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CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

40 CFR Part 1601

[Agency Docket Number CSB 17-1]

Freedom of Information Act Program

AGENCY: Chemical Safety and Hazard Investigation Board.

ACTION: Final rule.

SUMMARY: The Chemical Safety and Hazard Investigation Board (CSB) published an interim final Freedom of Information Act (FOIA) rule in the Federal Register on September 29, 2017.

This final rule confirms that the interim final rule is adopted as final without change.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Kara Wenzel, Acting General Counsel, 202-261-7600, or kara.wenzel@csb.gov.

SUPPLEMENTARY INFORMATION:

Executive Summary

The CSB published an interim final FOIA rule in the Federal Register on September 29, 2017, 82 FR 45502. As an interim final rule, the rule became effective immediately upon publication in the Federal Register. Nonetheless, the CSB welcomed public comments from interested persons regarding the interim final rule. The due date for comments ended on October 30, 2017. The CSB did not receive any comments on the interim final rule. The CSB has determined that no further revisions are required to the interim final rule. Therefore, the CSB now issues this final rule to confirm that the interim final rule published previously shall be the final CSB FOIA rule.

The interim final rule published September 29, 2017, 82 FR 45502, will be codified at 40 CFR part 1601 at the next regular update to the Code of Federal Regulations.

Regulatory Procedures

Administrative Procedure Act (5 U.S.C. Ch. 5)

The CSB's previous implementation of this rule as an interim final rule, with provision for post-promulgation public comment, was based on section 553(b) of the Administrative Procedure Act. 5 U.S.C. 553(b). Under section 553(b), an agency may issue a rule without notice of proposed rulemaking and the pre-promulgation opportunity for public comment, with regard to "interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice." The CSB determined that many of the revisions were to interpretive rules issued by the CSB. Moreover, the CSB determined that the remaining revisions were rules of agency procedure or practice, as they did not change the substantive standards the agency applies in implementing the FOIA. The CSB also concluded that a pre-publication public comment period was unnecessary. The revisions in 40 CFR part 1601 merely implemented statutory changes, aligned the CSB's regulations with controlling judicial decisions, and clarified agency procedures.

Unfunded Mandates Reform Act (2 U.S.C. Ch. 25)

This rule is not subject to the Unfunded Mandates Reform Act because it does not contain a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000.00 or more in any one year. Nor will it have a significant or unique effect on small governments.

Regulatory Flexibility Act (5 U.S.C. Ch. 6)

This rule is not subject to the Regulatory Flexibility Act. The CSB has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The rule implements the procedures for processing FOIA requests within the CSB. Under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for the requesters. Thus, fees assessed by CSB will be nominal. Further, the “small entities” that make FOIA requests, as compared with individual and other requesters, are relatively few in number.

Paperwork Reduction Act (44 U.S.C. Ch. 35)

This rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. The Paperwork Reduction Act imposes certain requirements on Federal agencies in connection with the conducting or sponsoring of any collection of information. This rule does not contain any new collection of information requirement within the meaning of the Act.

Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. Ch. 6)

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (as amended), 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100,000,000.00 or more; a major increase in costs or prices; 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.

National Environmental Policy Act of 1969 (5 U.S.C. 804)

This rule will not have a significant effect on the human environment. Accordingly, this rule is categorically excluded from environmental analysis under 43 CFR 46.210(i).

E-Government Act of 2002 (44 U.S.C. 3504)

Section 206 of the E-Government Act requires agencies, to the extent practicable, to ensure that all information about that agency required to be published in the Federal Register is also published on a publicly accessible Web site. All information about the CSB required to be published in the Federal Register may be accessed at <http://www.csb.gov/>. The E-Government Act also requires, to the extent practicable, that agencies ensure that a publicly accessible Federal Government Web site contains electronic dockets for rulemakings under the Administrative Procedure Act of 1946 (5 U.S.C. 551 et seq.). Under this Act, an electronic docket consists of all submissions under section 553(c) of title 5, United States Code; and all other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically. The Web site <http://www.csb.gov/> will contain an electronic dockets for this rulemaking.

Plain Writing Act of 2010 (5 U.S.C. 301)

Under this Act, the term “plain writing” means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience. To ensure that this rulemaking was written in plain and clear language so that it can be used and understood by the public, the CSB modeled the language of this rule on the Federal Plain Language Guidelines.

List of Subjects in 40 CFR Part 1601

Administrative practice and procedure, Archives and records, Confidential business information, Freedom of information, Privacy.

Accordingly, the interim rule amending 40 CFR part 1601, which was published at 82 FR 45502 on September 29, 2017, is adopted as final without change.

Ray Porfiri, Deputy General Counsel,

Chemical Safety and Hazard Investigation Board.

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