additionally, an organization known as the E-470 Public Highway Authority simply commented that it supports the comments submitted by the Texas Department of Transportation (TxDOT). Lastly, the FHWA notes that the Southern California Association of Governments (SCAG) submitted its comments on the design-build NPRM to the docket for the FHWA's planning NPRM (Docket No. FHWA-2005-22986). The FHWA considered SCAG's comments along with all other comments submitted to the rulemaking docket for the design-build NPRM in developing this final rule.

#### General

The following discussion summarizes the major comments submitted to the docket by the commenters on the NPRM, notes where and why changes have been made to the rule, and, where relevant, states why particular recommendations or suggestions have

<sup>1</sup> Information concerning Special Experimental Project No. 14 (SEP-14), "Innovative Contracting Practices," is available on FHWA's home page: <http://www.fhwa.dot.gov>. Additional information may be obtained from the FHWA Division Administrator in each State.