

of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

#### List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 4, 2007.

**Michael K. Robinson,**

*Acting Regional Director.*

[FR Doc. E7-11586 Filed 6-14-07; 8:45 am]

**BILLING CODE 4310-05-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 285

[DoD-2007-OS-0041]

[RIN 0790-AI21]

#### DoD Freedom of Information Act (FOIA) Program

**AGENCY:** Department of Defense.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Defense is proposing to update current policies and procedures to reflect the DoD FOIA Program as prescribed by Executive Order 13392. The proposed changes will ensure appropriate agency disclosure of information, and offer consistency with the with the goals of section 552 of title 5, United States Code.

**DATES:** Comment must be received on or before August 14, 2007. Do not submit comments directly to the point of contact or mail your comments to any address other than what is shown below. Doing so will delay the posting of the submission.

**ADDRESSES:** You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

*Instructions:* All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submission from members of the public

is to make these submissions available for public viewing on the Internet at <http://regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Hogan (703) 696-4699.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 13132, "Federalism"

It has been certified that this rule does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

- (1) The States;
- (2) The relationship between the National Government and the States; or
- (3) The distribution of power and responsibilities among the various levels of Government.

##### Executive Order 12630, "Government Actions and Interference With Constitutionally Protected Property Rights"

It has been certified that this rule does not:

- (1) Place a restriction on a use of private property;
- (2) Involve a permitting process or any other decision-making process that will interfere with, or otherwise prohibit, the use of private property; or
- (3) Regulate private property use for the protection of public health or safety.

##### Executive Order 12866, "Regulatory Planning and Review"

It has been certified that this rule does not:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribunal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

##### Executive Order 13045, "Protection of Children From Environmental Health Risks and Safety Risks"

It has been certified that this rule does not present any environmental health or safety effects on children.

##### Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104-4)

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribunal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

##### National Environmental Policy Act

It has been certified that this rule does not significantly affect the quality of the human environment.

##### Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

##### Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that this rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. The reporting and recordkeeping requirements have been submitted to OMB for review.

##### List of Subjects in 32 CFR Part 285

Freedom of information.

Accordingly, 32 CFR part 285 is proposed to be revised to read as follows.

#### PART 285—DOD FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

Sec.

- 285.1 Purpose.
- 285.2 Applicability and scope.
- 285.3 Policy.
- 285.4 Responsibilities.
- 285.5 Information requirements.

**Authority:** 5 U.S.C. 552.

##### § 285.1 Purpose.

This part:

- (a) Update policies and responsibilities for implementing the DoD FOIA Program in accordance with 5 U.S.C. 552 (commonly known as the "FOIA").
- (b) Continues to authorize 32 CFR part 286 to implement the FOIA Program.
- (c) Implements E.O. 13392 within the Department of Defense.
- (d) Continues to delegate authorities and responsibilities for the effective administration of the FOIA Program consistent with DoD Directive 5105.53.<sup>1</sup>

##### § 285.2 Applicability and scope.

This part applies to:

<sup>1</sup> Copies of DoD Directives, Instructions, and Publications may be obtained at <http://www.dtic.mil/whs/directives/>.

(a) The Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components").

(b) National Security Agency/Central Security Service records, unless the records are exempt according to 50 U.S.C. 402.

(c) Defense Intelligence Agency, National Reconnaissance Office, and National Geospatial-Intelligence Agency records, unless the records are exempt according to 50 U.S.C. 403-5e, 10 U.S.C. 424 and 455, or other applicable law.

#### § 295.3 Policy.

It is DoD policy to:

(a) Promote public trust by making the maximum amount of information available to the public, in both hard copy and electronic formats, on the operation and activities of the Department of Defense, consistent with the DoD responsibility to protect national security and other sensitive DoD information.

(b) Allow a requester to obtain records from the Department of Defense that are available through other public information services without invoking the FOIA.

(c) Make available, according to the procedures established by 5 U.S.C. 552, DoD records requested by a member of the public who explicitly or implicitly cites the FOIA.

(d) Answer promptly all other requests for DoD information and records under established procedures and practices.

(e) Release DoD records to the public unless those records are exempt from disclosure as outlined in 5 U.S.C. 552.

(f) Process requests by individuals for access to records themselves contained in a Privacy Act system of records according to the procedures set forth in 32 CFR part 310 and this part, as amplified by 32 CFR part 286.

(g) Provide FOIA requesters with citizen-centered ways to learn about the FOIA process, about DoD records that are publicly available, and about the status of a FOIA request and appropriate information about the DoD response.

#### § 285.4 Responsibilities.

(a) The Director, Administration and Management (DA&M), shall:

(1) Serve as the DoD Chief FOIA Officer in accordance with E.O. 13392.

(2) Direct and oversee the DoD FOIA Program to ensure compliance with the

policies and procedures that govern administration of the program.

(3) Designate the FOIA Public Liaisons for the Department of Defense in accordance with E.O. 13392. The FOIA Public Liaison for OSD, the Chairman of the Joint Chiefs of Staff, and the Combatant Commands shall be appointed from the Defense Freedom of Information Policy Office (DFOIPO).

(4) Prepare and submit to the Attorney General the DoD Annual Freedom of Information Act Report as required by 5 U.S.C., and other reports as required by E.O. 13392.

(5) Serve as the appellate authority for appeals to the decisions of the respective Initial Denial Authorities within OSD, the Chairman of the Joint Chiefs of Staff, the DoD Field Activities (listed in 32 CFR part 286), and the Combatant Commands. The DA&M or Washington Headquarters Services (WHS) staff.

(6) Prepare and maintain a DoD issuance and other discretionary information to ensure timely and reasonably uniform implementation of the FOIA in the Department of Defense.

(b) The Director, WHS, under the authority, direction, and control of the DA&M, shall administer the FOIA Program, inclusive of training, for OSD and the Chairman of the Joint Chiefs of Staff.

(c) The General Counsel of the Department of Defense shall:

(1) Provide uniformity in the legal interpretation of this part.

(2) Ensure affected OSD legal advisors, public affairs officers, and legislative affairs officers are aware of releases through litigation channels that may be of significant public, media, or Congressional interest, or of interest to senior DoD officials.

(3) Establish procedures to centralize processing of FOIA litigation documents when deemed necessary.

(d) The Under Secretary of Defense for Intelligence shall establish uniform procedures regarding the declassification of national security information made pursuant to requests invoking the FOIA.

(e) The Heads of the DoD Components shall:

(1) Internally administer the DoD FOIA Program; publish any instructions necessary for the administration of this part within their Components that are not prescribed by this part or by other DA&M issuances in the **Federal Register**.

(2) Serve as, or appoint another Component official as, the FOIA appellate authority for the Component.

(3) Establish one or more FOIA Requester Service Centers as prescribed by E.O. 13392.

(4) Submit names of personnel to the DA&M for designation as FOIA Public Liaisons.

(5) Ensure their respective chains of command, affected legal advisors, public affairs officers, and legislative affairs officers are aware of releases through the FOIA, inclusive of releases through litigation channels, that may be of significant public, media, or Congressional interest, or of interest to senior DoD officials.

(6) Conduct training on the provisions of this part, 5 U.S.C. 552, and 32 CFR part 286 for officials and employees who implement the FOIA.

(7) Submit to DFOIPO inputs to the DoD FOIA Annual Report prescribed in 32 CFR part 286 and E.O. 13392.

(8) Make records specified in 5 U.S.C. 552(a)(2), unless such records are published and copies are offered for sale, available for public inspection and copying in an appropriate facility or facilities, according to rules published in the **Federal Register**. These records shall be made available to the public in both hard copy and electronic formats.

(9) Maintain and make current indices of all records available for public inspection and copying, a required by 5 U.S.C. 552(a)(2).

#### § 285.5 Information requirement.

The reporting requirements of 32 CFR part 286 have been assigned Report Control Symbol D-DA&M(A)1365 in accordance with DoD 8910.1-M.

Dated: June 11, 2007

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, DoD.*

[FR Doc. 07-2950 Filed 6-14-07; 8:45 am]

BILLING CODE 5401-06-M

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD09-07-031]

RIN 1625-AA00

#### Safety Zone; Roostertail Fireworks, Detroit River, Detroit, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes establishing a temporary safety zone on the Detroit River, Detroit, Michigan. This Zone is intended to restrict vessels