

reexports, and other conduct, subject to the EAR, absent a license, license exception, or determination that no license is required (“NLR”).

* * * * *

Missile Technology Control Regime (MTCR). The United States and other nations in this multilateral control regime have agreed to guidelines for restricting the export and reexport of dual-use items that may contribute to the development of missiles. The MTCR Annex lists missile-related equipment and technology controlled either by the Department of Commerce’s Bureau of Industry and Security—Export Administration Regulations (15 CFR Parts 730 through 799) or by the Department of State’s Directorate of Defense Trade Controls—International Traffic in Arms Regulations (22 CFR Parts 120 through 130).

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“Superalloy”. (Cat 2 and 9)—Nickel-, cobalt-, or iron-base alloys having strengths superior to any alloys in the AISI 300 series at temperatures over 922 K (649 °C) under severe environmental and operating conditions.

* * * * *

“Transfer laser”. (Cat 6)—A “laser” in which the lasing species is excited through the transfer of energy by collision of a non-lasing atom or molecule with a lasing atom or molecule species.

* * * * *

Dated: February 19, 2013.

Kevin J. Wolf,
Assistant Secretary for Export
Administration.

[FR Doc. 2013–04158 Filed 2–27–13; 8:45 am]

BILLING CODE 3510–33–P

FEDERAL TRADE COMMISSION

16 CFR Part 4

Freedom of Information Act

AGENCY: Federal Trade Commission (FTC).

ACTION: Final rule.

SUMMARY: The Federal Trade Commission is revising its Rules of Practice governing access to agency records. The Commission is adding one new category of public record materials; inserting additional contact information for the filing of initial Freedom of Information Act (“FOIA”) requests; clarifying agency procedures for acknowledging the receipt of a request, the proper filing of a request, and the “cut-off” date for searches; and allowing

an extension in unusual circumstances of the time period for a FOIA requester to file an administrative appeal.

DATES: These amendments are effective February 28, 2013.

FOR FURTHER INFORMATION CONTACT: G. Richard Gold, Attorney, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580, (202) 326–3355.

SUPPLEMENTARY INFORMATION: This document implements Rule amendments that create one new category of public record materials; provide additional contact information for the filing of initial FOIA requests; set out agency procedures for acknowledging the receipt of a request, the proper filing of a request, and for the “cut-off” date for searches; and extend the time period for a FOIA requester to file an administrative appeal in unusual circumstances. Pursuant to 5 U.S.C. 553, these changes do not require public comment because they relate solely to agency practice and procedure.

In a separate document published in today’s **Federal Register**, the Commission seeks public comment pursuant to 5 U.S.C. 552(a)(4)(A)(i) on its proposal to amend its Rules of Practice to alter its fee schedule to reflect changes in the types of services that are provided, changes in the costs of providing services, and to add other fees for new services.

Public Record

The Commission is amending Rule 4.9(a)(3), 16 CFR 4.9(a)(3), to include the specific FOIA weblink at www.ftc.gov.

The Commission is amending Rule 4.9(a)(4)(i), 16 CFR 4.9(a)(4)(i), to include the mailing address for the Consumer Response Center, which is the contact point for the copying of official public records.

The Commission is amending Rule 4.9(a)(4)(iii), 16 CFR 4.9(a)(4)(iii), to include contact information for purchasing records from the Government Printing Office (“GPO”). The GPO is the primary source for purchasing official documents and electronic products from or relating to federal agencies.

The Commission is amending Rule 4.9(b)(3), 16 CFR 4.9(b)(3), to revise one public record category related to rulemaking and to include a new category of records to the miscellaneous list of public records set forth in Rule 4.9(b)(10), 16 CFR 4.9(b)(10). First, Rule 4.9(b)(3)(iii) is being revised to include on the Commission’s public record other materials (in addition to transcripts) distributed to members of

the public at workshops, hearings, or other public proceedings connected with a rulemaking. Second, the new category of records in Rule 4.9(b)(10)(xiv) includes transcripts or other materials that are distributed by staff at “free-standing” public workshops that are not part of a rulemaking process. These proposed revisions to Rule 4.9(b)(3) and (b)(10) do not require the creation of any materials, and merely provide that all materials distributed by staff at public proceedings be placed on the public record. Although such materials often are placed on the appropriate Public Record docket by staff, an explicit provision requiring that all such materials be placed on the Public Record will make such materials automatically available to the public. Because the public can access such materials without having to file a FOIA request, these rule changes likely will provide for more efficient use of FOIA staff and other agency resources.¹ In addition, FOIA search and review fees are greater for the public than the fees associated with public record requests. Accordingly, the Commission is revising its list of public records in Rule 4.9(b) to include these items.

FOIA Regulation

The Commission is amending Rule 4.11(a)(1)(i)(A) to include additional information about the different methods by which a proper FOIA request can be filed. The current regulation only provides instructions about how to mail a FOIA request. Because of advances in technology, we are including information about other methods by which proper FOIA requests can be filed. The amended section includes information about how to file FOIA requests through facsimile transmissions, the agency’s FOIA email account, and the online FOIA request submission page on the FTC’s Web site.

The Commission also is adding a new Rule 4.11(a)(1)(i)(C) to set forth the Commission procedures regarding the

¹ While these changes will likely reduce the requests made under FOIA, the Commission expects an increase in requests for public record materials. Nonetheless, placing documents on the public record and providing access through that process is generally less costly than the FOIA process. For example, the agency’s search and review costs are often not recouped by fees (i.e., the FOIA statute does not allow recoupment of certain costs associated with many non-commercial requests), and thus often outweigh the agency’s costs for public record access. Further, much of this material is already placed on the public record, and Commission staff often places such information on the Commission’s Web site at www.ftc.gov for easy public availability. Thus, these proposed changes likely will decrease the overall cost to the Commission.

acknowledgment of receipt of a request. Acknowledging requests provides FOIA requesters with improved customer service, which is a goal described in the agency's annual strategic plans prepared in accordance with the Government Performance Results Act of 1993, as amended. In addition, this rule change helps prevent situations where requesters send the same request to the Commission multiple times because they are unsure whether their initial request was received.

The re-designated Rule 4.11(a)(1)(i)(D), formerly at 4.11(a)(ii)(A), provides additional specificity to assist requesters in reasonably describing the records sought and also asks for sufficient contact information from the requester for a response to be sent.

The re-designated Rule 4.11(a)(1)(i)(F), formerly at 4.11(a)(ii)(A), would give the requester ten calendar days to agree to pay estimated fees in situations where a fee waiver is not granted.

The Commission also is adding in the new Rule 4.11(a)(1)(i)(H), contact information for purchasing records from the Government Printing Office ("GPO"). This will assist the public since GPO is the primary source for purchasing official documents and electronic products from or relating to federal agencies.

The Commission is amending the re-designated Rule 4.11(a)(1)(ii)(A), previously Rule (a)(1)(iii), to provide additional guidance about when a FOIA request is considered properly filed. A request is properly filed after the agency receives any request for records in which the requester has reasonably described such records, agreed to pay fees necessary for a response, and provided sufficient contact information for a response to be sent. Although most requesters learn about when the Commission begins calculating its 20-day FOIA response deadline through oral conversations with FTC staff, the FOIA Office's response letter, or the FOIA page on the FTC Web site, the new rule sets forth this procedure to provide requesters with more advance notice.

The Commission also is amending the re-designated Rule 4.11(a)(1)(iii)(A), previously Rule 4.11(a)(1)(iv)(A), to provide notice to the public about the "cut-off" date that the agency uses for FOIA searches. The rule, as amended, explains that the Commission will search for materials that existed at the time the FOIA request was received by the agency. The agency already customarily provides actual notice of "cut-off" dates used for FOIA searches

in its outgoing responses to FOIA requests. However, providing this explanation in the rule provides more advance constructive notice to FOIA requesters regarding the "cut-off" date.

The Commission is amending the re-designated Rule 4.11(a)(1)(iii)(C), previously Rule 4.11(a)(1)(iv)(C), to clarify that only certain records which are not easily copied or duplicated, such as tangible exhibits, are typically made available for on-site inspection.

The Commission is amending the re-designated Rule 4.11(a)(1)(iii)(D), previously Rule 4.11(a)(1)(iv)(D), to clarify procedures for notifying requesters when official files are missing. No section of the Commission's FOIA regulation directly addressed the procedures the agency must follow when the only copy of a responsive record is missing and that record should have been maintained in an official agency file according to the record disposition schedules that have been approved by the National Archives and Records Administration. To add a provision that addresses this situation, this amended rule now states that the requester will also be notified if a record that is part of an official agency file is lost or missing. If the person so requests, he will also be notified if the record should subsequently be located.

The Commission also is creating a new Rule 4.11(a)(2) that lists the contact telephone number for the FOIA Requester Service Center and includes information about the FTC's Public Liaison, which already must be on the agency's Web site. See 5 USC 552, as amended; EO 13392, "Improving Agency Disclosure of Information," 70 FR 75373 (Dec. 19, 2005). Although this contact information is not required in the regulation by statute or executive order, the amendment comports with the general directive from Congress and the President to be as transparent and customer-friendly as possible.

The re-designated Rule 4.11(a)(3)(i)(A)(2), previously at Rule 4.11(a)(2)(i)(A)(2), clarifies that a requester has 30 days after the date of the letter to appeal the initial FOIA determination to the General Counsel. The re-designated Rule 4.11(a)(3)(i)(A)(2) also provides the General Counsel with discretion to allow extra time or flexibility in certain instances for a requester to file a FOIA appeal. For example, the increased security procedures in mail delivery have generally led to longer delivery times. The General Counsel needs the flexibility to assess such situations and determine whether to consider an appeal notwithstanding any delay in its receipt.

Finally, the re-designated Rule 4.11(a)(3)(i)(A)(4), previously at Rule 4.11(a)(2)(i)(A)(3), expands the methods for proper submission of FOIA appeals to include both facsimile and email submissions. This change allows for electronic options for submitting appeals and reflects Congressional and Presidential directives to make the FOIA process more user friendly. Independent reports have noted federal agencies' need to provide electronic means for communications, one of the main factors that prompted the 1996 E-FOIA amendments.²

The Commission certifies that the Rule amendments set forth in this notice do not require an initial or final regulatory analysis under the Regulatory Flexibility Act because the amendments will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 605(b). Most requests for access to FTC records are filed by individuals who are not "small entities" within the meaning of that Act. *Id.* at 601(6). In any event, the economic impact of the rule changes on all requesters is expected to be minimal, if any, and the Act does not require an analysis for rules that are not subject to the notice-and-comment requirements of the Administrative Procedure Act, as discussed below. The Rule amendments also do not contain information collection requirements within the meaning of the Paperwork Reduction Act, 44 U.S.C. 3501–3520. Furthermore, the rule amendments relate solely to agency practice and procedure, and thus are not subject to the notice and comment requirements of the Administrative Procedure Act. See 5 USC 553(b)(3)(A).

List of Subjects in 16 CFR Part 4

Administrative practice and procedure, Freedom of Information Act.

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, Chapter I, Subchapter A of the Code of Federal Regulations as follows:

PART 4—MISCELLANEOUS RULES

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 15 U.S.C. 46, unless otherwise noted.

² For example, please see the National Security Archive's Knight Open Government Survey 2007 at http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB216/e-foia_audit_report.pdf where FTC was cited as one of the five top performers in implementing E-FOIA Amendments of 1996. The Web site (<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB349/index.htm>) also contains links to more recent FOIA Audits in 2008, 2010, and 2011.

■ 2. Amend § 4.9 by revising paragraphs (a)(3), (a)(4)(i), (a)(4)(iii), (b)(3)(iii), (b)(9), (b)(10)(xiv) and (xv), and by adding (b)(10)(xvi) to read as follows:

§ 4.9 The public record.

(a) * * *

(3) *Location.* All of the public records of the Commission are available for inspection at the principal office of the Commission on each business day from 9 a.m. to 5 p.m., and copies of some of those records are available at the regional offices on each business day from 8:30 a.m. to 5 p.m. Copies of records that the Commission is required to make available to the public electronically, pursuant to 5 U.S.C. 552(a)(2), may be obtained in that format from the Commission's Web site on the Internet, <http://www.ftc.gov/foia/readingroom.shtm>.

(4) *Copying of public records (i) Procedures.* Reasonable facilities for copying public records are provided at each office of the Commission. Subject to appropriate limitations and the availability of facilities, any person may copy public records available for inspection at each of those offices. Further, the agency will provide copies to any person upon request. Written requests for copies of public records shall be addressed to the Supervisor, Consumer Response Center, Federal Trade Commission, Room 130, 600 Pennsylvania Avenue NW., Washington, DC 20580, and shall specify as clearly and accurately as reasonably possible the records desired. For records that cannot be specified with complete clarity and particularity, requesters shall provide descriptions sufficient to enable qualified Commission personnel to locate the records sought. In any instance, the Commission, the Supervisor of the Consumer Response Center, the General Counsel, the deciding official (as designated by the General Counsel), or the official in charge of each office may prohibit the use of Commission facilities to produce more than one copy of any public record, and may refuse to permit the use of such facilities for copying records that have been published or are publicly available at places other than the offices of the Commission.

* * * * *

(iii) *Records for sale at another government agency.* If requested materials are available for sale at another government agency, the requester will not be provided with copies of the materials but will be advised to obtain them from the selling agency. The U.S. Government Printing Office ("GPO"), the official bookstore for most U.S. Government publications,

can be contacted at (202) 512-1800 or toll-free at (866) 512-1800, and at ContactCenter@gpo.gov. The GPO's online store can be accessed at <http://bookstore.gpo.gov> and mail orders should be directed to U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000.

* * * * *

(b) * * *

(3) * * *

(iii) Transcripts of hearings of all rulemaking proceedings, all other materials that are distributed to the public during these proceedings, and written statements filed with or forwarded to the Commission in connection with these proceedings.

* * * * *

(10) * * *

(xiv) All transcripts or other materials that are distributed by staff at public workshops;

(xv) Other documents that the Commission has determined to place on the public record; and

(xvi) Every amendment, revision, substitute, or repeal of any of the foregoing items listed in paragraphs (b)(1) through (10) of this section.

* * * * *

■ 3. In § 4.11, revise paragraph (a) to read as follows:

§ 4.11 Disclosure requests.

(a) *Freedom of Information Act—(1) Initial requests—(i) Form and contents; time of receipt.* (A) A request under the provisions of the Freedom of Information Act, 5 U.S.C. 552, as amended, for access to Commission records shall be in writing and transmitted by one of the following means: by mail to the following address: Freedom of Information Act Request, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580; by facsimile transmission to (202) 326-2477; by email message to the FOIA email account at foia@ftc.gov; or by the form located at the FTC's FOIA Web site, <https://www.ftc.gov/ftc/foia.htm>.

(B) Failure to mark the envelope and the request in accordance with paragraph (a)(1)(i)(A) of this section, or the filing of a request for expedited treatment under paragraph (a)(1)(i)(G) of this section, will result in the request (or requests, if expedited treatment has been requested) as received on the date that the processing unit in the Office of General Counsel actually receives the request(s).

(C) *Acknowledgment of requests.* Once a FOIA request is properly received by the processing unit in the Office of the General Counsel, a letter

acknowledging the receipt of the request shall be mailed to the requester if processing the request will likely take more than 5 business days.

(D) *Identifiability.* (1) A properly filed FOIA request shall reasonably describe the records sought with enough detail to enable the Commission to locate them with a reasonable amount of effort. Whenever possible, the request should include specific information about each record sought such as date, title, name, author, recipient, subject matter of the record, provide information regarding fees pursuant to § 4.8(c), and provide sufficient contact information for a response to be sent.

(2) A denial of a request may state that the description required by paragraph (a)(2)(ii)(A) of this section is insufficient to allow identification and location of the records.

(E) *Costs; agreement to pay costs.* Requesters will be charged search, review, duplication and other chargeable direct costs as prescribed by § 4.8 for requests under this section. All requests shall include a statement of the information needed to determine fees, as provided by § 4.8(c), and an agreement to pay fees (or a statement that the requester will not pay fees if a fee waiver is denied), as provided by § 4.8(d). Requests may also include an application for a fee waiver, as provided by § 4.8(e). An advance payment may be required in appropriate cases as provided by § 4.8(h).

(F) *Failure to agree to pay fees.* If a request does not include an agreement to pay fees, and if the requester is notified of the estimated costs pursuant to § 4.8(d)(3), the request will be deemed not to have been received until the requester agrees to pay such fees. If a requester declines to pay fees within ten calendar days and is not granted a fee waiver, the request will be denied.

(G) *Expedited treatment.* Requests may include an application for expedited treatment. Where such an application is not included with an initial request for access to records under paragraph (a)(1) of this section, the application may be included in any appeal of that request filed under paragraph (a)(3) of this section. Such application, which shall be certified by the requester to be true and correct to the best of such person's knowledge and belief, shall describe the compelling need for expedited treatment, including an explanation as to why a failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or, with respect to a request made by a person primarily engaged in

disseminating information, an explanation of the urgency to inform the public concerning actual or alleged Federal Government activity. The deciding official (as designated by the General Counsel) will, within 10 calendar days of receipt of a request for expedited treatment, notify the requester, in writing, of the decision to either grant or deny the request for expedited treatment, and, if the request is denied, advise the requester that this determination may be appealed to the General Counsel.

(H) *Records for sale at another government agency.* If requested materials are available for sale at another government agency, the requester will not be provided with copies of the materials but will be advised to obtain them from the selling agency. The U.S. Government Printing Office ("GPO"), the official bookstore for most U.S. Government publications, can be contacted at (202) 512-1800 (for those in the Washington, DC area), toll-free at (866) 512-1800 and at ContactCenter@gpo.gov. The GPO's online store can be accessed at <http://bookstore.gpo.gov> and mail orders should be directed to U.S. Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000.

(ii) *Time limit for initial determination.* (A) The deciding official (as designated by the General Counsel) will, within 20 working days of the receipt of a request, or if applicable, the date that a request is properly filed, either grant or deny, in whole or in part, such request, unless the request has been granted expedited treatment in accordance with this section, in which case the request will be processed as soon as practicable. The date that a request is properly filed is the date on which the requester agrees to pay fees necessary for a response, reasonably describes the records sought, and provides sufficient contact information for a response to be sent. Any tolling of the 20-working day period will be done in compliance with the FOIA statute, as amended.

(B) Except in exceptional circumstances as provided in paragraph (a)(1)(ii)(C) of this section, the deciding official (as designated by the General Counsel) may extend the time limit by not more than 10 working days if such extension is:

(1) Necessary for locating records or transferring them from physically separate facilities; or

(2) Necessary to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are sought in a

single or series of closely related requests; or

(3) Necessary for consultation with another agency having a substantial interest in the determination, or for consultation among two or more components of the Commission having substantial subject matter interest therein.

(C) If the deciding official (as designated by the General Counsel) extends the time limit for initial determination pursuant to paragraph (a)(1)(ii)(B) of this section, the requester will be notified in accordance with 5 U.S.C. 552(a)(6)(B). In exceptional circumstances, when the request cannot be processed within the extended time limit, the requester will be so notified and provided an opportunity to limit the scope of the request so that it may be processed within such time limit, or to arrange an alternative time frame for processing the request or a modified request. "Exceptional" circumstances will not include delays resulting from a predictable workload of requests under this section. Unwillingness to make reasonable modifications in the scope of the request or to agree to an alternative time frame may be considered as factors in determining whether exceptional circumstances exist and whether the agency has exercised due diligence in responding to the request.

(D) If the deciding official (as designated by the General Counsel) reasonably believes that requests made by a requester, or a group of requesters acting in concert, actually constitute a single request that would otherwise involve unusual circumstances, as specified in paragraph (a)(1)(ii)(B) of this section, and the requests involve clearly related matters, those multiple requests may be aggregated.

(E) If a request is not granted within the time limits set forth in paragraphs (a)(1)(ii)(A) and (B) of this section, the request shall be deemed to be denied and the requesting party may appeal such denial to the General Counsel in accordance with paragraph (a)(3) of this section.

(iii) *Initial determination.* (A) The deciding official (as designated by the General Counsel) will make reasonable efforts to search, using either manual or electronic means, for documents that exist as of the date of the receipt of a request for the requested records in electronic form or format, except when such efforts would significantly interfere with the operation of the Commission's automated information systems. Access will be granted to requested records, or any portions thereof, that must be made available under the Freedom of Information Act.

The deciding official will determine whether access will be denied to records that are exempt under the Freedom of Information Act, 5 U.S.C. 552(b), unless the deciding official (as designated by the General Counsel) determines that such records fall within a category the Commission or the General Counsel has previously authorized to be made available to the public as a matter of policy and are otherwise not required to be undisclosed by law. Denials will set forth the reasons therefor and advise the requester that this determination may be appealed to the General Counsel if the requester believes either that the records are not exempt, or that the General Counsel should exercise discretion to release such records notwithstanding their exempt status. The deciding official (as designated by the General Counsel) will also provide a reasonable, good-faith estimate of the volume of any materials to which access is denied, unless providing such an estimate would harm an interest protected by an exemption in 5 U.S.C. 552(b) that was cited as a basis for withholding materials.

(B) The deciding official (as designated by the General Counsel) is deemed to be the sole official responsible for all denials of initial requests, except denials of access to materials contained in active investigatory files, in which case the Director or Deputy Director of the Bureau or the Director of the Regional Office responsible for the investigation will be the responsible official.

(C) Records to which access has been granted will be made available to the requester in any form or format specified by the requester, if the records are readily reproducible in that form or format, or can be converted to that form or format with a reasonable amount of effort. Certain records which are not easily copied or duplicated, such as tangible exhibits, will be made be available for inspection for a period not to exceed 30 days from date of notification to the requester unless the requester asks for and receives the consent of the deciding official (as designated by the General Counsel) to a longer period. Records assembled pursuant to a request will remain available only during this period and thereafter will be refiled. Appropriate fees may be imposed for any new or renewed request for the same records.

(D) If a requested record cannot be located from the information supplied, or is known to have been destroyed or otherwise disposed of, the requester shall be so notified. The requester will also be notified if a record that is part of an official agency file is lost or

missing. If the person so requests, he will also be notified if the record should subsequently be located.

(2) *FOIA Requester Service Center*—If a requester has questions or comments about the FOIA process, please call the FOIA Requester Service Center at (202) 326-2430 to either speak directly to a FOIA Case Officer or leave a voice message. A requester may ask the FOIA Case Officer to speak with the FOIA Public Liaison if there are concerns about the quality of the service received to an initial response, appeal or otherwise, during the process.

(3) *Appeals to the General Counsel from initial denials.* (i) *Form and contents; time of receipt.* (A)(1) If an initial request for expedited treatment is denied, the requester, at any time before the initial determination of the underlying request for records by the deciding official (as designated by the General Counsel) (or, if the request for expedited treatment was filed with any appeal filed under paragraph (a)(3)(i)(A)(2) of this section, at any time before the General Counsel's determination on such an appeal), may appeal the denial of expedited treatment to the General Counsel.

(2) If an initial request for records is denied in its entirety, the requester may, within 30 days of the date of the letter notifying the requester of that decision, appeal such denial to the General Counsel. If an initial request is denied in part, the time for appeal will not expire until 30 days after the date of the final letter notifying the requester that all records to which access has been granted have been made available. In unusual circumstances, the time to appeal may be extended by the General Counsel or his or her designee.

(3) [Reserved]

(4) The appeal shall be in writing and shall clearly refer to the adverse decision, or portions of the decision, being appealed; the appeal should include a copy of the initial request and a copy of the response to that initial request, if any. The appeal may be mailed to Freedom of Information Act Appeal, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580; submitted by facsimile to (202) 326-3198; or emailed to FOIAAppeal@ftc.gov.

(B) If the appeal is mailed, failure to mark the envelope and the appeal in accordance with paragraph (a)(3)(i)(A)(4) of this section will result in the appeal (and any request for expedited treatment filed with that appeal) being treated as received on the actual date of receipt by the Office of General Counsel.

(C) Each appeal to the General Counsel that requests him or her to exercise his discretion to release exempt records shall set forth the interest of the requester in the subject matter and the purpose for which the records will be used if the request is granted.

(ii) *Time limit for appeal.* (A)(1) Regarding appeals from initial denials of a request for expedited treatment, the General Counsel will either grant or deny the appeal expeditiously;

(2) Regarding appeals from initial denials of a request for records, the General Counsel will, within 20 working days of the Office of General Counsel's receipt of such an appeal, either grant or deny it, in whole or in part, unless expedited treatment has been granted in accordance with this section, in which case the appeal will be processed expeditiously.

(B) The General Counsel may, by written notice to the requester in accordance with 5 U.S.C. 552(a)(6)(B), extend the time limit for deciding an appeal by not more than 10 working days pursuant to paragraph (a)(1)(ii)(B) of this section, provided that the amount of any extension utilized during the initial consideration of the request under that paragraph will be subtracted from the amount of additional time otherwise available. Where exceptional circumstances do not permit the processing of the appeal within the extended time limit, the notice and procedures set forth in paragraph (a)(1)(ii)(C) of this section shall apply.

(iii) *Determination of appeal.* (A) The General Counsel has the authority to grant or deny all appeals and to release as an exercise of discretion records exempt from mandatory disclosure under 5 U.S.C. 552(b). In unusual or difficult cases, the General Counsel may, in his or her sole discretion, refer an appeal to the Commission for determination. A denial of an appeal in whole or in part will set forth the basis for the denial; will include a reasonable, good-faith estimate of the volume of any materials to which access is denied, unless providing such an estimate would harm an interest protected by an exemption in 5 U.S.C. 552(b) that was cited as a basis for withholding materials; and will advise the requester that judicial review of the decision is available by civil suit in the district in which the requester resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia.

(B) The General Counsel shall be deemed solely responsible for all denials of appeals, except where an appeal is denied by the Commission. In such instances, the Commission shall be

deemed solely responsible for the denial.

* * * * *

By direction of the Commission, Chairman Leibowitz not participating.

Donald S. Clark,

Secretary.

[FR Doc. 2013-04479 Filed 2-27-13; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 101

[Docket No. USCBP-2011-0031; CBP Dec. 13-2]

Modification of the Port Limits of Green Bay, WI

AGENCY: U.S. Customs and Border Protection; DHS.

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations pertaining to CBP's field organization by expanding and revising the geographical limits of the port of Green Bay, Wisconsin. The port limits will be revised to refer to identifiable roadways and waterways rather than townships and will be extended to include the entire Austin Straubel Airport. The change will make the boundaries more easily identifiable to the public. The change is part of a continuing program to more efficiently utilize CBP's personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

DATES: *Effective Date:* April 1, 2013.

FOR FURTHER INFORMATION CONTACT: Tina Loos, Operations Specialist, Chicago Field Office, Office of Field Operations, by phone at (312) 542-5754 or by email at Tina.M.Loos@dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** (76 FR 69688) on November 9, 2011, the Department of Homeland Security, U.S. Customs and Border Protection (CBP) proposed to amend the list of CBP ports of entry at 19 CFR 101.3(b)(1) to extend and revise the limits of the port of Green Bay, Wisconsin. CBP proposed to revise the port limits to refer to identifiable roadways and waterways rather than townships and to extend the port limits