

### Administrative Procedure Act

The CSA provides for an expedited scheduling action where control is required by the United States obligations under international treaties, conventions, or protocols. 21 U.S.C. 811(d)(1). If control is required pursuant to such international treaty, convention, or protocol, the Attorney General must issue an order controlling such drug under the schedule he deems most appropriate to carry out such obligations, without regard to the findings or procedures otherwise required for scheduling actions. *Id.*

To the extent that 21 U.S.C. 811(d)(1) directs that if control is required by the United States obligations under international treaties, conventions, or protocols in effect on October 27, 1970, scheduling actions shall be issued by order (as compared to scheduling pursuant to 21 U.S.C. 811(a) by rule), the DEA believes that the notice and comment requirements of section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this scheduling action. In the alternative, even if this action does constitute “rule making” under 5 U.S.C. 551(5), this action is exempt from the notice and comment requirements of 5 U.S.C. 553 pursuant to 21 U.S.C. 553(a)(1) as an action involving a foreign affairs function of the United States given that this action is being done in accordance with 21 U.S.C. 811(d)(1)’s requirement that the United States comply with its obligations under the specified international agreements.

### Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) applies to rules that are subject to notice and comment under section 553(b) of the APA or any other law. As explained above, the CSA exempts this final order from notice and comment. Consequently, the RFA does not apply to this action.

### Paperwork Reduction Act of 1995

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

### Congressional Review Act

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act (CRA)). This order will not result in: “an annual effect on the

economy of \$100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.” However, pursuant to the CRA, the DEA has submitted a copy of this final order to both Houses of Congress and to the Comptroller General.

### List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, the DEA amends 21 CFR part 1308 as follows:

### PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

**Authority:** 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. In § 1308.11:

■ a. Redesignate paragraphs (b)(18) through (58) as (b)(19) through (59) and add a new paragraph (b)(18);

■ b. Add paragraph (b)(60); and

■ c. Remove and reserve paragraphs (h)(2) and (4).

The additions read as follows:

#### § 1308.11 Schedule I.

\* \* \* \* \*

(b) \* \* \*

(18) Butyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide) .....	9822
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(60) U-47700 (3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide) .....	9547
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\* \* \* \* \*

Dated: April 11, 2018.

**Robert W. Patterson,**  
Acting Administrator.

[FR Doc. 2018-08280 Filed 4-19-18; 8:45 am]

**BILLING CODE 4410-09-P**

### DEPARTMENT OF STATE

#### 22 CFR Part 172

[Public Notice: 10248]

RIN 1400-AE49

#### Service of Process; Production or Disclosure of Official Information in Response to Court Orders, Subpoenas, Notices of Depositions, Requests for Admissions, Interrogatories, or Similar Requests or Demands in Connection With Federal or State Litigation; Expert Testimony

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department of State corrects erroneous citations and typographical errors within part 172 by correcting or removing them.

**DATES:** This rule is effective on May 21, 2018.

#### FOR FURTHER INFORMATION CONTACT:

Alice Kottmyer, Attorney-Adviser, 202-647-2318, [kottmyeram@state.gov](mailto:kottmyeram@state.gov).

**SUPPLEMENTARY INFORMATION:** Section 172 of Title 22, Code of Federal Regulations, describes procedures for the public to follow to request testimony or production of documents for litigation (so-called “*Touhy* requests”). See *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

In this rulemaking, the Department is replacing the reference to Executive Order 12356 in the first sentence of § 172.1(e) to instead reference Executive Order 13526 (75 FR 707), the most recent executive order relating to classified national security information. Executive Order 12356 was revoked by Executive Order 12958, which in turn was revoked by Executive Order 13526.

The Department also corrects a typographical error in § 172.2(c) so that the first sentence references § 172.3(c) instead of § 173.3(c). Section 173.3(c) has no connection to service of process, whereas § 172.3(c) relates directly to service of process.

The Department deletes the following sentence in § 172.5(a): “Where documents or other materials are sought, the party should provide a description using the types of identifying information suggested in 22 CFR 171.10(a) and 171.31.” The two citations are not valid, and are likely artifacts from Part 172 as it existed in the past. The Department does not believe it is necessary to provide alternative citations. First, there are no analogs in the current regulation for the old §§ 171.10(a) or 171.31. Second, since the sentence immediately preceding the eliminated sentence calls

upon requestors to be as specific as possible concerning the nature and relevance of the official information sought, the Department believes that the eliminated sentence is unnecessary.

In § 172.5(c), the Department replaces the reference to “§ 172.2” to refer instead to § 172.4, which is the proper section about the Department officials designated to render such decisions.

The Department changes “Respectively” to “Respectfully” in § 172.6(a)(4), so that the sentence makes more sense and also conforms with the wording of § 172.6(b), which uses “respectfully” in a similar manner.

Finally, the Department corrects an office symbol in § 172.2.

### Regulatory Analyses

The Department of State is publishing this rulemaking as a final rule, pursuant to 5 U.S.C. 553(b). This rulemaking is a rule of agency organization, procedure, or practice. The effective date of the rule is 30 days after publication, as provided in the Administrative Procedure Act.

The Department further finds that this is not a major rule; is not subject to the Unfunded Mandates Reform Act of 1995; will not have tribal implications as defined by Executive Order 13175; and will not have an impact on a substantial number of small entities under the Regulatory Flexibility Act. This rule is not an economically significant rule under Executive Order 12866, and the Department certifies that the benefits of this rulemaking outweigh any costs, which are minimal for the public. The Office of Information and Regulatory Affairs has designated this rule as “non-significant” as defined by Executive Order 12866. This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

The Department of State has reviewed this rule in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden. This rule will not have substantial direct effect on the states, on the relationships 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 rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The rulemaking does not impose any new information collections subject to the Paperwork Reduction Act.

### List of Subjects in 22 CFR Part 172

Administrative practice and procedure, Courts, Government employees.

For the reasons set forth in the preamble, 22 CFR part 172 is amended as follows:

### PART 172—SERVICE OF PROCESS; PRODUCTION OR DISCLOSURE OF OFFICIAL INFORMATION IN RESPONSE TO COURT ORDERS, SUBPOENAS, NOTICES OF DEPOSITIONS, REQUESTS FOR ADMISSIONS, INTERROGATORIES, OR SIMILAR REQUESTS OR DEMANDS IN CONNECTION WITH FEDERAL OR STATE LITIGATION; EXPERT TESTIMONY

- 1. The authority citation for part 172 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 8 U.S.C. 1202(f); 22 U.S.C. 2651a, 2664, 3926.

#### § 172.1 [Amended]

- 2. In § 172.1(e), remove the phrase “Executive Order 12356 on national security information (3 CFR, 1982 Comp., p. 166)”, and add in its place, “Executive Order 13526 (3 CFR, 2009 Comp., p. 298)”.

#### § 172.2 [Amended]

- 3. In § 172.2:
  - a. Remove the phrase “L/EX” and add in its place “L/H-EX”, wherever it occurs.
  - b. In the first sentence of paragraph (c), remove the citation “and 173.3(c)” and add in its place “and 172.3(c)”.

#### § 172.5 [Amended]

- 4. In § 172.5:
  - a. Remove the second sentence of paragraph (a).
  - b. In paragraph (c), remove the citation “§ 172.2” and add in its place “§ 172.4”.

#### § 172.6 [Amended]

- 5. In § 172.6(a)(4), remove “Respectively” and add in its place “Respectfully”.

Dated: April 9, 2018.

**Alicia Frechette,**

*Executive Director, Office of the Legal Adviser and Bureau of Legislative Affairs.*

[FR Doc. 2018–08277 Filed 4–19–18; 8:45 am]

**BILLING CODE 4710–10–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG–2018–0103]

RIN 1625–AA08

#### Special Local Regulation; Pensacola Bay, Pensacola, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary special local regulation on Pensacola Bay in Pensacola, FL. This action is necessary to protect the persons participating in the Pensacola Triathlon marine event. This regulation restricts transit into, through, and within the regulated area unless authorized by the Captain of the Port Sector Mobile (COTP) or a designated representative.

**DATES:** This rule is effective from 4 a.m. through 10 a.m. April 29, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2018–0103 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LT Kyle D. Berry, Sector Mobile, Waterways Management Division, U.S. Coast Guard; telephone 251–441–5940, email [Kyle.D.Berry@uscg.mil](mailto:Kyle.D.Berry@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
COTP Captain of the Port Sector Mobile  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
PATCOM Patrol Commander  
§ Section  
U.S.C. United States Code

##### II. Background Information and Regulatory History

On January 16, 2018, the Pensacola Triathlon notified the Coast Guard that it would be conducting the swim portion of the race in the vicinity of the Vince J. Whibbs Sr. Community Maritime Park in Pensacola, FL. In response, on March 6, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulation; Pensacola Bay, Pensacola, FL (83 FR 9454). There we stated why we issued the NPRM, and invited