

10³ cfu/gm) of *E. coli* O157:H7 in raw product.

NACMCF concluded that there is insufficient data to assess whether non-intact, blade tenderized beef roasts present a greater risk to consumers than intact beef roasts with regard to *E. coli* O157:H7 if prepared similarly to intact beef roasts.

Similarly, NACMCF concluded that there was insufficient data to respond to the question of whether scientific evidence supports the need for a labeling requirement to distinguish between intact and non-intact products to protect the public.

The NACMCF report identifies research needs for addressing *E. coli* O157:H7 in blade tenderized steaks and makes recommendations to FSIS concerning the Agency's future requests to NACMCF about this issue. In the event of an outbreak or a sporadic case of illness attributed to the consumption of beef steak, the report recommends that the CDC and FSIS gather data on cooking practices for the product that caused the illness, the processing of this product, and the purchase locations of this product.

FSIS has also conducted a comparative risk assessment of intact (nontenderized) and non-intact (blade tenderized) steaks. The results of the risk assessment are consistent with those of NACMCF. The risk assessment concluded that the risk of *E. coli* O157:H7 illness is not greater for broiled tenderized steaks than for broiled nontenderized steaks at temperatures between 110°F and less than 140°F, regardless of the initial *E. coli* O157:H7 contamination level or the susceptibility of the consumer. Also, the risk assessment concluded that the risk of illness associated with *E. coli* O157:H7 from broiled tenderized and broiled nontenderized steaks cooked to 140°F is miniscule, regardless of the initial contamination level or susceptibility of the consumer. Finally, the FSIS risk assessment concluded that the risk of illness is slightly higher for grilled or fried tenderized steaks compared to grilled or fried non-tenderized steaks at temperatures between 110°F and 140°F. The FSIS comparative risk assessment of intact and non-intact (blade tenderized) steaks is still a draft document and is available on the Internet address at: <http://www.fsis.usda.gov/oppde/rdad/publications.htm>. FSIS invites comments on this risk assessment.

FSIS also received a letter dated August 27, 2002, from the National Cattlemen's Beef Association concerning a study that evaluated the surfaces of beef sub-primal cuts for the

presence of *E. coli* O157:H7 prior to mechanical tenderization. According to this letter, the results of this study show that the incidence of *E. coli* O157:H7 on sub-primals is very low. FSIS is interested in evaluating the data from this study. The Agency may incorporate these data into its comparative risk assessment of intact and non-intact steaks. Therefore, these data may influence the comparative risk assessment.

FSIS is reviewing the NACMCF report and its draft risk assessment for *E. coli* O157:H7 in intact and non-intact (blade tenderized) steaks and will consider NACMCF's conclusions and the conclusions from the risk assessment with regard to the policy announced for non-intact products in the January 19, 1999, **Federal Register** (discussed above, under "*E. coli* O157:H7 policy"). At this time, FSIS believes that the public health hazard presented by *E. coli* O157:H7 and the prevalence of *E. coli* O157:H7 in these products continues to support application of the policy announced in the January 19, 1999, **Federal Register**. There is a lack of data on industry and consumer practices for cooking pinned, needled, and blade tenderized steaks (e.g., grilling, oven broiling, or frying) and a lack of data on the proportion of industry outlets and consumers that prepare these products according to each of these different methods. If FSIS obtains substantial and reliable data showing that industry and consumers customarily cook pinned, needled, and blade tenderized products in a manner that destroys *E. coli* O157:H7, FSIS would consider modifications to its policy concerning *E. coli* O157:H7 in these products.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS web page located at <http://www.fsis.usda.gov>. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv

consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720-9113. To be added to the free e-mail subscription service (Listserv) go to the "Constituent Update" page on the FSIS web site at <http://www.fsis.usda.gov/oa/update/update.htm>. Click on the "Subscribe to the Constituent Update Listserv" link, then fill out and submit the form.

Done at Washington, DC, on October 3, 2002.

Garry L. McKee,
Administrator.

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: The SBA has been made aware of the existence of small business manufacturers for Hand and Edge Tool Manufacturing, North American Industry Classification System (NAICS) 332212. Notices to waive the Nonmanufacturer Rule appeared in the **Federal Register** on August 28, 2002 (67 FR 55179) and July 27, 2002 (67 FR 47755). Comments from these notices were received from large and small business manufacturers. Our knowledge of the existence of small business manufacturers requires us to deny the waiver of the Nonmanufacturer for Hand and Edge Tool Manufacturing, NAICS 332212.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Edith G. Butler, Program Analyst, U.S. Small Business Administration, 409 3rd Street, SW., Washington DC 20416, Tel: (202) 619-0422.

SUPPLEMENTARY INFORMATION: Public Law 100-656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small businesses or SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor, if the

recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.906(b) and 121.1106(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines "class of products" based on two coding systems. The first is the Office of Management and Budget North American Industry Classification System. The second is the Product and Service Code established by the Federal Procurement Data System.

Linda G. Williams,

Associate Administrator for Government Contracting.

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SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121 and 123

RIN 3245-AE44

Pre-Disaster Mitigation Loans

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: The U.S. Small Business Administration (SBA) is amending its regulations to implement the Pre-Disaster Mitigation Loan Program (Program), which is a five-year pilot program authorized by statute in 1999. The statute allows SBA to make low interest, fixed rate loans to small businesses for the purpose of implementing mitigation measures to protect their property from disaster related damage. The Program was developed in support of the Federal Emergency Management Agency (FEMA) Pre-Disaster Mitigation Program and covers businesses located in eligible participating communities, as determined by FEMA. This rule also describes how much a person can borrow from SBA to provide post-disaster mitigation for a damaged primary residence.

DATES: This rule is effective November 6, 2002.

FOR FURTHER INFORMATION CONTACT:

Herbert L. Mitchell, Associate Administrator, Office of Disaster Assistance, 202-205-6734.

SUPPLEMENTARY INFORMATION: The Program is a pilot authorized by statute at a level of \$15 million for each of five (5) fiscal years from 2000 through 2004. The Program enables SBA to make low interest, fixed rate loans to small businesses for the purpose of implementing mitigation measures that will protect them from disaster related damage. The Program was developed in support of FEMA's Pre-Disaster Mitigation Program, which covers businesses located in eligible communities as determined by FEMA. This program encourages prevention rather than relying solely on a response and recovery approach to emergency management. The purpose of the Program is to implement techniques and technologies that will mitigate the effects of natural disasters. Implementation will enable SBA to lend to small businesses in disaster prone areas to help them avert and lessen the costs of future disaster inflicted damages. This is the first time, since SBA has administered the disaster loan program beginning in 1953, that SBA is empowered to administer a pre-disaster mitigation loan program.

SBA's current Program rules were effective October 1, 1999. 64 FR 48275 (September 3, 1999). However, SBA has not made any loans under these rules for several reasons. First, SBA is required by statute to "use mitigation techniques in support of a formal mitigation program established by the [FEMA] * * * 15 U.S.C. 636(b)(1)(C). In 1999, FEMA had not yet completely established its pre-disaster mitigation program, then known as "Project Impact." Communities had to apply to FEMA to be accepted as a pre-disaster mitigation eligible community. This took time. Next, FEMA's pre-disaster mitigation program was placed on hold, pending appropriations in the FY02 Departments of Veterans Affairs, Housing and Urban Development and Independent Agencies Appropriations Act. On November 26, 2001, the appropriations act provided \$25 million to FEMA for its pre-disaster mitigation grant program. FEMA is now re-evaluating, revisiting and revamping its pre-disaster program. Therefore, SBA decided to proceed with this final rule to provide clear guidance and complete instructions to the public to support the FEMA program.

On June 14, 2000, SBA published a proposed rule on the Program in the **Federal Register** requesting public

comment (65 FR 37307). This final rule clarifies the application and loan approval processes and makes editorial changes to make the regulation more understandable. The final rule explains the Program, defines "mitigation measure," provides the purpose of pre-disaster mitigation loans, and explains how to apply for the loans, the maximum amount and interest rate of the loans, how SBA makes Program funding decisions, and what happens if Program funds run out or an application is denied. The final rule also contains a new application package for the Program approved by the Office of Management and Budget.

SBA received only one comment, from FEMA, which suggests several minor changes.

First, FEMA suggests that SBA refer to the Program as a "community based initiative" instead of referencing it as Project Impact. We agree with FEMA's recommendation and have deleted any reference to Project Impact in the final rule.

Second, FEMA recommends that SBA clarify that an applicant for a pre-disaster mitigation loan needs to submit a "written statement" from a local or State coordinator and that the written statement must include the information contained in the regulation. We agree with FEMA's recommendation and use the phrase "written statement" consistently in this final rule along with an appropriate cross-reference to the requirements in § 123.408.

Third, FEMA requests that SBA add a clarifying sentence which states that "the State or local coordinator's written statement does not constitute an endorsement or technical approval of the project and is not a guarantee that the project will prevent damage in future disasters." SBA agrees with this comment and adds the requested language to § 123.408.

SBA has not adopted one of FEMA's comments. FEMA requested that SBA delete the references to participating pre-disaster mitigation community locations in § 123.403(a) because these communities may grow and change over time. SBA decided to retain the references to participating pre-disaster mitigation communities in § 123.403(a) because these are general references and we encourage the public to contact FEMA for more detailed information. SBA anticipates that at a minimum, the general information will serve to inform applicants in unique communities (e.g., the District of Columbia and Puerto Rico) that they may be eligible to participate in the Program.

In addition to the changes made in response to FEMA's comments, SBA