

pedestrian traffic rule or regulation made applicable to the installation under the provisions of this subpart, is subject to punishment as provided for by the applicable local policies and procedural requirements that a Center Director or the Executive Director for Headquarters Operations has issued under section 1204.1102 and in accordance with section 1204.1103.

**Nanette Jennings,**

*NASA Federal Register Liaison Officer.*

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## DEPARTMENT OF COMMERCE

### 15 CFR Part 4

[Docket Number: 150902802-5802-01]

RIN 0605-AA39

### Freedom of Information Act and Privacy Act Regulations, Nomenclature Change

**AGENCY:** Department of Commerce (Commerce).

**ACTION:** Final rule.

**SUMMARY:** The Department of Commerce (Department) amends its regulations under the Freedom of Information Act (FOIA) and the Privacy Act (PA) to reflect an organizational change in the Department's Office of General Counsel (OGC). Specifically, this action removes from the provisions on FOIA appeals and the PA all references to the position of Assistant General Counsel for Administration, and replaces them with references to the new "Assistant General Counsel for Litigation, Employment, and Oversight." The Department's OGC recently eliminated the position "Assistant General Counsel for Administration," and this amendment updates the rules to implement that change. The rule also reflects that the Office of the Assistant General Counsel for Litigation, Employment, and Oversight will be conducting FOIA appeals and responding to requests for corrective action or review under the PA for the Department. This action merely makes a nomenclature change; the change has no substantive impact to the public, because the OGC has in the past and will continue to handle the FOIA and PA actions described above.

**DATES:** This action is effective on November 13, 2015.

**ADDRESSES:** The final rule is available at [www.regulations.gov](http://www.regulations.gov), or by contacting the Department of Commerce: Room 1854, 1401 Constitution Avenue NW., Washington, DC 20230.

### FOR FURTHER INFORMATION CONTACT:

Joseph Bartels, 202-482-3084.

**SUPPLEMENTARY INFORMATION:** This rule modifies the sections of the Department of Commerce's FOIA and PA regulations addressing appeals of denials of requests under FOIA and requests for review or corrective action under the PA by updating the name and address of the office in the OGC that decides appeals. The current FOIA regulations state that the Assistant General Counsel for Administration (AGC-Admin) decides all appeals from FOIA requests (except those made to the Office of the Inspector General, or to the AGC-Admin). The regulations also require appellants to address requests for corrective action or review for overly delayed responses under the PA to the AGC-Admin.

The Department of Commerce's Office of General Counsel (OGC) has recently reorganized its offices, and the position of AGC-Admin no longer exists. In its place, the Assistant General Counsel for Litigation, Employment, and Oversight has been delegated the authority from the General Counsel to make final decisions on appeal of initially denied requests for records under FOIA. See Department Administrative Order 205-12, sections 4 and 5.

Accordingly, this rule amends part 4 of title 15 of the Code of Federal Regulations to remove references to the now non-existent AGC-Admin, and replace it with the term "Assistant General Counsel for Litigation, Employment, and Oversight." This action is merely a nomenclature change, and does not modify or revise in any substantive way the Department of Commerce's FOIA or PA regulations, or FOIA or PA requirements.

### Classification

*Executive Order 12866*

This rule is limited to agency organization, and therefore is not considered a "regulation" under Executive Orders 12866 and 13563. Accordingly, it is exempt from review by the Office of Management and Budget.

### *Regulatory Flexibility Act*

Because this rule addresses a matter of agency organization, and therefore is not subject to the notice and comment requirements of the Administrative Procedure Act, it is also exempt from the requirements of the Regulatory Flexibility Act. Accordingly, a regulatory flexibility analysis is not required for this action, and none has been prepared.

### *Paperwork Reduction Act*

This action is merely administrative in nature, and addresses a matter of agency organization. It does not contain a "collection of information" as that term is defined in the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

### List of Subjects in 15 CFR Part 4

Freedom of information, Privacy.

Dated: October 28, 2015.

**Catrina D. Purvis,**

*Chief Privacy Officer and Director for Open Government, Department of Commerce.*

For the reasons set forth above, the Department of Commerce amends 15 CFR part 4 as follows:

### PART 4—DISCLOSURE OF GOVERNMENT INFORMATION

■ 1. The authority citation for this part continues to read as follows:

**Authority:** 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 5 U.S.C. 553; 31 U.S.C. 3717; 44 U.S.C. 3101; Reorganization Plan No. 5 of 1950.

■ 2. Amend § 4.10 by revising paragraphs (b)(1) and (c) to read as follows:

#### § 4.10 Appeals from initial determinations or untimely delays.

\* \* \* \* \*

(b)(1) Appeals, other than appeals from requests made to the Office of Inspector General, shall be decided by the Assistant General Counsel for Litigation, Employment, and Oversight. Written appeals should be addressed to the Assistant General Counsel for Litigation, Employment, and Oversight, at U.S. Department of Commerce, Office of the General Counsel, Room 5875, 14th and Constitution Avenue NW., Washington, DC 20230. An appeal may also be sent via facsimile at 202-482-2552. For a written appeal, both the letter and the appeal envelope should be clearly marked "Freedom of Information Act Appeal." Appeals may also be submitted electronically either by email to [FOIAAppeals@doc.gov](mailto:FOIAAppeals@doc.gov) or online at the FOIAonline Web site, <http://foiaonline.regulations.gov>, if requesters have a FOIAonline account. In all cases, the appeal (written or electronic) should include a copy of the original request and initial denial, if any. All appeals should include a statement of the reasons why the records requested should be made available and why the adverse determination was in error. No opportunity for personal appearance, oral argument or hearing on appeal is provided. Upon receipt of an appeal, the Assistant General Counsel for Litigation, Employment, and Oversight ordinarily

shall send an acknowledgement letter to the requester which shall confirm receipt of the requester's appeal. \* \* \*

(c) Upon receipt of an appeal involving records initially denied on the basis of FOIA exemption (b)(1), the records shall be forwarded to the Deputy Assistant Secretary for Security (DAS) for a declassification review. The DAS may overrule previous classification determinations in whole or in part if continued protection in the interest of national security is no longer required, or no longer required at the same level. The DAS shall advise the Assistant General Counsel for Litigation, Employment, and Oversight, the General Counsel, the General Counsel to the Inspector General, or Deputy Inspector General, as appropriate, of his or her decision.

\* \* \* \* \*

**§§ 4.23, 4.25, 4.28, and 4.29 and Appendix B [Amended]**

■ 3. In addition to the amendments made above, in 15 CFR part 4, remove the words "Assistant General Counsel for Administration" and add, in their place, the words "Assistant General Counsel for Litigation, Employment, and Oversight" in the following places:

- a. Section 4.23(d)(2);
- b. Section 4.25(a)(2) and (g)(3)(ii);
- c. Section 4.28(a)(1)(ii) and (a)(2)(ii)(D);
- d. Section 4.29(b), (c), (e), (g)(1), (h), and (i); and
- e. Appendix B.

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**DEPARTMENT OF HOMELAND SECURITY**

**U.S. Customs and Border Protection**

**DEPARTMENT OF THE TREASURY**

**19 CFR Parts 101, 113, and 133**

[CBP Dec. 15-15, USCBP-2006-0013]

RIN 1515-AD56 [formerly 1505-AB54]

**Customs and Border Protection's Bond Program**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document adopts as a final rule, with changes, proposed amendments to the U.S. Customs and Border Protection (CBP) regulations that serve to centralize the processing of continuous bonds at CBP's Revenue

Division within the Office of Administration. Upon consideration of comments received from the public in response to the proposed rulemaking, and in light of CBP's ongoing efforts concerning the development of electronic bonds, CBP has determined not to proceed at this time with certain proposed regulatory changes relating to the application, approval, and execution of bonds. CBP has also determined not to proceed with proposals relating to provisions that are the subject of other rulemakings currently under inter-departmental review. In the notice of proposed rulemaking, CBP used the terms "CBP-approved electronic data interchange system" and "electronic filing" to describe the manner by which continuous bonds may be submitted to CBP. In this final rule, these terms are clarified to reflect that continuous bonds may be scanned and submitted to CBP as an email attachment, or by facsimile. This document also amends the CBP regulations to allow for the filing of single transaction bonds pursuant to these methods. In this rulemaking, CBP also clarifies the CBP regulations to reflect that intellectual property rights sample bonds are posted to protect the importer or owner of the sample, and changes provisions of the international carrier bond regarding the payment of fees. Lastly, this final rule adopts non-substantive amendments to the regulations regarding nomenclature and organizational changes, including editorial changes to enhance general readability, and makes technical corrections to reflect statutory amendments.

**DATES:** Effective December 14, 2015.

**FOR FURTHER INFORMATION CONTACT:** Kara Welty, Chief, Debt Management Branch, Revenue Division, Office of Administration, Tel. (317) 614-4614.

**SUPPLEMENTARY INFORMATION:**

**Background**

*Proposed Rule*

On January 5, 2010, U.S. Customs and Border Protection (CBP) published in the **Federal Register** (75 FR 266) a proposal to amend title 19 of the Code of Federal Regulations (19 CFR) regarding CBP's bond program. The proposed amendments to CBP's bond regulations were intended to update and modernize CBP's bond program and centralize the filing, review and approval of continuous bonds at CBP's Revenue Division, Office of Administration, in Indianapolis, Indiana, which assumes the bond functions previously performed at the port level. In that document, CBP also

proposed to amend § 113.64, which prescribes international carrier bond conditions, to state that an obligor must pay liquidated damages for failure to timely submit to CBP passenger processing fees that were required to be collected. In addition, CBP proposed to amend the regulations in part 133 to reflect that bonds relating to allegations of counterfeit trademarks are permitted to be continuous bonds.

*Bond Final Rule Separate and Distinct From eBond Test*

Title VI of the North American Free Trade Agreement Implementation Act, Public Law 103-182, 107 Stat. 2057 (Dec. 8, 1993), establishes the National Customs Automation Program (NCAP), an automated and electronic system for the processing of commercial importations. CBP is currently conducting a voluntary NCAP eBond test. In a general notice published in the **Federal Register** (79 FR 70881) on November 28, 2014, CBP described the terms and conditions of the eBond test which provides for the transmission to the Automated Commercial Environment (ACE) of electronic bond contracts (eBonds) between principals and sureties, with CBP as the third-party beneficiary, for the purpose of linking those eBonds to the transactions they are intended to secure (eBond system). The test deployed on January 3, 2015, and a modification to the test was published in the **Federal Register** (80 FR 899) and went into effect on January 7, 2015.

The eBond test is separate and distinct from this bond final rule. In this regard, it is noted that the eBond test pertains to electronic bonds that are not submitted on the CBP Form 301 and that are transmitted through an electronic data interchange to ACE to secure a limited subset of ACE entry types. The bond regulations contained in this final rule, however, pertain to all entry types and provide for the filing of both continuous bonds and single transaction bonds primarily on the CBP Form 301. As a result of this rule, CBP Form 301 bonds may be scanned and emailed to CBP as a computer file attachment (*i.e.*, in a .pdf or a .tif format), or submitted by facsimile (fax) or mail. Bonds emailed or faxed to CBP on the CBP Form 301 are not submitted via a "CBP-approved electronic data interchange system" in that they do not constitute a computer-to-computer interchange of strictly formatted messages. To clarify this fact, this final rule no longer refers to CBP Form 301 bonds, or the submission of bonds outside of the eBond test, as "electronic" or submitted or filed