

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA-345]

Schedules of Controlled Substances: Extension of Temporary Placement of Five Synthetic Cannabinoids Into Schedule I of the Controlled Substances Act

AGENCY: Drug Enforcement Administration, Department of Justice.
ACTION: Final order.

SUMMARY: This Final Order is issued by the Administrator of the Drug Enforcement Administration (DEA) to extend the temporary scheduling of the five synthetic cannabinoids 1-pentyl-3-(1-naphthoyl)indole (JWH-018), 1-butyl-3-(1-naphthoyl)indole (JWH-073), 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200), 5-(1,1-dimethylheptyl)-2-(3-hydroxycyclohexyl)-phenol (CP-47,497), and 5-(1,1-dimethyloctyl)-2-(3-hydroxycyclohexyl)-phenol (cannabicyclohexanol, CP-47,497 C8 homologue) including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, into Schedule I of the Controlled Substances Act (CSA). The temporary scheduling of these five synthetic cannabinoids is due to expire on February 29, 2012. This document will extend the temporary scheduling of these five synthetic cannabinoids to August 29, 2012 or until rulemaking proceedings are completed, whichever comes first.

DATES: *Effective Date:* February 29, 2012.

FOR FURTHER INFORMATION CONTACT:

Alan G. Santos, Associate Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (202) 307-7165.

SUPPLEMENTARY INFORMATION: On March 1, 2011, the Administrator of the DEA published a Final Order in the **Federal Register** (76 FR 11075) amending 21 CFR 1308.11(g) to temporarily place these five synthetic cannabinoids into Schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). This Final Order, which became effective on the date of publication, was based on findings by the Administrator of the DEA that the temporary scheduling of these five synthetic cannabinoids was necessary to avoid an imminent hazard to the public

safety pursuant to 21 U.S.C. 811(h)(1). Section 201(h)(2) of the CSA (21 U.S.C. 811(h)(2)) requires that the temporary scheduling of a substance expire at the end of one year from the date of issuance of the order. However, during the pendency of proceedings under 21 U.S.C. 811(a)(1) with respect to the substance, temporary scheduling of that substance may be extended for up to six months. Proceedings for the scheduling of a substance under 21 U.S.C. 811(a) may be initiated by the Attorney General (delegated to the Administrator of the DEA pursuant to 28 CFR 0.100) on his own motion, at the request of the Secretary of Health and Human Services,¹ or on the petition of any interested party.

The DEA has gathered and reviewed the available information regarding the pharmacology, chemistry, trafficking, actual abuse, pattern of abuse and the relative potential for abuse for these five synthetic cannabinoids. On June 21, 2011 the Administrator of the DEA submitted a letter to the Assistant Secretary, requesting scientific and medical evaluations and scheduling recommendations for these five synthetic cannabinoids. In response to this letter, on the following dates the Assistant Secretary provided to DEA scientific and medical evaluations and recommendations that all five of these synthetic cannabinoids be placed in Schedule I: January 5, 2012 (1-pentyl-3-(1-naphthoyl)indole (JWH-018)); February 6, 2012 (1-butyl-3-(1-naphthoyl)indole (JWH-073)) and (1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200)); February 13, 2012 5-(1,1-dimethylheptyl)-2-(3-hydroxycyclohexyl)-phenol (CP-47,497), and 5-(1,1-dimethyloctyl)-2-(3-hydroxycyclohexyl)-phenol (cannabicyclohexanol, CP-47,497 C8 homologue). Proceedings regarding these five synthetic cannabinoids have been initiated in accordance with 21 U.S.C. 811(a)(1). Therefore, pursuant to 21 U.S.C. 811(h)(2), the Administrator of the DEA hereby orders that the temporary scheduling of 1-pentyl-3-(1-naphthoyl)indole (JWH-018), 1-butyl-3-(1-naphthoyl)indole (JWH-073), 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200), 5-(1,1-dimethylheptyl)-2-(3-hydroxycyclohexyl)-phenol (CP-47,497), and 5-(1,1-dimethyloctyl)-2-(3-

¹ Because the Secretary of the Department of Health and Human Services has delegated to the Assistant Secretary for Health of the Department of Health and Human Services the authority to make domestic drug scheduling recommendations, for purposes of this Final Order, all subsequent references to "Secretary" have been replaced with "Assistant Secretary."

hydroxycyclohexyl)-phenol (cannabicyclohexanol, CP-47,497 C8 homologue) including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, is extended to August 29, 2012, or until rulemaking proceedings are completed, whichever comes first.

In accordance with this Final Order, the Schedule I requirements for handling (1-pentyl-3-(1-naphthoyl)indole (JWH-018), 1-butyl-3-(1-naphthoyl)indole (JWH-073), 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200), 5-(1,1-dimethylheptyl)-2-(3-hydroxycyclohexyl)-phenol (CP-47,497), and 5-(1,1-dimethyloctyl)-2-(3-hydroxycyclohexyl)-phenol (cannabicyclohexanol, CP-47,497 C8 homologue)) including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, will remain in effect after February 29, 2012.

Pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act) (5 U.S.C. 801-808), DEA has submitted a copy of this Final Order to both Houses of Congress and to the Comptroller General.

Dated: February 24, 2012.

Michele M. Leonhart,
Administrator.

[FR Doc. 2012-4916 Filed 2-28-12; 8:45 am]

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DEPARTMENT OF STATE

22 CFR Part 126

[Public Notice 7810]

RIN 1400-AD08

Amendment to the International Traffic in Arms Regulations: Haiti

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending the International Traffic in Arms Regulations to clarify that the Coast Guard of Haiti is an eligible end-user. This change makes it clear that the existing exceptions allow for exports to the Coast Guard of Haiti.

DATES: *Effective Date:* This rule is effective February 29, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Candace M. J. Goforth, Acting Director, Office of Defense Trade Controls Policy, U.S. Department of State, telephone (202) 663-2792, or email DDTCResponseTeam@state.gov. ATTN: Regulatory Change, Part 126, Haiti.

SUPPLEMENTARY INFORMATION: This rule implements section 7045(c) of Public Law 112-74 by amending ITAR § 126.1(j) to clarify that U.S. policy on arms exports to the Government of Haiti includes the Coast Guard as an eligible end-user. Therefore, “to include the Coast Guard” is added to § 126.1(j)(1). In addition, in paragraph (j)(2), the word “exemptions” is replaced with “exceptions,” as it more accurately describes the listing in paragraph (j)(1).

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from § 553 (Rulemaking) and § 554 (Adjudications) of the Administrative Procedure Act. Since the Department is of the opinion that this rule is exempt from 5 U.S.C. 553, it is the view of the Department of State that the provisions of § 553(d) do not apply to this rulemaking. Therefore, this rule is effective upon publication. The Department also finds that, given the national security issues surrounding U.S. policy towards the Government of Haiti, notice and public procedure on this rule would be impracticable, unnecessary, or contrary to the public interest; for the same reason, the rule will be effective immediately. *See* 5 U.S.C. 808(2).

Regulatory Flexibility Act

Since this amendment is not subject to 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Act of 1995

This amendment does not involve a mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

Executive Orders 12372 and 13132

This amendment will not have substantial direct effects on the States,

on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this amendment.

Executive Order 12866

The Department is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules governing the conduct of this function are exempt from the requirements of Executive Order 12866. However, the Department has reviewed the rule to ensure its consistency with the regulatory philosophy and principles set forth in the Executive Order.

Executive Order 12988

The Department of State has reviewed the amendment in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13563

The Department of State has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

Executive Order 13175

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, Executive Order 13175 does not apply to this rulemaking.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

List of Subjects in 22 CFR Part 126

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 126 is amended as follows:

PART 126—GENERAL POLICIES AND PROVISIONS

■ 1. The authority citation for part 126 is revised to read as follows:

Authority: Secs. 2, 38, 40, 42, and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205; 3 CFR, 1994 Comp., p. 899; Sec. 1225, Pub. L. 108-375; Sec. 7089, Pub. L. 111-117; Sec. 7045, Pub. L. 112-74.

■ 2. Section 126.1 is amended by revising paragraphs (j)(1)(i) and (j)(2) to read as follows:

§ 126.1 Prohibited exports, imports, and sales to or from certain countries.

* * * * *

(j) *Haiti.* (1) * * *

(i) Defense articles and defense services intended solely for the support of or use by security units that operate under the command of the Government of Haiti, to include the Coast Guard;

* * * * *

(2) All shipments of arms and related materials consistent with the above exceptions shall only be made to Haitian security units as designated by the Government of Haiti, in coordination with the U.S. Government.

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Dated: February 21, 2012.

Rose E. Gottemoeller,

Acting Under Secretary, Arms Control and International Security, Department of State.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9581]

RIN 1545-BG60

Public Inspection of Material Relating to Tax-Exempt Organizations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations pertaining to the public inspection of material relating to tax-exempt organizations and final regulations pertaining to the public inspection of written determinations and background file documents. These regulations are necessary to clarify rules relating to information and materials made available by the IRS for public inspection under the Internal Revenue