

## PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

4. The authority citation for part 70 continues to read as follows:

**Authority:** 7 U.S.C. 1621–1627.

5. Section 70.71 is revised to read as follows:

### § 70.71 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be \$65.00 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of \$75.12 per hour. Information on legal holidays is available from the Supervisor.

6. In § 70.77, paragraph (a)(4) is revised to read as follows:

### § 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

\* \* \* \* \*

(a) \* \* \*

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by \$0.00039, except that the minimum charge per billing period shall be \$260 and the maximum charge shall be \$2,875. The minimum charge also applies where an approved application is in effect and no product is handled.

\* \* \* \* \*

Dated: February 24, 2005.

**Barry L. Carpenter,**

*Acting Administrator, Agricultural Marketing Service.*

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**BILLING CODE 3410–02–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Parts 413, 415, and 417

[Docket No. FAA–2000–7953; Notice No. 05–02]

**RIN 2120–AG37**

### Licensing and Safety Requirements for Launch

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Availability of draft regulatory language; Notice of public meeting.

**SUMMARY:** The FAA is making available a draft of changes to the commercial space transportation regulations governing licensing and safety requirements for launch. We intend the changes to identify, codify, and maintain the successful safety measures that have been implemented at the federal launch ranges belonging to the Department of Defense and NASA. We are also establishing clear safety requirements for launches from non-federal launch sites. We will hold a public meeting on March 29–31, 2005, to give stakeholders an opportunity to get information about, and provide comments on, the draft regulatory language.

**DATES:** Send your comments to reach us by May 2, 2005. The FAA will host a facilitated public meeting in Washington, DC on March 29–31, 2005 from 8:30 a.m. to 4 p.m. each day.

**ADDRESSES:** The public meeting will take place in the Discovery I Conference Room of the Holiday Inn—Capitol at 550 C Street, SW., Washington, DC. Persons who are unable to attend the meeting and who wish to file written comments may send comments identified by Docket Number FAA–2000–7953 using any of the following methods:

*DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

*Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

*Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.

*Fax:* 1–202–493–2251.

*Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC,

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Privacy:* We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* To read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Written comments to the docket will receive the same consideration as statements made at the public meeting.

**FOR FURTHER INFORMATION CONTACT:** For technical information: René Rey, (202) 267–7538. For legal information: Laura Montgomery, (202) 267–3150. If you would like to present a statement at the public meeting, have questions about the logistics of the meeting, or would like to arrange an accommodation, contact Brenda Parker, (202) 267–3674 before March 15, 2005.

### SUPPLEMENTARY INFORMATION:

#### Licensing and Safety Requirements for Launch Amendments

The draft regulatory language includes changes to the commercial space transportation regulations governing licensing and safety requirements for launch. Some of the changes were originally part of a notice of proposed rulemaking published in 2000 (65 FR 63921, Oct. 25, 2000) (2000 NPRM). Other changes were part of a supplemental notice of proposed rulemaking published in 2002 (67 FR 49456, July 30, 2002) (2002 SNPRM).

The FAA revisited the issue of how much cost to attribute to the draft rule. The FAA found there would potentially be certain costs associated with FAA review of federal launch range implementation of the proposed requirements. In an attempt to be responsive to industry's concerns about costs, the FAA obtained an independent economic analysis from Science Applications International Corporation (SAIC). SAIC's analysis validated the FAA's estimates. Both reports are available in the docket.

In preparing the draft regulatory language, we have also made changes to the proposed language to clarify the FAA's position, respond to comments,

or adopt range practice, including a reorganization of part 415 and changes to various definitions. These changes are summarized below. A matrix showing the correspondences between the FAA draft regulatory language and Air Force requirements in EWR 127-1 and AFSPCMAN 91-710 can be found at <http://ast.faa.gov/um/>. This matrix should facilitate the ability of interested parties to examine the commonality of requirements among the three documents. Certain internal range requirements, particularly in the area of flight safety analysis, will not be found in either of the Air Force requirements documents, but in internal Air Force handbooks. Those handbooks are not part of this matrix.

*Reorganization, Licensee Requirements Moved From Part 415 to Part 417*

Part 415 contains requirements that an applicant must meet in order to obtain a license and requirements that a licensee must comply with during the term of the license. The draft regulatory language would move all licensee requirements from part 415 to part 417, subpart A, but would not change application requirements, except for the flight readiness requirements of § 415.37.

*Definition of "Equivalent Level of Safety"*

The draft regulatory language defines "equivalent level of safety" as "an approximately equal level of safety that may be determined by qualitative or quantitative means." The SNPRM proposed defining "equivalent level of safety" as "an approximately equal level of safety. An equivalent level of safety may involve a change to the level of expected risk that is not statistically or mathematically significant as determined by qualitative or quantitative risk analysis." In light of the comments received, the FAA excluded the reference to risk. We did not want to create the impression that risk is the only measure of safety, when equivalence may be determined through quantitative or qualitative means.

*Grandfathering of "Meets Intent" Certification and Waivers*

The FAA's two proposals regarding grandfathering have been further modified in response to industry concerns that the FAA was changing current practice. With these changes, concerns over grandfathering should no longer be an issue. The draft regulatory language differs from the proposal in that a launch operator no longer has to be licensed to be eligible for grandfathering a "meets intent"

certification or waiver in § 417.1(c). This change conforms to Federal launch range practice. The FAA also now requires that a launch operator, upon request, produce documentation of "meets intent" certifications or waivers to demonstrate compliance with the requirements of part 417. The proposal would have only allowed licensed launch operators to grandfather "meets intent" certifications or waivers and, contrary to current practice, did not require documentation.

*New Performance Based Standard for Waterborne Vessel and Aircraft Risk Limit in § 417.107(b)(3) and (4)*

In response to commenters' concerns, the FAA re-examined the waterborne vessel and aircraft risk limit originally proposed in § 417.107(b)(3) and (4). This re-examination focused on current range practice. Based upon this re-examination, the draft regulatory language makes the requirements more performance based and better reflects the current practices of the Western and Eastern Range. Under the draft regulatory language, a launch operator would implement waterborne vessel hazard areas and aircraft hazard areas that provide an equivalent level of safety to that provided by waterborne vessel hazard areas and aircraft hazard areas implemented for launch from a Federal range.

*Addition of § 417.107(e)(iii) To Protect Habitable Orbital Objects*

Section 417.107(e) of the draft regulatory language would require a launch operator to ensure that a launch vehicle, any jettisoned components, and its payload do not pass any closer than 200 kilometers to a habitable orbital object and to obtain a collision avoidance analysis for each launch. The draft regulatory language includes new subparagraph (iii) to protect habitable orbital objects during each subsequent orbital maneuver or burn from initial park orbit, or direct ascent to a higher interplanetary orbit, or until clear of all habitable objects, whichever occurs first. This captures the current practice for protection of habitable orbital objects at the Federal ranges.

*Addition of § 417.111(i)(5)(iii), (iv), (v) Requiring Contact With Local Authorities*

The draft regulatory language modifies proposed § 417.111 in response to comments to require a launch operator to notify not only the Coast Guard and FAA Air Traffic Control when conducting a launch, as proposed, but also notifying any equivalent local authorities.

*New § 417.129, Safety at End of Launch*

The draft regulatory language includes new § 417.129, which requires a launch operator to ensure no physical contact between the vehicle and payload after separation, as well as making sure that stored energy in the vehicle is depleted and thus not able to generate debris.

*Addition of "Equivalent Level of Fidelity" in § 417.203(c)*

The draft regulatory language modifies proposed § 417.203(c) to add the concept of "equivalent level of fidelity" for alternate methods of analysis. This would require an operator to use accurate data and scientific principles when making the case for an alternate method of flight safety analysis. Use of an "equivalent level of fidelity" instead of "equivalent level of safety" clarifies that when a launch operator seeks to use an alternative method of flight safety analysis, the launch operator would have to use accurate data and scientific principles in doing so.

*Addition of § 417.218, Hold and Resume Gate Analysis*

The draft regulatory language includes new § 417.218, which may permit a vehicle overflight or near overflight of a populated or otherwise protected area during some portion of a launch. A launch vehicle may perform overflight if a risk assessment is acceptable and if a flight termination system will not be used to destroy a vehicle while the vehicle is flying over the populated or protected area. A launch operator would be responsible for identifying the periods of time during vehicle flight in which use of a flight termination system would be more detrimental to a populated or protected area than not using such a system. Section 417.218 is an extension of the "overflight gate analysis" proposed in the 2000 NPRM and appears in the draft regulatory language as § 417.217. Section 417.217 would require a launch operator to conduct a risk analysis and "hold" use of a flight termination system once a vehicle passes a certain point or "gate." Section 417.218 would extend this concept and define those periods of time where a flight termination system must not be used. Adopting § 417.218 may expand the number of trajectories for certain launch sites and potentially increase the number of inland launch sites.

*Elimination of a Five-Sigma Cross Range Bound About the Nominal Vehicle Trajectory in § 417.223*

The draft regulatory language includes § 417.223, which would require a launch operator's flight hazard area analysis to establish aircraft and ship hazard areas that encompass a three-sigma impact dispersion area for each planned debris impact, instead of a five-sigma standard as proposed in the 2000 NPRM. This change is in response to comments and to adopt current range practice.

*Change to § 417.224, Probability of Failure Analysis*

The draft regulatory language includes changes to § 417.224, which would require all flight safety analyses for a launch, regardless of hazard or phase of flight, to account for launch vehicle failure probability in a consistent manner. Section 417.224 also would require that a launch vehicle failure probability estimate use accurate data, scientific principles, and satisfy the principles of probability, statistics, and mathematics.

Section A417.25(b)(5) in the 2002 SNPRM (proposed § 417.227(b)(6)(i–iii) in the 2000 NPRM) would have required a launch operator's debris risk analysis account for launch vehicle failure probability using theoretical or actual launch vehicle flight data in accordance with a specific prescribed method.

The FAA recognizes that there is more than one way to establish an acceptable estimate of the probability of failure, especially for new launch vehicles. A performance standard permits a launch operator to employ these different methodologies so long as the methodologies satisfy the performance standards for expendable launch vehicle probability of failure analyses.

*Addition of § 417.301(d)*

The draft regulatory language would add new paragraph (d) to § 417.301 to clarify the flight safety system requirements for a licensed launch from a Federal launch range or a non-Federal launch site. For launch from a non-Federal launch site, compliance with the flight safety system requirements is demonstrated through licensing. If a Federal range oversees the safety of a licensed launch, the FAA will accept the flight safety system without any demonstration of compliance by the launch operator to the FAA with some necessary conditions, which recognize that not all Federal ranges have experience conducting all types of expendable launches. The FAA will accept a flight safety system used by a

Federal launch range if a launch operator has contracted with a Federal launch range for the provision of flight safety system services and property, and the FAA has assessed the range and found that the range's systems and procedures satisfy the requirements of this subpart. Paragraph (d) also discusses the grandfathering provisions of § 417.1(b).

*New Version of § 417.303(b)*

The draft regulatory language modifies § 417.303(b) to require that a command control system and each subsystem, component, and part that can affect the reliability of a component have written performance specifications that demonstrate, and contain the details of, how each satisfies the requirements of this section.

*Rewrite of Appendix B to Part 417*

The draft regulatory language includes a new appendix B to part 417 that incorporates current practice at Federal ranges. Appendix B contains requirements that meet the public risk requirements for the protection of ships and aircraft contained in § 417.107. Appendix B captures the current practice at the Federal ranges by requiring such things as notifications, notices to airmen and mariners, and hazard analysis for a launch site, downrange areas, ship, aircraft, and land areas.

*Changes to Wind Weighting Analysis of § 417.5(c)*

The draft regulatory language includes substantive changes to the wind weighting analysis portion of Appendix C to part 417 from that proposed in the 2000 NPRM. The changes relate to the measurement of wind velocity and direction in § 417.5(c). The draft regulatory language would require that a launch operator measure wind velocity and direction at altitude increments such that the maximum correction between any two measurements does not exceed 5%. A launch operator would still have to measure winds four times, but the required altitudes would be different. Now, the maximum required altitude for the first measurement would be that necessary to account for 99% of the wind effect, instead of 90,000 feet. The maximum required altitude for the second measurement would be that necessary to account for 95% of the wind effect, instead of 50,000 feet. The maximum required altitude for the third and fourth measurement would be that necessary to account for 80% of the wind effect, instead of 5,000 feet. The draft regulatory language also clarifies

that the last measurement would be required only to verify the third wind measurement data, not to set launcher azimuth and elevation.

*Change to Definition of "Bright Band" in § 417.3*

The draft regulatory language would define "bright band" in Appendix G to part 417 as an enhancement of radar reflectivity caused by frozen hydrometeors falling and beginning to melt at any altitude where the temperature is 0 degrees Celsius or warmer. This recognizes that there can be multiple altitudes where the temperature is 0 degrees Celsius. Accordingly, there may be different altitudes where a bright band may occur, and the original proposal incorrectly implied that there could be only one.

*New Definition of "Cloud" in § 417.3*

In response to comments, the draft regulatory language would define "cloud" as a visible mass of water droplets or ice crystals produced by condensation of water vapor in the atmosphere.

*Change to Definition of "Electric Field Measurement at the Surface of the Earth" in § 417.3*

The draft regulatory language would change the definition of "electric field measurement at the surface of the Earth" to no longer treat an interpolation based on electric field contours as a measurement. Electric field contours would no longer be used for electric field measurements.

**Comments Invited**

You may comment on the draft regulatory language by sending written data, views, or arguments. We also invite comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the draft regulatory language. Substantive comments should be accompanied by cost estimates. The most helpful comments are those that include a rationale or data. Comments must identify the regulatory docket number and be sent to one of the addresses listed above.

You may also present comments at the public meeting. The FAA will prepare an agenda of speakers, which will be available at the meeting. If we receive your request after the date specified above, your name may not appear on the written agenda. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested. Persons

requiring audiovisual equipment should notify the FAA when requesting to be placed on the agenda.

We will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this draft regulatory language. You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DOT Rules Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. We will consider all comments received on or before the closing date before taking action on the draft regulatory language. We will consider late-filed comments to the extent practicable, and consistent with statutory deadlines. We may change the draft regulatory language in light of the comments we receive.

Commenters who file comments by mail may receive an acknowledgement of receipt of their comments by including a pre-addressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket No. FAA-2000-7953." The postcard will be date stamped and mailed to the commenter.

#### Privacy Act

Using the search function of our docket web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://dms.dot.gov>.

#### Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD ROM, mark the outside of the disk or CD ROM and also identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in

the docket. We hold it in a separate file to which the public does not have access, and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

#### Public Meeting Procedures

The FAA will present a description of the draft regulatory language at the public meeting. The FAA will use the following procedures to facilitate the meeting:

(1) The meeting is designed to give interested parties an overview of the contents of the draft regulatory language to facilitate the public comment process. Therefore, the meeting will be informal and non-adversarial. No individual will be subject to cross-examination by any other participant; however, FAA representatives may ask questions to clarify a statement and to ensure a complete and accurate record. Participants will also have the opportunity to ask questions about the draft regulatory language.

(2) There will be no admission fee or other charge to attend or to participate in the meeting. The meeting will be open to all persons who are scheduled to present statements or who register between 8:30 a.m. and 9 a.m. on the day of the meeting. While we will make every effort to accommodate all persons wishing to participate, admission will be subject to availability of space in the meeting room. The meeting may adjourn early if scheduled speakers complete their statements in less time than is scheduled for the meeting.

(3) Speakers may be limited to a 10-minute statement. If possible, we will notify speakers if additional time is available.

(4) We will try to accommodate all speakers. If the available time does not permit this, we will generally schedule speakers on a first-come-first-served basis. However, we reserve the right to exclude some speakers if necessary to present a balance of viewpoints and issues.

(5) Sign and oral interpretation can be available at the meeting, as well as an assistive listening device, if requested from the person listed in the **FOR FURTHER INFORMATION CONTACT** section at least 2 weeks before the meeting.

(6) Representatives of the FAA will chair the meeting. A panel of FAA personnel involved in this proposal will be present.

(7) We will make a transcript of the meeting using a court reporter. We will

include in the public docket a transcript of the meeting and any material accepted by the FAA representatives during the meeting. Any person who is interested in buying a copy of the transcript should contact the court reporter directly. Additional transcript purchase information will be available at the meeting.

(8) The FAA will review and consider all material presented by participants at the meeting. Position papers or material presenting views or arguments related to the draft regulatory language may be accepted at the discretion of the presiding officer and subsequently placed in the public docket. We request that persons participating in the meeting provide six copies of all materials presented for distribution to the FAA representatives. You may provide other copies to the audience at your discretion.

(9) Statements made by FAA representatives are intended to facilitate discussion of the issues or to clarify issues. Any statement made during the meeting by an FAA representative is not intended to be, and should not be construed as, an official position of the FAA.

#### Meeting Agenda

*Tuesday, March 29, 2005*

*Morning*—Introductory Remarks and Presentation by FAA and United States Air Force representatives  
*Afternoon*—Licensing Requirements—Grandfathering, Meets Intent Certifications, and Waivers

*Wednesday, March 30, 2005*

*Morning*—Cost Implications  
*Afternoon*—Flight Safety Analysis/Flight Safety Systems

*Thursday, March 31, 2005*

Continue discussion of technical issues and other concerns.

#### Availability of the Draft Regulatory Language and Other Documents

You can get an electronic copy of the draft regulatory language, the draft regulatory evaluation, a section-by-section response to comments on the 2000 NPRM and the 2002 SNPRM, and the Independent Economic Assessment performed by SAIC using the Internet through the Department of Transportation Docket Management System at <http://dms.dot.gov>. Use the search feature of the Web site by entering the docket number for this rulemaking (7953). We have also established a Web site containing a cross-referencing tool that correlates the text of the draft regulatory language with Air Force launch requirements

documents. The Web address is <http://ast.faa.gov/um/>.

You can also get a copy of the draft regulatory language by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number of this rulemaking.

Issued in Washington, DC on February 23, 2005.

**George C. Nield,**

*Deputy Associate Administrator for Commercial Space Transportation.*

[FR Doc. 05-3916 Filed 2-28-05; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1310

[Docket No. DEA-254P]

RIN 1117-AA90

#### Control of Sodium Permanganate as a List II Chemical

**AGENCY:** Drug Enforcement Administration (DEA), Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Controlled Substances Act (CSA) provides the Attorney General with the authority to specify, by regulation, additional chemicals as "List II" chemicals if they are used in the manufacture of a controlled substance in violation of the CSA. The Drug Enforcement Administration (DEA) is proposing the addition of sodium permanganate as a List II chemical because of its direct substitutability for potassium permanganate (a List II chemical) in the illicit production of cocaine.

As a List II chemical, handlers of sodium permanganate would be subject to CSA chemical regulatory controls including recordkeeping, reporting, and import/export requirements. DEA has determined that these controls are necessary to prevent the diversion of this chemical to cocaine laboratories.

DEA is also proposing that a cumulative threshold of 55 kilograms and 500 kilograms be established (respectively) for domestic and international transactions. As such, all transactions which meet or exceed these quantities (in a calendar month) shall be considered regulated transactions, subject to recordkeeping, reporting and/or import/export notification requirements. Additionally DEA is proposing that sodium permanganate

chemical mixtures having less than or equal to 15 percent sodium permanganate shall qualify for automatic exemption from CSA chemical regulatory controls pursuant to 21 CFR part 1310.

All handlers of the List II chemical sodium permanganate would also be subject to the applicable civil and criminal penalty provisions found in 21 U.S.C. 841, 842, 843, 959 and 960.

**DATES:** Written comments must be postmarked, and electronic comments must be sent, on or before May 2, 2005.

**ADDRESSES:** To ensure proper handling of comments, please reference "Docket No. DEA-254" on all written and electronic correspondence. Written comments being sent via regular mail should be sent to the Deputy Administrator, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/CCD. Written comments sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/CCD, 2401 Jefferson-Davis Highway, Alexandria, VA 22301. Comments may be directly sent to DEA electronically by sending an electronic message to [dea.diversion.policy@usdoj.gov](mailto:dea.diversion.policy@usdoj.gov). Comments may also be sent electronically through <http://www.regulations.gov> using the electronic comment form provided on that site. An electronic copy of this document is also available at the <http://www.regulations.gov> Web site. DEA will accept attachments to electronic comments in Microsoft word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file format other than those specifically listed here.

**FOR FURTHER INFORMATION CONTACT:** Christine A. Sannerud Ph.D., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington DC 20537 at (202) 307-7183.

**SUPPLEMENTARY INFORMATION:** The Controlled Substances Act (CSA) and its implementing regulations, specifically 21 U.S.C. 802(35) and 21 CFR 1310.02(c), provide the Attorney General with the authority to specify, by regulation, additional chemicals as "List II" chemicals if they are used in the manufacture of a controlled substance in violation of the CSA. This authority has been delegated to the Administrator of DEA by 28 CFR 0.100 and redelegated to the Deputy Administrator under 28 CFR 0.104 (subpart R) Appendix section 12.

This Notice of Proposed Rulemaking (NPRM) proposes the addition of sodium permanganate as a List II chemical. Additionally, this NPRM proposes that a threshold of 55 kilograms and 500 kilograms be established (respectively) for domestic and international transactions.

DEA is also proposing that chemical mixtures (containing sodium permanganate) having less than or equal to 15 percent sodium permanganate shall qualify for automatic exemption from CSA chemical regulatory controls pursuant to 21 CFR part 1310. Since DEA recognizes that the concentration limit exemption criteria cannot identify all mixtures that should receive exemption status, DEA has implemented an application process to exempt additional mixtures (21 CFR 1310.13). This application process was finalized in a Final Rule published in the **Federal Register** May 1, 2003 (68 FR 23195). Under the application process, manufacturers may submit an application for exemption for those mixtures that do not qualify for automatic exemption. Exemption status can be granted if DEA determines that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and the listed chemical cannot be readily recovered (*i.e.*, it meets the conditions in 21 U.S.C. 802(39)(A)(v)). An application may be for a single or a multiple number of formulations.

#### Sodium Permanganate Industry and Legitimate Uses

Sodium permanganate is an inorganic oxidant that is a direct substitute for potassium permanganate. Due to its high solubility in water, sodium permanganate has distinct advantages over potassium permanganate in many industrial applications. It is becoming widely used for industrial purposes, including (1) printed circuit board production, (2) pharmaceutical and chemical synthesis, (3) soil and groundwater remediation, (4) metal cleaning formulations, (5) acid mine drainage and (6) hydrogen sulfide odor control.

DEA has identified only one domestic producer of sodium permanganate. However, sodium permanganate is also imported into the United States and there are at least three other major suppliers of sodium permanganate in the United States.

The U.S. firm that manufactures sodium permanganate distributes it through 15-20 major authorized distributors and more than 100 branch distributors. This U.S. supplier has advised DEA that it is aware of "one