

alternative would allow small businesses to participate in set-aside timber sales without requiring them to look for and use small mills. Although this approach would not increase hauling costs (and hence not increase the cost to the Government), since small businesses would not have to seek out and use small mills located further away, it could lead to inconsistent results. What might not be considered a "reasonable distance" for one sale might be so considered for another sale.

Moreover, without specific data as to what hauling distance leads to a sales price that is not fair and reasonable to the Government, this approach could be challenged as being arbitrary.

In addition, with respect to the 30/70 rule, instead of appraising 100% of the hauling to the nearest small mill, SBA also considered appraising, when the nearest mill is a large business, 70% of the haul costs to small mills and 30% of the haul costs to large mills. Although this approach may accurately reflect the true costs to haul the timber, SBA felt that it could unnecessarily complicate the process.

SBA also considered appraising to the nearest small mill only when that mill is located no more than 60 miles from the large mill which would be used as the appraisal point under the current rules. The median distance between a small mill and the large mill FS used to appraise historical set-aside sales is about 62 miles (see Table 10). Historical sales data suggests that appraising to the nearest small mill only when that mill is located no more than 60 miles from the current appraisal point would affect 2.7% of set-aside sales and benefit approximately 35 small businesses annually (see Table 10). SBA did not adopt this approach in the proposed regulatory text as the required step of determining whether a small mill is located within 60 miles of the nearest large mill could unnecessarily complicate the process. This approach would impact fewer set-aside sales, but it would also benefit fewer small businesses. Overall, the proposed change is consistent with SBA's statutory mandate to assist small businesses.

As an alternative to a potential policy change, although not included in this proposed rule, to include the stewardship sawtimber volume in the small business market share calculation, SBA also is also considering to include the stewardship sawtimber volume in that calculation only in those market areas where small business participation is particularly likely to be underrepresented if stewardship sawtimber volume is excluded.

Specifically, SBA is considering whether to include the stewardship sawtimber volume only in market areas where small businesses purchase a large percentage of stewardship contracting timber volume or where stewardship contracting timber volume represents a high percentage of overall timber volume. However, the purpose of such a regulatory amendment is to more accurately reflect small business participation rates for purposes of calculating the set-aside trigger point.

#### List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, SBA proposes to amend part 121 of title 13 of the Code of Federal Regulations as follows:

#### PART 121—SMALL BUSINESS SIZE REGULATIONS

- 1. The authority citation for part 121 continues to read as follows:

**Authority:** 15 U.S.C. 632, 634(b)(6), 662, and 694a(9).

- 2. Amend § 121.506 by redesignating paragraphs (a) through (e), as paragraphs (b) through (f) respectively, adding new paragraph (a), and adding paragraphs (g), and (h).

The additions read as follows:

#### § 121.506 What definitions are important for sales or leases of Government-owned timber?

(a) *Computation of market share* is the small business market share, expressed as a percentage for a small business timber sale market area based on the purchase by small business in the timber sale program market over the preceding 5-year period. The computation is done every five years by the U.S. Forest Service in collaboration with the SBA.

\* \* \* \* \*

(g) *Small business market share* is the calculated share of sawtimber that small businesses are expected to purchase within a market area, expressed as a whole percent.

(h) *Small business timber sale market areas* are physical locations throughout the United States including National Forests used in the administration of the Timber Sale Set-Aside program.

- 3. Amend § 121.507 by adding paragraph (d) to read as follows:

#### § 121.507 What are the size standards and other requirements for the purchase of Government-owned timber (other than Special Salvage Timber)?

\* \* \* \* \*

(d) In setting minimum bids for small business timber sale set-asides, the appraisal point to calculate the cost of transportation and hauling shall be the nearest small business manufacturing facility where the raw materials may be legally processed as determined by the U.S. Forest Service.

Dated: September 14, 2016.

**Maria Contreras-Sweet,**  
Administrator.

[FR Doc. 2016-22861 Filed 9-26-16; 8:45 am]

BILLING CODE 8025-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2016-8839; Airspace  
Docket No. 16-AGL-19]

**Proposed Amendment of Class E Airspace for the Following Ohio Towns; Findlay, OH; Ashland, OH; Celina, OH; Circleville, OH; Columbus, OH; Defiance, OH; Hamilton, OH; Lima, OH; and London, OH**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to modify Class E airspace designated as a surface area at Findlay Airport, Findlay, OH; and Class E airspace extending upward from 700 feet above the surface at Ashland County Airport, Ashland, OH; Lakefield Airport, Celina, OH; Pickaway County Memorial Airport, Circleville, OH; Ross County Airport, Chillicothe, OH; Fairfield County Airport, Lancaster, OH; Defiance Memorial Airport, Defiance, OH; Findlay Airport; Bluffton Airport, Findlay, OH; Butler County Airport-Hogan Field, Hamilton, OH; Lima Allen County Airport, Lima, OH; and Madison County Airport, London, OH. Decommissioning of non-directional radio beacon (NDB), cancellation of NDB approaches, and implementation of area navigation (RNAV) procedures have made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at these airports. Additionally, the geographic coordinates at Port Columbus International Airport; Findlay Airport; Ashland County Airport; Samaritan Hospital Heliport, Ashland, OH; Lakefield Airport; Ross County Airport; Defiance Regional Medical Center Heliport, Defiance, OH; Bluffton Airport; Lima Allen County Airport; and

St. Rita's Medical Center Heliport, Lima, OH, would be adjusted to coincide with the FAA's aeronautical database. Also, the names of Samaritan Hospital Heliport (formerly Samaritan Regional Health System), Defiance Regional Medical Center Heliport (formerly Defiance Hospital), and Butler County Regional Airport-Hogan Field (formerly Butler County Regional Airport) would be updated to coincide with the FAA's aeronautical database.

**DATES:** Comments must be received on or before November 14, 2016.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-9826, or 1-800-647-5527. You must identify FAA Docket No. FAA-2016-8839; Airspace Docket No. 16-AGL-19, at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [http://www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202-267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11A at NARA, call 202-741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

#### **SUPPLEMENTARY INFORMATION:**

#### **Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the

authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace designated as a surface area at Findlay Airport, Findlay, OH; and Class E airspace extending upward from 700 feet above the surface at Ashland County Airport, Ashland, OH; Lakefield Airport, Celina, OH; Pickaway County Memorial Airport, Circleville, OH; Ross County Airport, Chillicothe, OH; Fairfield County Airport, Lancaster, OH; Defiance Memorial Airport, Defiance, OH; Findlay Airport; Bluffton Airport, Findlay, OH; Butler County Airport-Hogan Field, Hamilton, OH; Lima Allen County Airport, Lima, OH; and Madison County Airport, London, OH.

#### **Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2016-8839/Airspace Docket No. 16-AGL-19." The postcard will be date/time stamped and returned to the commenter.

#### **Availability of NPRMs**

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.regulations.gov>.

You may review the public docket containing the proposal, any comments received, and any final disposition in

person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

#### **Availability and Summary of Documents Proposed for Incorporation by Reference**

This document proposes to amend FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### **The Proposal**

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying:

Class E airspace designated as a surface area at Findlay Airport, Findlay, OH, by removing the segments extending from the 4.3-mile radius 7.4 miles south and northeast of the airport, and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

And Class E airspace extending upward from 700 feet above the surface:

By updating the geographic coordinates of Ashland County Airport and noting the name change of Samaritan Hospital Heliport (formerly Samaritan Regional Health System), Ashland, OH, to coincide with the FAA's aeronautical database;

Within a 6.4-mile radius (reduced from a 7-mile radius) of Lakefield Airport, Celina, OH, and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

Within a 6.4-mile radius (reduced from a 10-mile radius) of Pickaway County Memorial Airport, Circleville, OH, with an extension from the 6.4-mile radius to 10.5 miles north of the airport, and within a 6.5-mile radius (reduced from a 9.1-mile radius) of Ross County Airport, Chillicothe, OH, and updating the geographic coordinates of the Ross County Airport to coincide with the FAA's aeronautical database;

By updating the geographic coordinates of Port Columbus International Airport, Columbus, OH,

removing the Don Scott NDB from the boundary description, and within a 7.0-mile radius (increased from a 6.4-mile radius) of Fairfield County Airport, Lancaster, OH; Within a 6.4-mile radius (reduced from a 7-mile radius) of Defiance Memorial Airport, Defiance, OH, and updating the geographic coordinates and name of Defiance Regional Medical Center Heliport (formerly Defiance Hospital), Defiance, OH, to coincide with the FAA's aeronautical database;

Within a 6.8-mile radius (reduced from a 7.4-mile radius) of Findlay Airport, Findlay, OH, and within a 7.2-mile radius (increased from a 6.6-mile radius) of Bluffton Airport, Findlay, OH, and updating the geographic coordinates of these airports to coincide with the FAA's aeronautical database;

Within a 6.9-mile radius (increased from a 6.6-mile radius) of Butler County Regional Airport-Hogan Field, Hamilton, OH, and updating the name of the airport (formerly Butler County Regional Airport) to coincide with the FAA's aeronautical database;

By removing the Allen County VOR from the boundary description of Lima Allen County Airport, Lima, OH, and updating the name of St. Rita's Medical Center Heliport (formerly Saint Rita's Medical Center), Lima, OH, and updating the geographic and point in space coordinates of these airports to coincide with the FAA's aeronautical database;

And by removing the segment extending from the 6.4-mile radius 7.4 miles west of Madison County Airport, London, OH.

Airspace reconfiguration is necessary due to the decommissioning of NDBs, cancellation of NDB approaches, and implementation of RNAV procedures at these airports. Controlled airspace is necessary for the safety and management of standard instrument approach procedures for IFR operations at the airports.

Class E airspace designations are published in paragraph 6002 and 6005, respectively, of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative

comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

*Paragraph 6002 Class E Airspace Designated as Surface Areas.*

\* \* \* \* \*

#### AGL OH E2 Findlay, OH [Amended]

Findlay Airport, OH  
(Lat. 41°00'43" N., long. 83°40'07" W.)

Lutz Airport  
(Lat. 40°57'42" N., long. 83°35'43" W.)

Within a 4.3-mile radius of the Findlay Airport excluding that portion within a 1-mile radius of the Lutz Airport.

\* \* \* \* \*

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

#### AGL OH E5 Ashland, OH [Amended]

Ashland County Airport, OH  
(Lat. 40°54'11" N., long. 82°15'20" W.)  
Samaritan Hospital Heliport, OH, Point in Space Coordinates  
(Lat. 40°51'34" N., long. 82°18'30" W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Ashland County Airport, and within a 6-mile radius of the Point in Space serving Samaritan Hospital Heliport, excluding that airspace which lies within the Mansfield, OH, Class E airspace area.

\* \* \* \* \*

#### AGL OH E5 Celina, OH [Amended]

Lakefield Airport, OH  
(Lat. 40°29'03" N., long. 84°33'30" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Lakefield Airport, excluding that airspace within the Wapakoneta, OH, Class E airspace area.

#### AGL OH E5 Circleville, OH [Amended]

Circleville, Pickaway County Memorial Airport, OH  
(Lat. 39°30'58" N., long. 82°58'56" W.)  
Chillicothe, Ross County Airport, OH  
(Lat. 39°26'26" N., long. 83°01'23" W.)  
Yellow Bud VOR  
(Lat. 39°31'2637" N., long. 82°58'41" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Pickaway County Memorial Airport, and within 2.9 miles either side of the 345° radial from the Yellow Bud VOR extending from the 6.4-mile radius to 10.5 miles north of the airport, and within a 6.5-mile radius of the Ross County Airport, excluding that airspace within the Waverly, OH, Class E Airspace area.

\* \* \* \* \*

#### AGL OH E5 Columbus, OH [Amended]

Columbus, Port Columbus International Airport, OH  
(Lat. 39°59'49" N., long. 82°53'32" W.)  
Columbus, Rickenbacker International Airport, OH  
(Lat. 39°48'50" N., long. 82°55'40" W.)  
Columbus, Ohio State University Airport, OH  
(Lat. 40°04'47" N., long. 83°04'23" W.)  
Columbus, Bolton Field Airport, OH  
(Lat. 39°54'04" N., long. 83°08'13" W.)  
Columbus, Darby Dan Airport, OH  
(Lat. 39°56'31" N., long. 83°12'18" W.)  
Lancaster, Fairfield County Airport, OH  
(Lat. 39°45'20" N., long. 82°39'26" W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Port Columbus International Airport, and within 3.3 miles either side of the 094° bearing from Port Columbus International Airport extending from the 7-mile radius to 12.1 miles east of the airport, and within a 7-mile radius of Rickenbacker International Airport, and within 4 miles either side of the 045° bearing from Rickenbacker International Airport extending from the 7-mile radius to

12.5 miles northeast of the airport, and within a 6.5-mile radius of Ohio State University Airport, and within a 7.4-mile radius of Bolton Field Airport, and within a 7-mile radius of Fairfield County Airport, and within a 6.5-mile radius of Darby Dan Airport, excluding that airspace within the London, OH, Class E airspace area.

\* \* \* \* \*

#### AGL OH E5 Defiance, OH [Amended]

Defiance Memorial Airport, OH  
(Lat. 41°20'15" N., long. 84°25'44" W.)  
Defiance Regional Medical Center Heliport,  
OH, Point in Space Coordinates  
(Lat. 41°17'53" N., long. 84°22'40" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Defiance Memorial Airport, and within a 6-mile radius of the Point in Space serving Defiance Regional Medical Center Heliport.

\* \* \* \* \*

#### AGL OH E5 Findlay, OH [Amended]

Findlay Airport, OH  
(Lat. 41°00'43" N., long. 83°40'07" W.)  
Bluffton Airport, OH  
(Lat. 40°53'08" N., long. 83°52'07" W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Findlay Airport and within a 7.2-mile radius of Bluffton Airport.

\* \* \* \* \*

#### AGL OH E5 Hamilton, OH [Amended]

Butler County Regional Airport-Hogan Field,  
OH  
(Lat. 39°21'50" N., long. 84°31'19" W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of Butler County Regional Airport-Hogan Field.

\* \* \* \* \*

#### AGL OH E5 Lima, OH [Amended]

Lima Allen County Airport, OH  
(Lat. 40°42'27" N., long. 84°01'37" W.)  
St. Rita's Medical Center Heliport, OH, Point  
in Space Coordinates  
(Lat. 40°44'26" N., long. 84°07'06" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Lima Allen County Airport, and within a 6-mile radius of the Point in Space serving St. Rita's Medical Center Heliport, excluding the airspace within the Findlay, OH, Class E airspace area.

#### AGL OH E5 London, OH [Amended]

Madison County Airport, OH  
(Lat. 39°55'58" N., long. 83°27'43" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Madison County Airport.

Issued in Fort Worth, Texas, on September 19, 2016.

**Walter Tweedy,**

*Acting Manager, Operations Support Group,  
ATO Central Service Center.*

[FR Doc. 2016-23113 Filed 9-26-16; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1308

[Docket No. DEA-448]

#### Schedules of Controlled Substances: Temporary Placement of Furanyl Fentanyl Into Schedule I

**AGENCY:** Drug Enforcement  
Administration, Department of Justice.

**ACTION:** Notice of intent.

**SUMMARY:** The Administrator of the Drug Enforcement Administration is issuing this notice of intent to temporarily schedule the synthetic opioid, *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylfuran-2-carboxamide (furanyl fentanyl), into schedule I pursuant to the temporary scheduling provisions of the Controlled Substances Act. This action is based on a finding by the Administrator that the placement of this synthetic opioid into schedule I of the Controlled Substances Act is necessary to avoid an imminent hazard to the public safety. Any final order will impose the administrative, civil, and criminal sanctions and regulatory controls applicable to schedule I controlled substances under the Controlled Substances Act on the manufacture, distribution, possession, importation, exportation, research, and conduct of, instructional activities of this synthetic opioid.

**DATES:** September 27, 2016.

#### FOR FURTHER INFORMATION CONTACT:

Michael J. Lewis, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (202) 598-6812.

**SUPPLEMENTARY INFORMATION:** Any final order will be published in the **Federal Register** and may not be effective prior to October 27, 2016.

#### Legal Authority

The Drug Enforcement Administration (DEA) implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. 21 U.S.C. 801-971. Titles II and III are referred to as the "Controlled Substances Act" and the "Controlled Substances Import and Export Act," respectively, and are collectively referred to as the "Controlled Substances Act" or the "CSA" for the purpose of this action. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II.

The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while providing for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, each controlled substance is classified into one of five schedules based upon its potential for abuse, its currently accepted medical use in treatment in the United States, and the degree of dependence the drug or other substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and the current list of all scheduled substances is published at 21 CFR part 1308.

Section 201 of the CSA, 21 U.S.C. 811, provides the Attorney General with the authority to temporarily place a substance into schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b) if she finds that such action is necessary to avoid imminent hazard to the public safety. 21 U.S.C. 811(h)(1). In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1), the Attorney General may extend the temporary scheduling for up to one year. 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under section 202 of the CSA, 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. 355. 21 U.S.C. 811(h)(1). The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

#### Background

Section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), requires the Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of his intention to temporarily place a substance into schedule I of the CSA.<sup>1</sup> The

<sup>1</sup> As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.