

environmental assessment nor an environmental impact statement is required.

#### V. Paperwork Reduction Act

FDA has concluded that the labeling provisions of this final rule are not subject to review by the Office of Management and Budget because they do not constitute a "collection of information" under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Rather, the food labeling health claim on the association between consumption of barley beta-glucan soluble fiber and CHD risk is a "public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public" (see 5 CFR 1320.3(c)(2)).

#### VI. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule will have a pre-emptive effect on State law. Section 4(a) of the Executive Order requires agencies to "construe \* \* \* a Federal statute to preempt State law only where the statute contains an express preemption provision, or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute." Section 403A of the act (21 U.S.C. 343–1) is an express pre-emption provision. Section 403A (a) (5) of the act (21 U.S.C. 343–1(a)(5)) provides that \* \* \* no State or political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food in interstate commerce— \* \* \* (5) any requirement respecting any claim of the type described in section 403(r)(1) made in the label or labeling of food that is not identical to the requirement of section 403(r). \* \* \*

Currently, this provision operates to pre-empt States from imposing health claim labeling requirements concerning barley beta-glucan soluble fiber and reduced risk of CHD. On December 23, 2005, FDA published an interim final rule which imposed requirements under section 403(r) of the act. This final rule affirms the December 23, 2005, amendment of food labeling regulations to add whole grain barley and dry milled barley products as eligible sources of beta-glucan fiber to the soluble fiber from certain foods and CHD health claim. Although this rule has a pre-emptive effect, in that it would preclude States from issuing any health claim labeling requirements for barley

and reduced risk of CHD that are not identical to those required by this final rule, this pre-emptive effect is consistent with what Congress set forth in section 403A of the act. Section 403A(a)(5) of the act displaces both State legislative requirements and State common law duties. *Medtronic v. Lohr*, 518 U.S. 470, 503 (1996) (Breyer, J., concurring in part and concurring in judgment); *id.* at 510 (O'Connor, J., joined by Rehnquist, C.J., Scalia, J., and Thomas, J., concurring in part and dissenting in part); *Cipollone v. Liggett Group, Inc.*, 505 U.S. 504, 521 (1992) (plurality opinion); *id.* at 548–49 (Scalia, J., joined by Thomas, J., concurring in judgment in part and dissenting in part).

FDA believes that the pre-emptive effect of the final rule is consistent with Executive order 13132. Section 4(e) of the Executive Order provides that "when an agency proposes to act through adjudication or rulemaking to preempt State law, the agency shall provide all affected State and local officials notice and an opportunity for appropriate participation in the proceedings." FDA provided the States with an opportunity for appropriate participation in this rulemaking when it sought input from all stakeholders through publication of the interim final rule in the **Federal Register** on December 23, 2005. FDA received no comments from any States on the interim rulemaking.

In addition, on January 13, 2006, FDA's Division of Federal and State Relations provided notice via fax and e-mail transmission to State health commissioners, State agriculture commissioners, food program directors, and drug program directors as well as FDA field personnel, of FDA's intended amendment to add barley beta-glucan soluble fiber to the soluble fiber from certain foods and CHD health claim (§ 101.81). The notice provided the States with further opportunity for input on the rule. It advised the States of the publication of the interim final rule and encouraged State and local governments to review the notice and to provide any comments to the docket (Docket No. 2004P–0512), opened in the December 23, 2005 **Federal Register** notice, by the close of the comment period indicated in the **Federal Register** notice (i.e., by March 8, 2006), or to contact certain named individuals. FDA received no comments in response to this notice. The notice has been filed in the above numbered docket.

In conclusion, the agency believes that it has complied with all of the applicable requirements under the Executive order and has determined that

the pre-emptive effects of this rule are consistent with Executive Order 13132.

#### List of Subjects in 21 CFR Part 101

Food labeling, Incorporation by Reference, Nutrition, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 101 is amended as follows:

#### PART 101—FOOD LABELING

■ Accordingly, the interim final rule amending 21 CFR part 101 which was published at 70 FR 76150 on December 23, 2005, is adopted as a final rule without change.

Dated: May 15, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 06–4703 Filed 5–19–06; 8:45 am]

BILLING CODE 4160–01–S

#### DEPARTMENT OF LABOR

##### Office of Labor-Management Standards

##### Employment Standards Administration

##### 29 CFR Part 220

RIN 1215–AB55

##### Airline Employee Protection Program; Rescission of Regulations Pursuant to Pub. L. 105–220, Which Repealed the Airline Employee Protection Program

**AGENCY:** Office of Labor-Management Standards, Employment Standards Administration, Labor.

**ACTION:** Final rule, rescission of regulations.

**SUMMARY:** Section 199(a)(6) of the Workforce Investment Act, Pub. L. 105–220, 112 Stat. 1059 (1998), repealed the Airline Employee Protection Program, originally established pursuant to Section 43 of the Airline Deregulation Act, Pub. L. 95–504, 92 Stat. 1705 (1978), and subsequently codified at 49 U.S.C. 42101–42106. In accordance with the provisions of the Workforce Investment Act, the Department of Labor (Department) is issuing this final rule to rescind its regulations established by 29 CFR Part 220, to administer the Airline Employee Protection Program.

**DATES:** *Effective Date:* May 22, 2006.

**FOR FURTHER INFORMATION CONTACT:** Patrick A. Hyde, Chief, Division of Statutory Programs, Office of Labor-

Management Standards, Employment Standards Administration, U.S. Department of Labor, Room N5112, 200 Constitution Avenue, NW., Washington, DC 20210; telephone 202-693-0126. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** On December 27, 1985, the Department of Labor issued regulations to implement the Airline Employee Protection program established by Section 43 of the Airline Deregulation Act of 1978. Secretary's Order Number 1-79 and 5-84, assigned to the Bureau of Labor Management Relations and Cooperative Programs, now the Office of Labor Management Standards, the responsibility for provisions concerning protected employees' priority hire rights, air carriers' duty to hire and the comprehensive job listing. The regulations covered the following items: Rehire Program and Qualifying Dislocations, Waiting Period, Exemption from the Duty to Hire, Definition of Protected Employees, Equal Employment Opportunity, New Entrants' Requirement to List Vacancies, Recall Rights, Temporary and Seasonal Employees, Responsibilities of Non-Operating Carriers, Participation of Labor Organizations, Eligibility for Designated Status, Notices of Rights, Effective Period, Submission of Semiannual Reports, and Enforcement.

In 1998, Congress repealed Section 43 of the Airline Deregulation Act in Section 199(a)(6) of the Workforce Investment Act, Pub. L. No. 105-220, 112 Stat. 1059 (1998). As a result, the regulations implementing the Airline Employee Protection Program are now without force or effect because their underlying statutory authority has been repealed. Consequently, this final rule rescinds the regulations.

A comment period for this rescission is unnecessary because the enabling statute has been repealed, and, consequently, the regulations are now without force or effect. See 5 U.S.C. 553(b)(B). For this same reason, good cause exists to make the rescission effective immediately upon this rule's publication. See 5 U.S.C. 553(d)(3).

## Regulatory Procedures

### *Regulatory Flexibility Act*

The rescission of the regulations administering the Airline Employee Protection Program through this final rule will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 605(b)) is not required. The Assistant Secretary for Employment Standards

has certified this conclusion to the Chief Counsel for Advocacy of the Small Business Administration.

### *Unfunded Mandates Reform*

Executive Order 12875—This rule will not create an unfunded Federal mandate upon any State, local or tribal government.

Unfunded Mandates Reform Act of 1995—This rule will not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, in the aggregate, of \$100 million or more, or in increased expenditures by the private sector of \$100 million or more.

### *Paperwork Reduction Act*

The rescission of the regulations administering the Airline Employee Protection Program through this final rule contains no new information collection requirements for purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### *Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

■ Accordingly, under the authority of section 199(a)(6) of the Workforce Investment Act, part 220 of title 29 of the Code of Federal Regulations is removed.

Signed at Washington, DC, this 15th day of May 2006.

**Victoria A. Lipnic,**

*Assistant Secretary for Employment Standards.*

Signed at Washington, DC, this 15th day of May 2006.

**Don Todd,**

*Deputy Assistant Secretary for Labor-Management Standards.*

[FR Doc. 06-4727 Filed 5-19-06; 8:45 am]

**BILLING CODE 4510-CP-P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

**31 CFR Parts 535, 536, 537, 538, 539, 540, 541, 542, 560, 588, 594, and 595**

**Iranian Assets Control Regulations, Narcotics Trafficking Sanctions Regulations, Burmese Sanctions Regulations, Sudanese Sanctions Regulations, Weapons of Mass Destruction Trade Control Regulations, Highly Enriched Uranium (HEU) Agreement Assets Control Regulations, Zimbabwe Sanctions Regulations, Syrian Sanctions Regulations, Iranian Transactions Regulations, Western Balkans Stabilization Regulations, Global Terrorism Sanctions Regulations, Terrorism Sanctions Regulations**

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Treasury Department's Office of Foreign Assets Control (OFAC) is revising its regulations to reflect amendments to the International Emergency Economic Powers Act (IEEPA) made by the Combating Terrorism Financing Act of 2005 (the "Act").

**DATES:** Effective May 22, 2006.

### **FOR FURTHER INFORMATION CONTACT:**

Assistant Director, Compliance, Outreach & Implementation, tel.: 202/622-2490, Assistant Director, Policy, tel.: 202/622-4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622-2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

### **SUPPLEMENTARY INFORMATION:**

#### **Electronic and Facsimile Availability**

This document and additional information concerning OFAC are available from OFAC's Web site (<http://www.treas.gov/ofac>) or via facsimile through a 24-hour fax-on demand service, tel.: (202) 622-0077.

#### **Background**

On March 9, 2006, the President signed the Act into law as Public Law 109-177. Section 402 of the Act amended section 206 of IEEPA (50 U.S.C. 1705) by raising the maximum civil penalty for a violation, or attempted violation, of any license, order, or regulation issued under IEEPA to \$50,000. The Act also increased the maximum term of imprisonment for a willful violation of any such license, order, or regulation to 20 years.