

relationship between the loan and Y's exempt activities. Accordingly, the loan is a program-related investment.

*Example 18.* X is a non-profit corporation that provides child care services in a low-income neighborhood, enabling many residents of the neighborhood to be gainfully employed. X meets the requirements of section 501(k) and is recognized as an organization described in section 501(c)(3). X's current child care facility has reached capacity and has a long waiting list. X has determined that the demand for its services warrants the construction of a new child care facility in the same neighborhood. X is unable to obtain a loan from conventional sources of funds including B, a commercial bank because of X's credit record. Pursuant to a deposit agreement, Y, a private foundation, deposits \$h in B, and B lends an identical amount to X to construct the new child care facility. The deposit agreement requires Y to keep \$h on deposit with B during the term of X's loan and provides that if X defaults on the loan, B may deduct the amount of the default from the deposit. To facilitate B's access to the funds in the event of default, the agreement requires that the funds be invested in instruments that allow B to access them readily. The deposit agreement also provides that Y will earn interest at a rate of t% on the deposit. The t% rate is substantially less than Y could otherwise earn on this sum of money, if Y invested it elsewhere. The loan agreement between B and X requires X to use the proceeds from the loan to construct the new child care facility. Y's primary purpose in making the deposit is to further its educational purposes by enabling X to provide child care services within the meaning of section 501(k). No significant purpose of the deposit involves the production of income or the appreciation of property. The deposit significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the deposit and Y's exempt activities. Accordingly, the deposit is a program-related investment.

*Example 19.* Assume the same facts as stated in *Example 18*, except that instead of making a deposit of \$h into B, Y enters into a guarantee agreement with B. The guarantee agreement provides that if X defaults on the loan, Y will repay the balance due on the loan to B. B was unwilling to make the loan to X in the absence of Y's guarantee. X must use the proceeds from the loan to construct the new child care facility. At the same time, X and Y enter into a reimbursement agreement whereby X agrees to reimburse Y for any and all amounts paid to B under the guarantee agreement. The signed guarantee and reimbursement agreements together constitute a "guarantee and reimbursement arrangement." Y's primary purpose in entering into the guarantee and reimbursement arrangement is to further Y's educational purposes. No significant purpose of the guarantee and reimbursement arrangement involves the production of income or the appreciation of property. The guarantee and reimbursement arrangement significantly furthers the accomplishment of Y's exempt activities and would not have

been made but for such relationship between the guarantee and reimbursement arrangement and Y's exempt activities. Accordingly, the guarantee and reimbursement arrangement is a program-related investment.

(c) *Effective/applicability date.* Paragraphs (a)(2)(ii) and (b), *Examples 11* through *19* of this section, apply on or after April 25, 2016.

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

Approved: April 5, 2016.

**Mark J. Mazur,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2016-09396 Filed 4-21-16; 4:15 pm]

**BILLING CODE 4830-01-P**

## OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

### 32 CFR Part 1704

#### Mandatory Declassification Review Program

**AGENCY:** Office of the Director of National Intelligence.

**ACTION:** Direct final rule.

**SUMMARY:** The Office of the Director of National Intelligence (ODNI) is publishing this direct final rule pursuant to Executive Order 13526, relating to classified national security information. It provides procedures for members of the public to request from ODNI a Mandatory Declassification Review (MDR) of information classified under the provisions of Executive Order 13526 or predecessor orders such that the agency may retrieve it with reasonable effort. This rule also informs requesters where to send requests for an MDR.

**DATES:** This rule is effective June 24, 2016 without further action, unless adverse comment is received by May 25, 2016. If adverse comment is received, ODNI will publish a timely withdrawal of the rule in the **Federal Register**.

**ADDRESSES:** You may submit comments by any of the following methods: By mail to the Office of the Director of National Intelligence, Director of the Information Management Division, Washington, DC 20511, by facsimile at (703) 874-8910, or by email at [dni-FOIA@dni.gov](mailto:dni-FOIA@dni.gov).

**FOR FURTHER INFORMATION CONTACT:** Jennifer L. Hudson, (703) 874-8085.

**SUPPLEMENTARY INFORMATION:** It is the policy of the ODNI to act in matters relating to national security information in accordance with Executive Order

13526 and directives issued thereunder by the Information Security Oversight Office (ISOO). The purpose of this rule is to assist in implementing specific sections of Executive Order 13526 concerning the Mandatory Declassification Review (MDR). This document is being issued as a direct final rule without prior notice of proposed rulemaking as allowed by the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(A) for rules of agency procedure and interpretation.

#### Regulatory Impact

This rule is not a significant regulatory action for the purposes of Executive Order 12866. This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking. As required by the Regulatory Flexibility Act, we certify that this rule will not have a significant impact on a substantial number of small entities because it applies only to federal agencies.

#### List of Subjects in 32 CFR Part 1704

Declassification, Information, Intelligence, National security information.

■ For the reasons set forth in the preamble, ODNI adds 32 CFR part 1704 to read as follows:

#### PART 1704—MANDATORY DECLASSIFICATION REVIEW PROGRAM

Sec.

- 1704.1 Authority and purpose.
- 1704.2 Definitions.
- 1704.3 Contact information.
- 1704.4 MDR program feedback.
- 1704.5 Guidance.
- 1704.6 Exceptions.
- 1704.7 Requirements.
- 1704.8 Fees.
- 1704.9 Determination by originator or interested party.
- 1704.10 Appeals.

**Authority:** 50 U.S.C. 3001; E.O. 13526, 75 FR 707, 3 CFR, 2009 Comp. p. 298.

##### § 1704.1 Authority and purpose.

(a) *Authority.* This part is issued under the authority of 32 CFR 2001.33; Section 3.5 of Executive Order 13526 (or successor Orders); the National Security Act of 1947, as amended (50 U.S.C. 3001 *et seq.*).

(b) *Purpose.* This part prescribes procedures, subject to limitations set forth below, for requesters to request a mandatory declassification review of information classified under Executive Order 13526 or predecessor or successor orders. Section 3.5 of Executive Order 13526 and these regulations are not intended to and do not create any right

or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, employees, or agents, or any other person.

**§ 1704.2 Definitions.**

For purposes of this part:

*Control* means the authority of the agency that originates information, or its successor in function, to regulate access to the information. (32 CFR 2001.92)

*Day* means U.S. Federal Government working day, which excludes Saturdays, Sundays, and federal holidays. Three (3) days may be added to any time limit imposed on a requester by this part if responding by U.S. domestic mail; ten (10) days may be added if responding by international mail.

*D/IMD* means the Director of the Information Management Division and the leader of any successor organization, who serves as the ODNI's manager of the information review and release program.

*Federal agency* means any *Executive agency*, as defined in 5 U.S.C. 105; any *Military department*, as defined in 5 U.S.C. 102; and any other entity within the executive branch that comes into the possession of classified information.

*Information* means any knowledge that can be communicated or documentary material, regardless of its physical form, that is owned by, produced by or for, or under the control of the U.S. Government; it does not include information originated by the incumbent President, White House Staff, appointed committees, commissions or boards, or any entities within the Executive Office that solely advise and assist the incumbent President.

*Interested party* means any official in the executive, military, congressional, or judicial branches of government, or a U.S. Government contractor who, at the sole discretion of the ODNI, has a subject matter or other interest in the documents or information at issue.

*NARA* means the National Archives and Records Administration.

*ODNI* means the Office of the Director of National Intelligence.

*Order* means Executive Order 13526, "Classified National Security Information" (December 29, 2009) or successor Orders.

*Originating element* means the element that created the information at issue.

*Presidential libraries* means the libraries or collection authorities established under the Presidential Libraries Act (44 U.S.C. 2112) and similar institutions or authorities as may be established in the future.

*Referral* means coordination with or transfer of action to an interested party.

*Requester* means any person or organization submitting an MDR request.

**§ 1704.3 Contact information.**

For general information on the regulation in this part or to submit a request for a MDR, please direct your communication by mail to the Office of the Director of National Intelligence, Director of the Information Management Division, Washington, DC 20511; by facsimile to (703) 874-8910; or by email to *DNI-FOIA@dni.gov*. For general information on the ODNI MDR program or status information on pending MDR cases, call (703) 874-8500.

**§ 1704.4 MDR program feedback.**

The ODNI welcomes suggestions for improving the administration of our MDR program in accordance with Executive Order 13526. Suggestions should identify the specific purpose and the items for consideration. The ODNI will respond to all communications and take such actions as determined feasible and appropriate.

**§ 1704.5 Guidance.**

Address all communications to the point of contact as specified in § 1704.3. Clearly describe, list, or label said communication as an MDR Request.

**§ 1704.6 Exceptions.**

MDR requests will not be accepted from a foreign government entity or any representative thereof. MDR requests will not be accepted for documents required to be submitted for prepublication review or other administrative process pursuant to an approved nondisclosure agreement; for information that is the subject of pending litigation; nor for any document or material containing information from within an operational file exempted from search and review, publication, and disclosure under the FOIA. If the ODNI has reviewed the requested information for declassification within the past two years, the ODNI will not conduct another review, but the D/IMD will

notify the requester of this fact and the prior review decision. Requests will not be accepted from requesters who have outstanding fees for MDR or FOIA requests with the ODNI or another federal agency.

**1704.7 Requirements.**

An MDR request shall describe the document or material containing the information with sufficient specificity to enable the ODNI to locate it with a reasonable amount of effort.

**1704.8 Fees.**

(a) *In general.* Any search, review, and reproduction fees will be charged in accordance with the provisions below relating to schedule, limitations, and category of requester. Applicable fees will be due even if a subsequent search locates no responsive records.

(b) *Agency discretion to waive fees.* Records will be furnished without charge or at a reduced rate when ODNI determines that:

(1) As a matter of administrative discretion, the interest of the United States Government would be served, or

(2) It is in the public interest to provide responsive records because the disclosure is likely to contribute significantly to the public understanding of the operations or activities of the United States Government and is not primarily in the commercial interest of the requester.

(c) *Agreement to pay fees.* If you request an MDR, it shall be considered a firm commitment by you to pay all applicable fees chargeable under this regulation, up to and including the amount of \$25.00. When making a request, you may specify a willingness to pay a greater or lesser amount.

(d) *Advance payment.* The ODNI may require an advance payment of up to 100 percent of the estimated fees when projected fees exceed \$250.00, not including charges associated with the first 100 pages of production and two hours of search (when applicable), or when the requester previously failed to pay fees in a timely fashion, for fees of any amount. ODNI will hold in abeyance for 45 days those requests where advance payment has been requested.

(e) *Schedule of fees—(1) In general.* The schedule of fees for services performed in responding to requests for records is as follows:

**Personnel Search and Review**

Clerical/Technical .....	Quarter Hour .....	\$ 5.00
Professional/Supervisory .....	Quarter Hour .....	10.00

Manager/Senior Professional .....	Quarter Hour .....	18.00
<b>Computer Search and Production</b>		
Search (online) .....	Flat Rate .....	10.00
Search (offline) .....	Flat Rate .....	30.00
Other activity .....	Per minute .....	10.00
Tapes (mainframe cassette) .....	Each .....	9.00
Tapes (mainframe cartridge) .....	Each .....	9.00
Tapes (mainframe reel) .....	Each .....	20.00
Tapes (PC 9mm) .....	Each .....	25.00
Diskette (3.5") .....	Each .....	4.00
CD (bulk recorded) .....	Each .....	10.00
CD (recordable) .....	Each .....	20.00
Telecommunications .....	Per minute .....	.50
Paper (mainframe printer) .....	Per page .....	.10
Paper (PC b&w laser printer) .....	Per page .....	.10
Paper (PC color printer) .....	Per page .....	1.00
<b>Paper Production</b>		
Photocopy (standard or legal) .....	Per page .....	.10
Preprinted (if available) .....	Per 100 pages .....	5.00
Published (if available) .....	Per item .....	NTIS

(2) *Application of schedule.* Personnel search time includes time expended in manual paper records searches, indices searches, review of computer search results for relevance, and personal computer system searches. In any event in which the actual cost to ODNI of a particular item is less than the above schedule (e.g., a large production run of a document resulting in a cost less than \$5.00 per hundred pages), then the actual lesser cost will be charged.

(3) *Other services.* For all other types of output, production, or reproduction (e.g., photographs, maps, or published reports), ODNI will charge actual cost or amounts authorized by statute. Determinations of actual cost shall include the commercial cost of the media, the personnel time expended in making the item to be released, and an allocated cost of the equipment used in making the item, or, if the production is effected by a commercial service, then that charge shall be deemed the actual cost for purposes of this regulation.

(f) *Limitations on collection of fees—*  
 (1) *In general.* No fees will be charged if the cost of collecting the fee is equal to or greater than the fee itself. That cost includes the administrative costs to ODNI of billing, receiving, recording, and processing the fee for deposit to the Treasury Department and, as of the date of these regulations, is deemed to be \$10.00.

(g) *Associated requests.* If it appears that a requester or a group of requesters acting in concert have requested portions of an apparently unitary request for the purpose of avoiding the assessment of fees, ODNI may aggregate any such requests and charge accordingly. Requests from multiple requesters will not be aggregated

without clear evidence. ODNI will not aggregate multiple unrelated requests.

**1704.9 Determination by originator or interested party.**

(a) *In general.* The originating element(s) of the classified information (document) is always an interested party to any mandatory declassification review. Other interested parties may become involved through a referral by the D/IMD when it is determined that some or all of the information is also within their official cognizance.

(b) *Required determinations:* These parties shall respond in writing to the D/IMD with a finding as to the classified status of the information, including the category of protected information as set forth in section 1.4 of the Order, and if older than ten years, the basis for the extension of classification time under sections 1.5 and 3.3 of the Order. These parties shall also indicate whether withholding is otherwise authorized and warranted in accordance with sections 3.5(c) and 6.2(d) of the Order.

(c) *Time.* Responses to the requester shall be provided on a first-in/first-out basis, taking into account the business requirements of the originating element(s) and other interested parties, and, in accordance with Executive Order 13526, ODNI will respond to requesters within one year of the receipt of requests.

(d) *Deciding official.* The IMD FOIA Branch Chief, in consultation with the D/IMD and the Classification Management Branch Chief, will ordinarily be the deciding official on initial reviews of MDR requests to the ODNI.

**1704.10 Appeals.**

(a) *Administrative.* Appeals of initial decisions must be received in writing by the D/IMD within 60 days of the date of mailing of the ODNI's decision. The appeal must identify with specificity the documents or information to be considered on appeal and it may, but need not, provide a factual or legal basis for the appeal.

(1) *Exceptions.* No appeal shall be accepted from a foreign government entity or any representative thereof. Appeals will not be accepted for documents required to be submitted for prepublication review or other administrative process pursuant to an approved nondisclosure agreement; for information that is the subject of pending litigation; nor for any document or material containing information from within an operational file exempted from search and review, publication, and disclosure under the FOIA. No appeals shall be accepted if the requester has outstanding fees for information services at ODNI or another federal agency. In addition, no appeal shall be accepted if the information in question has been the subject of a declassification review within the previous two years.

(2) *Receipt, recording, and tasking.* The D/IMD will record each appeal received under this part and acknowledge receipt to the requester.

(3) *Appellate authority.* The ODNI Chief Management Officer (CMO), after consultation with all interested parties or ODNI component organizations, as well as the Office of General Counsel, will make a final determination on the appeal within 60 days.

(b) *Final appeal.* The D/IMD will prepare and communicate the ODNI

administrative appeal decision to the requester, NARA, Presidential library, and referring agency, as appropriate. Correspondence will include a notice, if applicable, that a further appeal of ODNI's final decision may be made to the Interagency Security Classification Appeals Panel (ISCAP) established pursuant to section 5.3 of Executive Order 13526. Action by that Panel will be the subject of rules to be promulgated by the Information Security Oversight Office.

Dated: April 12, 2016.

**Mark W. Ewing,**

*Chief Management Officer.*

[FR Doc. 2016-09252 Filed 4-22-16; 8:45 am]

**BILLING CODE 9500-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2016-0196]

#### Drawbridge Operation Regulation; Red River, Alexandria, LA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulations.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the US 165 (Jackson Street) Drawbridge across the Red River, mile 88.6, at Alexandria, Louisiana. The deviation is necessary to allow the bridge owner time to install new pinion bearings essential to the continued safe operation of the drawbridge. This deviation allows the bridge to remain in the closed-to-navigation position for approximately 6 days spanning a 2-week period.

**DATES:** This deviation is effective from May 31, 2016 through June 9, 2016.

**ADDRESSES:** The docket for this deviation, (USCG-2016-0196) is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314-269-2378, email [Eric.Washburn@uscg.mil](mailto:Eric.Washburn@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Louisiana Department of Transportation and Development requested a temporary

deviation for the US 165 (Jackson Street) Drawbridge, across the Red River, mile 88.6, at Alexandria, Louisiana. This deviation allows the bridge to remain in the closed-to-navigation position from 8 a.m. on May 31, 2016 to 8 p.m. on June 2, 2016 and from 8 a.m. on June 7, 2016 to 8 p.m. on June 9, 2016. This deviation is necessary for the bridge owner to install new pinion bearings.

The US 165 (Jackson Street) Drawbridge currently operates in accordance with 33 CFR 117.491(b).

The US 165 (Jackson Street) Drawbridge provides a vertical clearance of 40.0 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft and will not be significantly impacted. This temporary deviation has been coordinated with waterway users. No objections were received.

The bridge will not be able to open for emergencies and there are no alternate routes for vessels transiting this section of the Red River. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so the vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: April 20, 2016.

**Eric A. Washburn,**

*Bridge Administrator, Western Rivers.*

[FR Doc. 2016-09524 Filed 4-22-16; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2016-0272]

RIN 1625-AA00

#### Safety Zone; Pacific Ocean, North Shore Oahu, HI—Recovery Operations

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the navigable waters of the North Shore of Oahu approximately 2.5NM North

West of Hale'iwa small boat harbor. The safety zone will encompass all waters extending one nautical mile in all directions around the location of ongoing salvage operations, as described below. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with ongoing operations to salvage the remains of two downed helicopters in this area. A temporary safety zone was previously enforced in the same area from March 4, 2016 through April 01, 2016 to protect personnel, vessels, and the marine environment from the potential hazards associated with these salvage operations. A new temporary safety zone in the area is necessary to complete recovery of the debris from the helicopters. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Honolulu or his designated representative.

**DATES:** This rule is effective without actual notice from April 25, 2016 through 3:00 p.m. (HST) on April 29, 2016. For the purposes of enforcement, actual notice will be used from 3:00 p.m. (HST) on April 1, 2016 until April 25, 2016.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0272 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 concerning this rule, call or email Lieutenant Commander Nicolas Jarboe, Waterways Management Division, U.S. Coast Guard Sector Honolulu at (808) 541-4359 or [nicolas.a.jarboe@uscg.mil](mailto:nicolas.a.jarboe@uscg.mil), respectively.

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

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

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

On January 15, 2016, the Coast Guard was informed of a helicopter crash off the North Shore of Oahu between Ka'Ena Point and Kahuku Point. The COTP Honolulu determined that potential hazards associated with the salvage efforts constitute a safety concern for anyone within the designated safety zone. This rule is