

effective date for this action to give DOC officials the opportunity to further review and consider the revision, consistent with the Memorandum. The rule published November 25 containing the revision was exempt from notice and comment because it involved a military and foreign affairs function of the United States (See 5 U.S.C.

553(a)(1)). Given the imminence of the new effective date, seeking prior public comment on this temporary delay would be impractical, unnecessary, and also contrary to the public interest in the orderly promulgation and implementation of regulations.

Dated: January 27, 2017.

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 2017-02164 Filed 1-31-17; 8:45 am]

**BILLING CODE 3510-33-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 1105

[Docket No. FDA-2016-N-1555]

#### Refuse To Accept Procedures for Premarket Tobacco Product Submissions; Revised Effective Date

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review," this action revises the effective date of the final rule ("Refuse to Accept Procedures for Premarket Tobacco Product Submissions") published December 29, 2016, from January 30, 2017, until March 21, 2017.

**DATES:** The effective date of the rule that published on December 29, 2016, at 81 FR 95863, is delayed until March 21, 2017.

#### FOR FURTHER INFORMATION CONTACT:

Center for Tobacco Products, Food and Drug Administration, 10903 New Hampshire Ave., Document Control Center, Bldg. 71, Rm. G335, Silver Spring, MD 20993-0002, email: [AskCTP@fda.hhs.gov](mailto:AskCTP@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** On December 29, 2016, the Food and Drug Administration (FDA or Agency) issued a final rule describing when FDA will refuse to accept a tobacco product

submission (or application) because the application has not met a minimum threshold for acceptability for FDA review (81 FR 95863). Under the rule, FDA will refuse to accept a tobacco product submission, for example, that is not in English, does not pertain to a tobacco product, or does not identify the type of submission. The rule was published with an effective date of January 30, 2017.

FDA bases this action on the memorandum of January 20, 2017 (82 FR 8346), from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review." That memorandum directed the heads of Executive Departments and Agencies to temporarily postpone for 60 days from the date of the memorandum the effective dates of all regulations that had been published in the **Federal Register** but had not yet taken effect, for the purpose of "reviewing questions of fact, law, and policy they raise." FDA, therefore, is revising the effective date of the rule that published on December 29, 2016 (81 FR 95863), to March 21, 2017.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, the Agency's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and (d)(3). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. The temporary delay in the effective date until March 21, 2017, is necessary to give Agency officials the opportunity for further review and consideration of the new regulation, consistent with the memorandum described previously. Given the imminence of the effective date and the brief length of the extension of the effective date, seeking prior public comment on this temporary delay would have been impracticable, as well as contrary to the public interest in the orderly promulgation and implementation of regulations.<sup>1</sup> FDA also believes that affected entities need to be informed as soon as possible of the extension and its length in order to plan and adjust their implementation process accordingly.

<sup>1</sup> In the event that this rule does not publish on or before January 30, 2017, good cause similarly exists to stay the effectiveness of the rule published December 29, 2016, and revise its effective date until March 21, 2017.

Dated: January 27, 2017.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2017-02174 Filed 1-30-17; 11:15 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF JUSTICE

### 28 CFR Part 31

[Docket No.: OJP (OJJDP) 1719E]

**RIN 1121-AA83**

#### Juvenile Justice and Delinquency Prevention Act Formula Grant Program

**AGENCY:** Office of Justice Programs, Department of Justice.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** On January 17, 2017, the Office of Juvenile Justice and Delinquency Prevention ("OJJDP") of the U.S. Department of Justice's Office of Justice Programs ("OJP"), published a partial final rule to amend portions of the formula grant program ("Formula Grant Program") regulation to reflect changes in OJJDP policy. That rule is scheduled to become effective February 16, 2017.

In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review," this action hereby temporarily delays the effective date of the final rule entitled "Juvenile Justice and Delinquency Prevention Act Formula Grant Program" until March 21, 2017 (which is 60 days from January 20, 2017). This temporary delay will allow Department of Justice officials an opportunity to review any potential questions of fact, law and policy raised by this regulation, consistent with the Chief of Staff's memorandum of January 20, 2017.

**DATES:** This rule is effective February 1, 2017. The effective date of the final rule amending 28 CFR part 31 published in the **Federal Register** on January 17, 2017, at 82 FR 4783, is delayed to March 21, 2017.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gregory Thompson, Senior Advisor, Office of Juvenile Justice and Delinquency Prevention, at 202-307-5911.

**SUPPLEMENTARY INFORMATION:** The OJJDP Formula Grant Program is authorized by the Juvenile Justice and Delinquency Prevention Act ("JJDP"). The JJDP authorizes OJJDP to provide an annual grant to each State to improve its juvenile justice system and to support

juvenile delinquency prevention programs. OJJDP published a notice of proposed rulemaking on August 8, 2016, 81 FR 52377, that proposed to revise the entirety of the Formula Grant Program regulations.

On January 17, 2017, OJJDP published a partial final rule to amend portions of the formula grant program regulation to reflect changes in OJJDP policy. For several provisions, OJJDP addressed the public comments received and amended the current Formula Grant Program regulations through the partial final rule. The partial final rule is scheduled to become effective February 16, 2017. For other provisions included in the proposed rule, OJJDP received many comments that require additional time for OJJDP to consider. OJJDP anticipates publishing a separate final rule in the future addressing the remainder of the provisions contained in the August 8, 2016 proposed rule.

This final rule merely extends for 33 days the effective date of the previously published partial final rule. There is no change to the substance of the partial final rule. Also, OJJDP has determined that the brief delay in the effective date would not delay OJJDP's administration of the Formula Grant Program and would have no effect on the amount, the timing, or the distribution of FY2017 formula grant allocations made under the standards of the previously published partial final rule.

Accordingly, because there is no substantive impact, the Acting Assistant Attorney General finds that allowing a prior opportunity for notice and public comment is unnecessary and that, therefore, good cause exists to exempt this rule from notice-and-comment requirements pursuant to 5 U.S.C. 553(b)(B). Furthermore, in light of the lack of practical impact, this rule is being made effective upon publication in the **Federal Register** because it is not a substantive rule and, in any event, there is good cause to find, pursuant to 5 U.S.C. 553(d)(3), that a 30-day delayed effective date would be impracticable and unnecessary in these circumstances.

In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review", this action delays until March 21, 2017, the effective date of the final rule entitled "Juvenile Justice and Delinquency Prevention Act Formula Grant Program" published in the **Federal Register** on January 17, 2017 at 82 FR 4783. The temporary delay in effective date will allow Department of Justice officials an opportunity to review any potential questions of fact, law and policy raised by this regulation,

consistent with the Chief of Staff's memorandum of January 20, 2017.

#### Regulatory Certifications

Preparation of a Regulatory Flexibility Analysis is not required for this final rule because the agency was not required to publish a general notice of proposed rulemaking. This action is not a significant rulemaking pursuant to Executive Order 12866 and, accordingly, has not been reviewed by the Office of Management and Budget.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 "Federalism" it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

This action pertains to agency management and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a "rule" as that term is used by the Congressional Review Act, 5 U.S.C. 804(3)(C). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

Dated: January 27, 2017.

**Maureen A. Henneberg,**

*Acting Assistant Attorney General, Office of Justice Programs.*

[FR Doc. 2017-02139 Filed 1-31-17; 8:45 am]

**BILLING CODE 4410-18-P**

## NATIONAL MEDIATION BOARD

### 29 CFR Part 1208

**[Docket No. C-7156]**

**RIN 3140-AA00**

#### Access to Information

**AGENCY:** National Mediation Board.

**ACTION:** Final rule.

**SUMMARY:** The National Mediation Board (NMB or Board) revises its Information Access regulations in order to implement the FOIA Improvement Act of 2016, to update certain provisions, and to amend its regulations regarding responding to subpoenas.

**DATES:** This rule is effective February 1, 2017.

#### FOR FURTHER INFORMATION CONTACT:

Mary Johnson, General Counsel, National Mediation Board, 202-692-5050, [legal@nmb.gov](mailto:legal@nmb.gov).

**SUPPLEMENTARY INFORMATION:** On June 30, 2016, President Obama signed into

law the FOIA Improvement Act of 2016 (Pub. L. 114-185), amending the Freedom of Information Act (FOIA), 5 U.S.C. 552. The law addressed many procedural issues, such as requiring agencies to allow 90 days for requesters to file an administrative appeal and to provide dispute resolution services throughout the FOIA process. This Final Rule incorporates these and other requirements from the FOIA Improvement Act and clarifies and updates language in the NMB's Information Access Rules. In addition, section 1208.7 provides "Touhy" regulations to address the NMB's response to subpoenas and other formal requests for information.

On November 14, 2016, the NMB published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** inviting public comments for 60 days on the proposed rules. As required by provisions of the Railway Labor Act, the NMB offered interested individuals the opportunity to participate in a public hearing on December 8, 2016.

The NMB received only one comment in response to its NPRM. This comment addressed a specific fee provision noted in section 1208.6(c)(2). This fee is not a change in regulations; rather, it is maintaining the duplication fee of 15 cents in effect prior to the NPRM. This fee is in line with other agencies' fees. In addition, the NMB rarely charges duplication fees for FOIA requests, as most are provided as electronic documents. This Final Rule remains unchanged from the NPRM.

This rule is not a significant rule for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, the NMB certifies that these regulatory changes will not have a significant impact on small business entities. This rule will not have any significant impact on the quality of the human environment under the National Environmental Policy Act.

#### List of Subjects in 29 CFR Part 1208

Confidential business information, Freedom of information, Information.

For the reasons stated in the preamble, the National Mediation Board revises 29 CFR part 1208 to read as follows:

## PART 1208—AVAILABILITY OF INFORMATION

Sec.

1208.1 General provisions.

1208.2 Requests for records or information under the Freedom of Information Act.