

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T05–0081 to read as follows:

§ 165.T05–0081 Safety Zone; Atlantic Ocean, Virginia Beach, VA.

(a) *Location.* The following area is a safety zone: All waters of the Atlantic Ocean, from surface to bottom, encompassed by a radius of 1,000 yards from the actual position of the M/V HOS WARLAND, HOS INNOVATOR, and, or HOS MYSTIQUE while relocation operations are being conducted within the boundaries of a perimeter defined by the following points: 36°49'4.8" N 75°57'43.2" W; 36°49'13.9" N 75°42'39.8" W; 36°47'11.7" N, 75°41'50.8" W and 36°48'28.8" N 75°57'43.2" W.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Virginia (COTP) in the enforcement of the safety zones. The term also includes the M/V HOS WARLAND, HOS INNOVATOR and HOS MYSTIQUE for the sole purpose of designating and establishing safe transit corridors, to permit passage into or through these safety zones, or to notify vessels and individuals that they have entered a safety zone and are required to depart immediately.

(c) Regulations.

(1) Under the general safety zone regulations in subpart C of this part, vessels may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, vessels should contact the M/V HOS WARLAND, HOS INNOVATOR, and, or HOS MYSTIQUE by VHF–FM Channel 16. Those in the safety zone must comply with all directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This zone will be in effect from February 1, 2024, through July 1, 2024 and enforced during such times as are announced via Broadcast Notice to Mariners between.

Dated: January 22, 2024.

J.A. Stockwell,

Captain, U.S. Coast Guard, Captain of the Port Sector Virginia.

[FR Doc. 2024–01548 Filed 1–25–24; 8:45 am]

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DEPARTMENT OF EDUCATION**34 CFR Part 5**

[Docket ID ED–2008–OM–0011]

RIN 1880–AA84

Availability of Information to the Public; Correction

AGENCY: Office of the Secretary, Department of Education.

ACTION: Final rule; correction.

SUMMARY: On June 14, 2010, the Department of Education (Department) published in the **Federal Register** a final rule amending the Department's Freedom of Information Act (FOIA) regulations. The 2010 final rule implemented amendments made to the FOIA statute and clarified how the Department processes FOIA requests for agency records. We are correcting the administrative exhaustion provisions related to the Appeals of Adverse Determinations section in the FOIA regulations. All other provisions in the FOIA regulations remain the same.

DATES: This correction is effective January 26, 2024.

FOR FURTHER INFORMATION CONTACT:

Deborah O. Moore, Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 381–1414. Email: *Deborah.Moore@ed.gov*.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION: On June 14, 2010, the Department published a final rule amending the Department's FOIA regulations in 34 CFR part 5. Section 5.40(b) (Appeals of Adverse Determinations) erroneously states that a requester's, as opposed to the Department's, failure to comply with the applicable time limits constitutes exhaustion of the requester's administrative remedies for the purposes of initiating judicial action to compel disclosure. This current language is contrary to the Federal statute at 5 U.S.C. 552(a)(6)(C)(i) and case law. See *Citizens for Responsibility and Ethics in Washington v. Federal Election Com'n*, 711 F.3d 180, 184 (D.C. Cir. 2013). Additionally, similar

language (without the error) is contained in current § 5.40(c)(1) of the FOIA regulations. Therefore, we are correcting the provision to strike the erroneous language from § 5.40(b). Specifically, we are removing the last sentence of § 5.40(b), which reads: "The requester's failure to comply with time limits set forth in this section constitutes exhaustion of the requester's administrative remedies for the purposes of initiating judicial action to compel disclosure."

All other information in the 2010 final rule remains the same, except for the provisions that were amended on December 12, 2019 (84 FR 67865).

Waiver of Rulemaking

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking when the agency, for good cause, finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(B)).

Rulemaking is "unnecessary" in those situations in which "the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public." *Utility Solid Waste Activities Group v. EPA*, 236 F.3d 749, 755 (D.C. Cir. 2001), quoting U.S. Department of Justice, *Attorney General's Manual on the Administrative Procedure Act* 31 (1947) and *South Carolina v. Block*, 558 F. Supp. 1004, 1016 (D.S.C. 1983).

There is good cause to waive rulemaking here, because rulemaking is unnecessary. The actions in this document merely correct an inadvertent inconsistency with the FOIA statute and a similar provision in 34 CFR 5.40(c)(1) and are not an exercise of the Department's discretion. Thus, the Secretary has determined that publication of a proposed rule is unnecessary under 5 U.S.C. 553(b)(B).

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List of Subjects in 34 CFR Part 5

Administrative practice and procedure, Investigations.

Accordingly, part 5 of title 34 of the Code of Federal Regulations is corrected by making the following correcting amendments:

PART 5—AVAILABILITY OF INFORMATION TO THE PUBLIC

- 1. The authority citation for part 5 continues to read as follows:

Authority: 5 U.S.C. 552, 20 U.S.C. 1221e–3, and 20 U.S.C. 3474.

- 2. Section 5.40 is amended by revising paragraph (b) to read as follows:

§ 5.40 Appeals of Adverse Determinations.

* * * * *

(b) A requester must submit an appeal within 90 calendar days of the date on the adverse determination letter issued by the Department or, where the requester has received no determination, at any time after the due date for such determination. An appeal must be in writing and must include a detailed statement of all legal and factual bases for the appeal.

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Alexis Barrett,

*Chief of Staff, Office of the Secretary,
Department of Education.*

[FR Doc. 2024–01517 Filed 1–25–24; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 64

[CG Docket Nos. 21–402, 02–278, 17–59; FCC 23–107; FR ID 194243]

Targeting and Eliminating Unlawful Text Messages, Implementation of the Telephone Consumer Protection Act of 1991, Advanced Methods To Target and Eliminate Unlawful Robocalls

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) requires terminating mobile wireless providers to block text messages from a particular number following notification from the Commission. The Commission also codifies that the National Do-Not-Call (DNC) Registry’s protections extend to text messages. In addition, the Commission encourages mobile wireless providers to make email-to-text, a major source of illegal texts, a service that consumers proactively opt into. The Commission closes the lead generator loophole by requiring comparison shopping websites to get consumer consent one seller at a time, if prior express written consent is required under the Telephone Consumer Protection Act (TCPA), and thus prohibits abuse of consumer consent by such websites. Finally, the Commission adopts a limited waiver to allow providers to use the Reassigned Numbers Database (RND) to determine whether a number that the Commission has ordered to be blocked has been permanently disconnected. Such waiver will help prevent blocking of lawful texts from a new subscriber to the number.

DATES: This rule is effective March 26, 2024, except for the amendment to 47 CFR 64.1200(s), in instruction 5, which is effective July 24, 2024, and the amendment to 47 CFR 64.1200(f)(9), in instruction 6, which is effective January 27, 2025.

FOR FURTHER INFORMATION CONTACT: Jerusha Burnett of the Consumer Policy Division, Consumer and Governmental Affairs Bureau, at jerusha.burnett@fcc.gov, 202 418–0526, or Mika Savir of the Consumer Policy Division, Consumer and Governmental Affairs Bureau, at mika.savir@fcc.gov or (202) 418–0384.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Second Report and Order and Waiver Order, in

CG Docket Nos. 21–402, 02–278, and 17–59, FCC 23–107, adopted on December 13, 2023, and released on December 18, 2023. The full text of this document is available online at <https://docs.fcc.gov/public/attachments/FCC-23-107A1.pdf>. To request this document in accessible formats for people with disabilities (e.g., Braille, large print, electronic files, audio format) or to request reasonable accommodations (e.g., accessible format documents, sign language interpreters, CART), send an email to fcc504@fcc.gov or call the FCC’s Consumer and Governmental Affairs Bureau at (202) 418–0530.

Congressional Review Act

The Commission sent a copy of document FCC 23–107 to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

Final Paperwork Reduction Act of 1995 Analysis

This document may contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. This document will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding.

Synopsis

1. *Mandatory Blocking Following Commission Notification.* In the Second Report and Order, the Commission adopts, with some modification, proposals in the Further Notice of Proposed Rulemaking (FNPRM), published at 88 FR 21497 on April 11, 2023. First, the Commission specifically requires terminating mobile wireless providers to block all text messages from a particular number following notification from the Commission of illegal texts from that number or numbers. Upon receipt of such notice, a terminating wireless provider must block all texts from the number and respond to the Commission’s Enforcement Bureau indicating that the provider has received the notice and is initiating blocking.

2. Under this rule, the Commission’s Enforcement Bureau may notify terminating providers of illegal texts from a number or numbers and such Notification of Illegal Texts shall: (1) identify the number(s) used to originate the illegal texts and the date(s) the texts were sent or received; (2) provide the