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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1610

RIN 3046–AA90

Availability of Records

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission (''EEOC'' or ''Commission'') is issuing a final rule revising its Freedom of Information Act (FOIA) regulations in order to implement the Openness Promotes Effectiveness in our National Government Act of 2007 (''OPEN Government Act'') and the Electronic FOIA Act of 1996 (''E–FOIA Act''); to reflect the reassignment of FOIA responsibilities in the Commission's field offices from the Regional Attorneys to the District Directors; and to consolidate Commission public reading areas in offices where there are adequate FOIA personnel to provide satisfactory service.

DATES: Effective June 19, 2013.

FOR FURTHER INFORMATION CONTACT: Stephanie D. Garner, Assistant Legal Counsel, FOIA Programs, Gary J. Hozempa, Senior Attorney, or Draga G. Anthony, Attorney Advisor, Office of Legal Counsel, U.S. Equal Employment Opportunity Commission, at (202) 663–4640 (voice) or (202) 663–7026 (TTY). These are not toll-free telephone numbers. This final rule also is available in the following formats: large print, Braille, audiotape, and electronic file on computer disk. Requests for this final rule in an alternative format should be made to EEOC's Publications Center at 1–800–669–3362 (voice) or 1–800–800–3302 (TTY).

SUPPLEMENTARY INFORMATION:

Introduction

On September 4, 2012, EEOC published in the **Federal Register** a notice of proposed rulemaking (''NPRM'') setting forth revisions to EEOC's FOIA regulations at 29 CFR part 1610. 77 FR 53814 (2012). The purpose of the revisions contained in the final rule is to update the Commission's FOIA regulations so that they are consistent with current Commission practice in responding to FOIA requests as reflected in the OPEN Government Act and the E–FOIA Act, and the Commission's transfer of FOIA responsibilities from its Regional Attorneys to its District Directors. The revisions also are intended to consolidate Commission public reading rooms in offices where there are adequate FOIA personnel, and streamline the Commission's FOIA regulations by removing excess verbiage. The NPRM sought public comments which were due on or before November 5, 2012.

EEOC received six comments in response to the NPRM. Three comments were submitted by individuals, and the remaining three were submitted by OMB Watch, the National Council of EEOC Locals No. 216 (hereinafter the ''Union), and the National Archives and Records Administration, Office of Government Information Services (hereinafter ''OGIS'').

One individual commenter suggested that EEOC consider whether FOIA's statutory exemptions remain ''viable.'' This comment pertains to the FOIA statute itself, is outside the scope of the NPRM, and will not be addressed further. A second individual commented that the Department of Defense and the Environmental Protection Agency should release certain medical records pertaining to the activities of the ''Hanford Atomic Works'' during the 1940's and 1950's. This comment also is outside the scope of the NPRM and will not be addressed further.

The Commission has considered carefully the remaining comments and has made some changes to the final rule in response to the comments. The comments EEOC received, the changes made to the final rule, and EEOC's reasons for not making other changes are discussed in more detail below.

Section 1610.1—Definitions

In the NPRM, EEOC proposed adding definitions for three terms: ''agency record,'' ''news,'' and ''representative of the news media.'' In its comments, OGIS recommends that EEOC define three additional terms: ''FOIA Public Liaison,'' ''fee category,'' and ''fee waiver.'' An individual also commented that EEOC's proposed definition of ''representative of the news media'' is vague and ambiguous.

EEOC agrees with OGIS that adding its suggested definitions will be helpful, and the definitions have been added to the final rule. As for the proposed definition of ''representative of the news media,'' EEOC's definition is taken verbatim from the FOIA statute, as amended. EEOC does not regard the definition as either vague or ambiguous. Moreover, the concern of the commenter appears to be that the definition will exclude requesters who work for, and contribute to, ''electronic media outlets.'' As the definition makes clear, however, what constitutes ''news media'' is a constantly evolving concept, and includes, but is not limited to, various ''electronic . . . alternative media.''

Section 1610.2—Statutory requirements

The current rule at 29 CFR 1610.2 states that, among other things, FOIA exempts ''specified classes of records'' from public disclosure. While the NPRM did not propose any changes to this section, OGIS suggests that EEOC provide examples ''of the type of documents that fall into these categories'' (that is, that EEOC delineate the various classes of records exempt from disclosure by FOIA).

Given that EEOC did not propose amending § 1610.2, any comments regarding this section fall outside the scope of the NPRM and therefore do not require a response. Nevertheless, we note that EEOC's FOIA regulation at 29 CFR 1610.17 (Exemptions) gives examples of the type of documents that are exempt from disclosure under FOIA. Further, the FOIA section on EEOC's public Web site contains a ''Freedom of Information Act Reference Guide'' (*http://www.eeoc.gov/eeoc/foia/handbook.cfm*). The Reference Guide discusses and provides examples of information and documents that are exempt under FOIA. Repeating these examples in § 1610.2 is unnecessary.

Section 1610.4—Public reference facilities and current index

In this section, EEOC proposed, among other things, to eliminate the current FOIA reading rooms in its Field, Local, and Area Offices. As proposed, reading rooms will be located only in Headquarters and District Offices. In its comments, the Union opposes this proposal and suggests either retaining all reading rooms or installing in the smaller offices dedicated computers which the public can use to access reading room materials.

The proposal to reduce EEOC's reading rooms from 51 to 16 is resource based. Only Headquarters and the District Offices have sufficient personnel to service those members of the public wanting access to EEOC's public reading rooms and materials. The Union believes that reducing the number of reading rooms will reduce service to the public. However, if an office lacking available and knowledgeable personnel is unable to properly support, maintain, and administer a public reading room, the public will not be well served either. Furthermore, if smaller offices must assign personnel to manage reading rooms, this will adversely impact their ability to provide necessary services to individuals seeking to file charges of employment discrimination.

Individuals who cannot visit reading rooms in District Offices or Headquarters still can access many reading room materials through other means. For example, all reading room materials created on or after November 1, 1996, as well as some materials created before November 1, 1996, are accessible through EEOC's public Web site. Members of the public also can contact the Headquarters Library or a District Office by mail, telephone, or email to obtain reading room materials.

Equipping EEOC's smaller field offices with dedicated computers presents problems similar to those of housing reading rooms. Personnel will be needed to maintain the computers, as well as to demonstrate to members of the public how to use them to access the information they seek. The smaller offices lack the personnel necessary to do these tasks without adversely affecting their ability to service the needs of charging parties.

Therefore, for all of the above reasons, the Commission believes it is in the best interests of the public and EEOC to eliminate its reading rooms in its smaller field offices.

Section 1610.5—Request for records

This section, among others things, requires a person who files a FOIA request to ''clearly and prominently identify[y]'' the request as a ''request for information under the 'Freedom of Information Act.'" OGIS states that FOIA does not require a requester to identify a request as one filed pursuant to FOIA. OGIS suggests instead that the final rule state that a requester ''should'' identify the request as a FOIA request. In addition, while not referencing a particular revision proposed by EEOC pertaining to this section, OGIS suggests that EEOC add language ''clarifying the intersection between FOIA and the Privacy Act, which some requesters find confusing.''

While OGIS is correct that FOIA does not require that a request be labeled as a FOIA request, clear labeling is an important issue for the EEOC. Approximately 95 percent of the FOIA requests received by EEOC are requests for the charge files that are created when an employee or applicant files with EEOC an administrative charge of employment discrimination. In accordance with EEOC procedures, a request for a charge file can be made under Section 83 of Volume I of EEOC's Compliance Manual, or pursuant to FOIA. A ''Section 83'' request provides EEOC with a more efficient way to disclose a charge file to the parties to the charge because, unlike a FOIA request, a Section 83 request does not have to be logged and tracked for reporting purposes, does not require EEOC to identify the site or amount of withheld information, and does not require EEOC to explain the FOIA exemption applicable to any information that is withheld. Because there are two methods by which a requester can request a charge file, and because EEOC is able to process Section 83 requests more efficiently than FOIA requests, EEOC deems any request for a charge file that falls within Section 83's parameters to be a Section 83 request unless the requester specifically mentions FOIA. Requiring a requester to designate his or her request for a charge file as a FOIA request therefore will ensure that EEOC processes the request under the procedure desired by the requester.

As to OGIS's suggestion that EEOC add language discussing the interaction between FOIA and the Privacy Act, we do not agree with the basis for the suggestion. Most agencies usually process first-party requests under both FOIA and the Privacy Act. EEOC charge files, however, are exempt from disclosure under the Privacy Act (*see* 29 CFR 1611.13) (federal sector EEO complaint files also are exempt). Because requests for charge files are not processed under the Privacy Act, including language about the Privacy Act may lead requesters to believe there is a second disclosure option for charge files (or a third option, if one includes the Section 83 option). Since a Privacy Act option does not exist, mention of the Privacy Act will likely cause confusion for requesters.

Section 1610.6—Records of other agencies

The NPRM revised this section to state that a request for a record originating in another agency that is in the custody of EEOC will be referred to the other agency and EEOC will honor the other agency's decision under FOIA. OGIS suggests that EEOC include in its final rule a provision that states that EEOC will provide the requester with contact information for the other agency when a referral is made.

EEOC currently provides the contact information recommended by OGIS and refers the request to the other agency's FOIA contact person at the address provided on the Department of Justice FOIA Web site. EEOC does not believe it is necessary to revise the final rule to reflect this practice.

Section 1610.9—Responses: timing

In the NPRM, EEOC proposed using a three-track system for responding to FOIA requests: a simple track, a complex track, and an expedited track. Simple requests would be processed in 10 business days or less. Complex requests would be processed between 11 and 20 business days. Expedited requests would be processed appropriately. EEOC also proposed assigning an individualized tracking number to each FOIA request and notifying the requester of this tracking number.

The Union comments that the proposed three-track system is ill-advised because EEOC will not be able to process simple requests in 10 business days or less (thereby disappointing the expectations of the public), and that staff time would be better utilized sanitizing files. The Union also states that no study exists which demonstrates a need for a three-track system, or establishes that implementing such a system will result in improved processing times or reduce EEOC's FOIA backlog. The Union also believes that too many requests will meet the criteria for simple track processing, resulting in more missed deadlines. In this regard, the Union believes that the three-track process fails to account for the time required to categorize a request. The Union also is concerned that the proposed multitrack process ignores the possibility that the

person making the tracking assessments will be the same person expected to process the requests, or that it will be someone outside of the disclosure unit, thus resulting in additional delays due to transferring files between units. Finally, the Union discusses the grade levels of staff within a disclosure unit and argues that the grade and staffing levels are not amenable to a multitrack FOIA processing system.

In another comment, an individual states that it would be helpful if additional information was provided about how EEOC will assess each request for purposes of placing it in the appropriate track. OGIS suggests that EEOC's acknowledgement letter, in addition to notifying a requester of his or her unique FOIA tracking number, also include ''a brief description of the subject of the request.''

The Commission does not believe that implementing a three-track process will jeopardize public expectations or cause internal processing difficulties. Currently, EEOC uses a two-track system: one for requests seeking expedited processing under 5 U.S.C. § 552(a)(6)(E); and one for all other requests. Generally speaking, a requester must demonstrate a ''compelling need'' for expedited processing. *See id.* With respect to all other requests, EEOC has adopted the court-sanctioned practice of processing them on a ''first-in, first-out basis.'' *See, e.g., Open America* v. *Watergate Special Prosecution Force,* 547 F.2d 605, 614–16 (DC Cir. 1976). Under the current system, therefore, each non-expedited request filed with EEOC goes to the back of the queue in the order in which it is received. A multitrack system, on the other hand, will enable EEOC to separate out the relatively more simple requests and process them more quickly.

In this regard, the E–FOIA Act amendments to FOIA expressly permit an agency to ''promulgate regulations . . . providing for multitrack processing of requests for records based on the amount of work or time (or both) involved in processing requests.'' 5 U.S.C. 552(a)(6)(D)(i). Additionally, the Department of Justice (DOJ) has encouraged agencies to adopt multitrack processing systems so that they may process simple requests more quickly. *See, e.g.,* DOJ *FOIA Update,* Winter 1997, at 6 (discussing multitrack processing for an agency with decentralized FOIA operations); *FOIA Update,* Fall 1996, at 10 (an agency that processes its ''FOIA requests on a decentralized basis through separate agency components should allow multitrack processing systems to be maintained according to the individual circumstances of each component.'').

As noted earlier, ninety-five percent of the FOIA requests received by EEOC are requests for EEOC's administrative charge files. Because these requests can be analyzed quickly, they are ideal candidates for a multitrack processing system. For example, the confidentiality provisions of Title VII of the Civil Rights Act of 1964, as amended (hereinafter ''Title VII''), prohibit EEOC from disclosing a charge file to a person not a party to the charge. Title VII also prohibits EEOC from disclosing a charge file if the charging party's right-to-sue has expired and no civil action has been filed. Further, under exemption 7(A) of FOIA, open charge files are exempt from disclosure. When a FOIA request for a charge file is received, FOIA personnel can reference EEOC's charge file database and easily determine whether the request is being made by a third party, whether the requested charge file is still open and, if it is closed, whether the 90-day period for filing suit has expired. Requests which EEOC can quickly determine cannot be granted are the types of requests that can be placed on the simple track under the three-track system. The three-track system will allow EEOC to process these requests out of order and therefore process them more quickly than under the current ''first-in, first-out'' system.

The Commission also agrees with the Union, however, that the proposed time frame of 10 working days to process simple track requests should not be made a part of the regulation because it is not essential to ensure the success of the multitrack system. Thus, the final rule retains the three-track system but eliminates any shortened time limit for processing simple track requests. While the statutory 20-day time limit will apply to all requests, including those placed on the simple track, FOIA personnel will now be able to process the simple requests out of order. The Commission is confident that, with the proposed 10-day time limit eliminated, the three-track system will not cause additional missed deadlines or greater backlogs, and will not place an undue burden on FOIA staff. (As to the Union's comments about grade and staff levels, these comments fall outside the scope of the NPRM and will not be addressed further).

With respect to the suggestion that EEOC provide additional information as to how it will implement the three-track assessment process, such information properly belongs in an internal instruction manual, rather than as part of the final rule.

Regarding OGIS's suggestion that EEOC's FOIA acknowledgement letters include a brief description of the requests, the Commission does not believe this is a sound idea. With respect to requests for charge files, EEOC's acknowledgement letter currently references the applicable charge file caption and number (*e.g., John Doe* v. *Widgets Incorporated,* Charge No. 987–654–321) and contains a unique FOIA tracking number. These designations are the equivalent of identifying the subject matter of the request. Adding the task of describing the subject matter of the non-charge file requests would be, at most, superficial, since it safely can be presumed that the requester is aware of the nature of his or her request and will not be further aided by EEOC's description. Finally, EEOC currently includes in its acknowledgement letter the contact information for the staff member assigned to process the FOIA request or appeal. Thus, a requester who files multiple requests around the same time can contact the staff member should he or she need clarification as to which EEOC tracking number pertains to which request.

Section 1610.10—Responses: form and content

The proposed revision to this section states that, among other things, when responding to a FOIA request, the person signing the decision will include his or her name and title. This section also states that, when a request is denied, EEOC ''shall provide to the requester a written statement identifying the estimated volume of denied material . . . .'' OGIS suggests that EEOC include in its final rule ''complete contact information'' for the person signing the decision, including a phone number and email address. OGIS objects to EEOC providing an estimated volume of denied material and recommends that the final rule state that EEOC will provide a ''precise'' volume.

With respect to contact information, EEOC has decided to adopt the recommendation of OGIS. As a result, the final rule states that the person signing the decision will provide ''his or her name and title, telephone number and email address.''

Regarding OGIS's comment about providing requesters with precise information as to the volume of information that is withheld, EEOC already provides this information with respect to requests that are partially granted and partially denied. When only some information is withheld, a requester is informed of the exact number of pages that is being withheld.

With respect to full denials, however, OGIS's recommendation is not practical. A fair number of requests for charge files are denied in their entirety (*e.g.,* a third party request for a charge file). Implementing OGIS's suggestion will require staff to count every page in a withheld charge file. While some charges consist of a hundred pages or less, others fill boxes. Implementing OGIS's suggestion therefore will be extremely labor intensive and will adversely affect EEOC's movement to a three-track FOIA processing system. For example, a request that, on its face, indicates that it must be denied and therefore should be placed on the simple track will not be processed quickly if EEOC staff must count each page of the withheld charge file rather than providing an estimated number of pages contained in the file. Additionally, the Commission fails to see any benefit that will accrue to a requester if EEOC informs him or her of the actual number of pages contained in a complaint file that is exempt from disclosure.

Section 1610.11—Appeals to the Legal Counsel from initial denials

Among other things, this proposed section states that an appeal of an initial FOIA determination ''must be in writing addressed to the Legal Counsel, or the Assistant Legal Counsel, FOIA Programs, as appropriate, Equal Employment Opportunity Commission, 131 M Street NE., Suite 5NW02E, Washington, DC 20507 . . . .''

OMB Watch interprets the above-quoted language as requiring that appeals be filed only by mail. It points out that, under § 1610.7, EEOC accepts initial FOIA requests by mail, email, fax, or via EEOC's Web site. Therefore, OMB Watch suggests that EEOC's final rule allow electronic appeals. OMB Watch also recommends that EEOC enable requesters to communicate with EEOC electronically ''throughout the FOIA process.''

Although the NPRM does not address the issue, OMB Watch recommends that EEOC's appeal determinations include information about the mediation services offered by OGIS. OGIS, in its comments, recommends that EEOC's final rule include a subsection discussing OGIS's role in mediating disputes between FOIA requesters and federal agencies. OMB Watch likewise suggests that EEOC's final rule include information about OGIS.

In drafting the language in § 1610.11, it was never EEOC's intention to establish a requirement that FOIA appeals be filed only by mail. Currently, EEOC accepts appeals by mail, facsimile, email, and through its public Web site. While EEOC's regulations require that a requester attach a copy of the District Director's initial FOIA determination to his or her appeal, individuals who file electronic appeals can simultaneously mail, fax, or attach as a scanned document the District Director's initial decision. To clarify EEOC's intent that appeals can be filed by mail, fax, or electronically, EEOC has added to the final rule the applicable fax number, and email and Web site addresses.

As to requesters being able to communicate with EEOC electronically, requesters currently can and do communicate with EEOC via EEOC's FOIA email address, District Office email addresses, and the public Web site. In its appeal acknowledgement letter, EEOC currently informs the requester of the name and telephone number of the staff member assigned to process the appeal and, with the publication of this final rule, also will inform the requester of the staff member's email address. As a result, requesters will be able to communicate electronically with EEOC during the pendency of their initial requests and appeals, as recommended by OMB Watch.

EEOC also believes that the suggestions of OGIS and OMB Watch regarding adding information in the final rule about OGIS, have merit. Therefore, the final rule includes a new paragraph (g) to § 1610.11, which contains pertinent information about OGIS. EEOC currently includes in its appeal decisions information about OGIS's mediation role. EEOC also includes OGIS's address, telephone numbers, and email address should a requester wish to take advantage of OGIS's services.

Section 1610.13—Maintenance of files

Section 1610.13(a) currently states that field offices and the Office of Legal Counsel will maintain files of their FOIA decisions. Current § 1610.13(b) states that the Legal Counsel will maintain a file of ''copies of all grants or denial of appeals'' that is ''open to the public.'' Proposed § 1610.13 eliminates paragraph (b). OGIS recommends that EEOC retain § 1610.13(b) in its final rule.

EEOC's Legal Counsel does not, and never has, made his or her FOIA appeal files available to the public. Thus, the NPRM proposes to eliminate paragraph (b) to conform to EEOC's longstanding practice. The near impossibility of implementing paragraph (b) was not understood until after that provision was enacted. As previously noted, 95 percent of FOIA requests filed with EEOC seek the disclosure of charge files. An even greater percentage of appeals involve decisions not to disclose charge files. As discussed earlier, the confidentially provisions applicable to charge files prohibit EEOC from making public charge file information. These confidentiality provisions equally apply when charge file information is contained in a FOIA appeal file. Therefore, eliminating § 1610.13(b) is necessary in order to ensure the confidentiality of EEOC's charge files.

Section 1610.14—Waiver of user charges

The proposed rule states that the Legal Counsel and District Directors have the authority to reduce or waive search, review, and duplication fees ''if disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requester.'' OGIS recommends that EEOC's final rule allow the Legal Counsel and District Directors to reduce or waive applicable fees ''at their discretion,'' without regard to whether disclosure is in the public interest. OGIS believes that such authority will reduce fee disputes and reduce delays in the release of information.

The types of requests EEOC receives rarely lead to fee disputes. As noted, most requests are for charge files and the field offices are adept at calculating fees based on the volume of documents in each file (when a request for a charge file is granted, field offices do an exact count of the pages in a file in order to calculate duplication fees). Rarely is a charge file fee contested. As to requests for other information, EEOC has not had difficulty calculating fees, and requesters rarely object to the fees that are charged. When a requester does make a fee waiver request, EEOC waives fees when statutorily required to do so.

Moreover, FOIA does not require that an agency give its FOIA professionals the type of discretionary fee-waiver authority advocated by OGIS. Rather, FOIA is clear that fees must be waived only when the requester demonstrates that disclosure of the information is in the public interest ''because it is likely to contribute significantly to public understanding of the operations or activities of the government,'' and the information will not be used for a commercial purpose. Further, it is not practical to give EEOC's FOIA personnel discretionary authority to waive fees in circumstances not required by FOIA. Doing so would require EEOC to develop guidelines to ensure that discretionary fee waivers conform to certain standards. This, in turn, would

require EEOC to ensure that 15 District Directors, a Field Office Director, and the Assistant Legal Counsel/FOIA Programs, share a common understanding about how and when to exercise their discretionary fee-waiver authority. EEOC is concerned that, given the decentralization of its FOIA operations, such discretionary authority will not be uniformly applied which, in turn, could result in the exact circumstances OGIS wishes to avoid—an increase in fee disputes.

Section 1610.15—Schedule of fees and method of payment for services rendered

The proposed rule states that EEOC will not charge search and duplication fees ''if the Commission issues an untimely determination and the untimeliness is not due to unusual or exceptional circumstances.'' The Union is concerned that, by implementing a three-track system in which simple requests will be processed within 10 business days, the potential exists that EEOC will be barred from charging fees in such cases, which in turn will place additional pressure on staff to timely process requests. OGIS suggests that EEOC add a paragraph to § 1610.15 stating that, when EEOC estimates FOIA processing fees, it will provide the requester with ''a breakdown of fees assessed for search, review and/or duplication.''

The Union misconstrues the interplay regarding the timeframes applicable to the three-track process and the timeframes applicable to the waiver of fees. Under FOIA, a request generally must be processed within 20 business days (absent any applicable extensions). This 20 business day time limit, therefore, usually will constitute the benchmark for determining whether a request has been timely processed. In any event, given the Commission's decision to eliminate from proposed § 1610.9(a) a processing period less than the statutory deadline, the Union's concerns are now moot.

In estimating FOIA processing fees, EEOC currently provides the requester with a breakdown in costs as suggested by OGIS in its comments. EEOC informs the requester of the number of hours it anticipates will be necessary to search for the files requested, the number of hours it anticipates will be necessary to review (and redact, if applicable) the information requested, the personnel classification of the person performing the search or review, and the number of pages that will be duplicated and the cost of duplicating each page. EEOC does not believe it is necessary or desirable to incorporate this practice into the final rule.

Section 1610.18—Information to be disclosed

Current § 1610.18 sets forth a list of information that EEOC will provide to the public (*e.g.,* tabulations of aggregate industry data, blank forms used by EEOC, administrative staff manuals). The proposed section states that the information ''also [will] be made available electronically'' and adds ''underlying annual FOIA report data'' to this list. OGIS suggests that, in the final rule, EEOC add to the list the following: ''travel records and calendars of high-level officials.''

OMB Watch states that the proposed section fails to indicate whether EEOC will make the information contained in the list available ''upon request'' or ''proactively.'' It urges that EEOC place on its public Web site all information which EEOC intends to make available to the public. OMB Watch also points out that FOIA requires an agency to post online information that has been released in response to a FOIA request and is ''likely to become the subject of subsequent requests.'' OMB Watch suggests that EEOC's final rule add this type of information to the list in § 1610.18. OMB Watch further recommends that EEOC post online all its responses to FOIA requests, post other information in advance of any public request, and establish a policy to determine categories of records and information of interest to the public that can be disclosed regularly online and added to the list in § 1610.18.

EEOC receives FOIA requests seeking the travel records of Commissioners, the General Counsel, and SES employees on an infrequent basis. When it does, EEOC routinely grants the request (but may redact third party information when privacy issues prevail). EEOC rarely, if ever, receives requests for the calendars of its upper management officials. EEOC therefore does not believe that there is a significant public interest in such travel and calendar records. Additionally, gathering such records on a regular basis for proactive electronic posting will require resources which the Commission lacks. Therefore, the final rule does not include travel records and calendars to the list contained in § 1610.18.

Regarding the comments of OMB Watch, at present EEOC makes available electronically some of the information listed in § 1610.18. The intent of § 1610.18 is to provide the public with a list of information that EEOC routinely will provide to the public upon receipt of a FOIA request. In this regard, some of the listed information can be made available only when we receive a specific request (*e.g.,* specific aggregate industry tabulations derived from EEO–1 reports). Some of the other listed information is not, in our opinion, of general public interest (*e.g.,* ''agreements between the Commission and State or local agencies charged with the administration of State or local fair employment practices laws'') and therefore properly is made available only upon request. Finally, not all the information listed in § 1610.18 currently is in an electronic format. EEOC intends to review the listed information and determine whether certain categories should or can be made available on its Web site. Until that happens, however, EEOC cannot state in the final rule that this information is or will be electronically available.

FOIA requires an agency to make available for public inspection and copying records which have been released to a person ''and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records * * *.'' 5 U.S.C. 552(a)(2)(D). As noted previously, 95 percent of EEOC's FOIA requests are for charge files. EEOC is prohibited from making public specific charge file information. Thus, EEOC cannot post online our responses to these requests without running afoul of the statutory confidentiality provisions. It also can be argued that EEOC charge files do not fall within the types of information contemplated by § 552(a)(2)(D) because, while EEOC receives many requests for charge files and thus can anticipate additional charge file requests, the information requested is not ''for substantially the same records,'' but is, rather, for very different records unique to each requester.

Additionally, EEOC already makes available on its public Web site information released under FOIA which is or is likely to become the subject of subsequent requests for substantially the same information. For example, EEOC posts on its public Web site its informal discussion letters, policy guidance documents, question and answer documents, press releases, and regulations. As suggested by OMB Watch, EEOC has established and will continue to establish categories of records and information of interest to the public that it will disclose regularly online. However, EEOC does not believe, as suggested by OMB Watch, that EEOC should specifically list in § 1610.18 the ''likely to become the

subject of subsequent requests'' language since the intent of § 1610.18 is to list only that information which EEOC has already determined should be made available to the public.

Section 1610.21—Annual report

This section proposes that, on or before February 1 of each year, the Legal Counsel will submit to the U.S. Attorney General required FOIA reports. OGIS recommends that the final rule also state that EEOC will file Chief FOIA Officer reports.

Pursuant to the OPEN Government Act, each agency must designate ''a Chief FOIA Officer * * *.'' An agency's Chief FOIA Officer must ''review and report to the Attorney General, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency's performance in implementing [its responsibilities under FOIA].'' In order to implement OGIS's recommendation, § 1610.21 of the final rule has been divided into two paragraphs. Paragraph (a) contains the proposed language applicable to the annual FOIA report and paragraph (b) refers to the report of the Chief FOIA Officer.

Regulatory Procedures

Executive Order 12866

This final rule has been drafted and reviewed in accordance with Executive Order 12866, 58 FR 51735 (Sept. 30, 2003), section 1(b), Principles of Regulation, and Executive Order 13563, 76 FR 3821 (January 1, 2011), Improving Regulation and Regulatory Review. The rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866.

Paperwork Reduction Act

This final rule contains no new information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Regulatory Flexibility Act

The Commission certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities because the changes to the rule do not impose any burdens upon FOIA requesters, including those that might be small entities. Therefore, a regulatory flexibility analysis is not required by the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by State, local, or tribal governments in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

List of Subjects in 29 CFR Part 1610

Freedom of Information.

For the Commission,

Dated: June 12, 2013.

Jacqueline A. Berrien,

Chair.

Accordingly, for the reasons set forth in the preamble, the Equal Employment Opportunity Commission hereby amends chapter X of title 29 of the Code of Federal Regulations as follows:

PART 1610—AVAILABILITY OF RECORDS

■ 1. The authority citation for 29 CFR part 1610 continues to read as follows:

Authority: 42 U.S.C. 2000e-12(a), 5 U.S.C. 552 as amended by Pub. L. 93–502, Pub. L. 99–570, and Pub. L. 105–231; for § 1610.15, non-search or copy portions are issued under 31 U.S.C. 9701.

■ 2. Amend § 1610.1 by adding paragraphs (j) through (o) to read as follows:

§ 1610.1 Definitions.

* * * * *

(j) *Agency record* includes any information maintained for an agency by an entity under Government contract, for the purposes of records management.

(k) *Fee category* means one of the three categories that agencies place requesters in for the purpose of determining whether a requester will be charged fees for search, review and duplication, including commercial requesters, non-commercial scientific or educational institutions or news media requesters, and all other requesters.

(l) *Fee waiver* means the waiver or reduction of processing fees if a requester can demonstrate that certain statutory standards are satisfied including that the information is in the public interest and is not requested for a commercial interest.

(m) *FOIA Public Liaison* means an agency official who is responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

(n) *News* refers to information about current events that would be of current interest to the public.

(o) *Representative of the news media* refers to any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. Examples of news media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of ''news'') who make their products available for purchase by, subscription by, or free distribution to, the general public. As methods of news delivery evolve (for example, the implementation of electronic dissemination of newspapers through telecommunication services), such alternative media shall be considered to be news-media services. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Commission may also consider the past publication record of the requester in making such a determination.

■ 3. Revise § 1610.4 to read as follows:

§ 1610.4 Public reference facilities and current index.

(a) The Commission will maintain in a public reading area located in the Commission's library at 131 M Street, NE., Washington, DC 20507, the materials which are required by 5 U.S.C. 552(a)(2) and 552(a)(5) to be made available for public inspection and copying. Any such materials created on or after November 1, 1996 may also be accessed through the Internet at *http://www.eeoc.gov*. The Commission will maintain and make available for public inspection and copying in this public reading area a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after July 4, 1967, and which is required to be indexed by 5 U.S.C. 552(a)(2). The Commission in its discretion may, however, include precedential materials issued, adopted, or promulgated prior to July 4, 1967. The Commission will also maintain on file in this public reading area all material published by the Commission in the **Federal Register** and currently in effect.

(b) The Commission offices designated in § 1610.4(c) shall maintain and make available for public inspection and copying a copy of:

(1) The Commission's notices and regulatory amendments which are not yet published in the Code of Federal Regulations;

(2) The Commission's annual reports;

(3) The Commission's Compliance Manual;

(4) Blank forms relating to the Commission's procedures as they affect the public;

(5) The Commission's Orders (agency directives);

(6) ''CCH Equal Employment Opportunity Commission Decisions'' (1973 and 1983); and

(7) Commission awarded contracts.

(c) The Commission's District Offices with public reading areas are:

Atlanta District Office, Sam Nunn Atlanta Federal Center, 100 Alabama Street, SW., Suite 4R30, Atlanta, GA 30303 (includes the Savannah Local Office).

Birmingham District Office, Ridge Park Place, 1130 22nd Street South, Suite 2000, Birmingham, AL 35205–2397 (includes the Jackson Area Office and the Mobile Local Office).

Charlotte District Office, 129 West Trade Street, Suite 400, Charlotte, NC 28202 (includes the Raleigh Area Office, the Greensboro Local Office, the Greenville Local Office, the Norfolk Local Office, and the Richmond Local Office).

Chicago District Office, 500 West Madison Street, Suite 2000, Chicago, IL 60661 (includes the Milwaukee Area Office and the Minneapolis Area Office).

Dallas District Office, 207 S. Houston Street, 3rd Floor, Dallas, TX 75202–4726 (includes the San Antonio Field Office and the El Paso Area Office).

Houston District Office, Total Plaza, 1201 Louisiana Street, 6th Floor, Houston, TX 77002 (includes the New Orleans Field Office).

Indianapolis District Office, 101 West Ohio Street, Suite 1900, Indianapolis, IN 46204–4203 (includes the Detroit Field Office, the Cincinnati Area Office, and the Louisville Area Office).

Los Angeles District Office, Roybal Federal Building, 255 East Temple Street, 4th Floor, Los Angeles, CA 90012 (includes the Fresno Local Office, the Honolulu Local Office, the Las Vegas Local Office, and the San Diego Local Office).

Memphis District Office, 1407 Union Avenue, 9th Floor, Memphis, TN 38104 (includes the Little Rock Area Office, and the Nashville Area Office).

Miami District Office, Miami Tower, 100 SE 2nd Street, Suite 1500, Miami, FL 33131 (includes the Tampa Field Office and the San Juan Local Office).

New York District Office, 33 Whitehall Street, 5th Floor, New York, NY 10004 (includes the Boston Area Office, the Newark Area Office, and the Buffalo Local Office).

Philadelphia District Office, 801 Market Street, Suite 1300, Philadelphia, PA 19107–3127 (includes the Baltimore Field Office, the Cleveland Field Office, and the Pittsburgh Area Office).

Phoenix District Office, 3300 N. Central Avenue, Suite 690, Phoenix, AZ 85012–2504 (includes the Denver Field Office, and the Albuquerque Area Office).

San Francisco District Office, 350 The Embarcadero, Suite 500, San Francisco, CA 94105–1260 (includes the Seattle Field Office, the Oakland Local Office, and the San Jose Local Office).

St. Louis District Office, Robert A. Young Federal Building, 1222 Spruce Street, Room 8100, St. Louis, MO 63103 (includes the Kansas City Area Office, and the Oklahoma City Area Office).

■ 4. Amend § 1610.5 by revising paragraph (a), redesignating paragraphs (b) and (c) as (d) and (e), and adding new paragraphs (b) and (c) to read as follows:

§ 1610.5 Request for records.

(a) A written request for inspection or copying of a record of the Commission may be presented in person, or by mail, or by fax, or by email, or through *https://egov.eeoc.gov/foia/* to the Commission employee designated in § 1610.7. Every request, regardless of format, must contain the requester's name and may identify a non-electronic mailing address. In-person requests must be presented during business hours on any business day.

(b) A request must be clearly and prominently identified as a request for information under the ''Freedom of Information Act.'' If submitted by mail, or otherwise submitted under any cover, the envelope or other cover must be similarly identified.

(c) A respondent must always provide a copy of the ''Filed'' stamped court complaint when requesting a copy of a charge file. The charging party must provide a copy of the ''Filed'' stamped court complaint when requesting a copy of the charge file if the Notice of Right to Sue has expired.

* * * * *

■ 5. Revise § 1610.6 to read as follows:

§ 1610.6 Records of other agencies.

Requests for records that originated in another Agency and are in the custody of the Commission will be referred to that Agency and the person submitting the request shall be so notified. The decision made by that Agency with respect to such records will be honored by the Commission.

■ 6. Amend § 1610.7 by revising paragraph (a) introductory text, revising paragraphs (b) and (c), and removing paragraphs (d) and (e).

The revisions read as follows:

§ 1610.7 Where to make request; form.

(a) Requests for the following types of records shall be submitted to the District Director for the pertinent district, field, area, or local office, at the district office address listed in § 1610.4(c) or, in the case of the Washington Field Office, shall be submitted to the Field Office Director at 131 M Street, NE., Fourth Floor, Washington, DC 20507.

* * * * *

(b) A request for any record which does not fall within the ambit of paragraph (a) of this section, or a request for any record the location of which is unknown to the person making the request, shall be submitted in writing to the Assistant Legal Counsel, FOIA Programs, U.S. Equal Employment Opportunity Commission, by mail to 131 M Street, NE., Suite 5NW02E, Washington, DC 20507, or by fax to (202) 663–4679, or by email to *FOIA@eeoc.gov*, or by Internet to *https://egov.eeoc.gov/foia/*.

(c) Any Commission officer or employee who receives a written Freedom of Information Act request shall promptly forward it to the appropriate official specified in paragraph (a) or (b) of this section. Any Commission officer or employee who receives an oral request under the Freedom of Information Act shall inform the person making the request that it must be in writing and also inform such person of the provisions of this subpart.

■ 7. Revise § 1610.8 to read as follows:

§ 1610.8 Authority to determine.

The Assistant Legal Counsel, FOIA Programs, the District Director, or the District Director's designee, when receiving a request pursuant to these regulations, shall grant or deny such request. That decision shall be final, subject only to administrative review as provided in § 1610.11 of this subpart.

■ 8. Revise § 1610.9 to read as follows:

§ 1610.9 Responses: timing.

(a) The EEOC utilizes a multitrack system for responding to FOIA requests. After review, a FOIA request is placed on one of three tracks: the simple track, the complex track, or the expedited track. EEOC distinguishes between simple and complex track requests based on the amount of work and time needed to process the request.

(b) The Assistant Legal Counsel, FOIA Programs, the District Director, or the

District Director's designee shall, within 10 days from receipt of a request, notify the requester in writing of the date EEOC received the request, the expected date of issuance of the determination, the individualized FOIA tracking number assigned to the request, and the telephone number or Internet site where requesters may inquire about the status of their request.

(c) If a FOIA request is submitted to the incorrect EEOC–FOIA office, that office shall forward the misdirected request to the appropriate EEOC–FOIA office within 10 business days. If a misdirected request is forwarded to the correct EEOC–FOIA office more than 10 business days after its receipt by the EEOC, then, pursuant to 5 U.S.C. 552(a)(6)(A), the statutory 20 business days to respond to the request is reduced by the number of days in excess of 10 that it took the EEOC to forward the request to the correct EEOC–FOIA office.

(d) Within 20 business days after receipt of the request, the Assistant Legal Counsel, FOIA Programs, the District Director, or the District Director's designee shall either grant or deny the request for agency records, unless additional time is required for one of the following reasons:

(1) It is necessary to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) It is necessary to search for, collect, and appropriately examine a voluminous number of separate and distinct records which are demanded in a single request; or

(3) It is necessary to consult with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial interest therein.

(e) When additional time is required for one of the reasons stated in paragraph (d) of this Section, the Assistant Legal Counsel, FOIA Programs, District Director, or the District Director's designee shall, within the statutory 20 business day period, issue to the requester a brief written statement of the reason for the delay and an indication of the date on which it is expected that a determination as to disclosure will be forthcoming. If more than 10 additional business days are needed, the requester shall be notified and provided an opportunity to limit the scope of the request or to arrange for an alternate time frame for processing the request.

(f)(1) A request for records may be eligible for expedited processing if the requester demonstrates a compelling need. For the purposes of this section, compelling need means:

(i) That the failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) That the requester is a representative of the news media as described in § 1610.1(o) and there is an urgency to inform the public concerning actual or alleged Federal government activity.

(2) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. A determination on the request for expedited processing will be made and the requester notified within 10 calendar days. The Legal Counsel or designee, or the Assistant Legal Counsel, FOIA Programs, as appropriate, shall promptly respond to any appeal of the denial of a request for expedited processing.

(g) The Commission may toll the statutory time period to issue its determination on a FOIA request one time during the processing of the request to obtain clarification from the requester. The statutory time period to issue the determination on disclosure is tolled until EEOC receives the information reasonably requested from the requester. The agency may also toll the statutory time period to issue the determination to clarify with the requester issues regarding fees. There is no limit on the number of times the agency may request clarifying fee information from the requester.

■ 9. Amend § 1610.10 by revising paragraphs (b) and (c) to read as follows:

§ 1610.10 Responses: form and content.

* * * * *

(b) A reply either granting or denying a written request for a record shall be in writing, signed by the Assistant Legal Counsel, FOIA Programs, the District Director, or the District Director's designee, and shall include:

(1) His or her name and title, telephone number, and email address;

(2) A reference to the specific exemption under the Freedom of Information Act authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld, or a statement that, after diligent effort, the requested records have not been found or have not been adequately examined during the time allowed under § 1610.9 (d), and that the denial will be reconsidered as soon as the search or examination is complete; and

(3) A written statement that the denial may be appealed to the Legal Counsel, or Assistant Legal Counsel, FOIA Programs, as appropriate, within 30 calendar days of receipt of the denial or partial denial.

(c) When a request for records is denied, the Commission shall provide to the requester a written statement identifying the estimated volume of denied material unless providing such estimate would harm an interest protected by the exemptions in 5 U.S.C. 522(b). When a reasonably segregable portion of a record is provided, the amount of information deleted from the released portion and, to the extent technically feasible, the place in the record where such deletion was made, and the exemption upon which the deletion was based, shall be indicated on the record provided to the requester.

* * * * *

■ 10. Revise § 1610.11 to read as follows:

§ 1610.11 Appeals to the Legal Counsel from initial denials.

(a) When the Assistant Legal Counsel, FOIA Programs, the District Director, or the District Director's designee has denied a request for records in whole or in part, the requester may appeal within 30 calendar days of receipt of the determination letter. The appeal must be in writing, addressed to the Legal Counsel, or the Assistant Legal Counsel, FOIA Programs, as appropriate, and submitted by mail to the Equal Employment Opportunity Commission, 131 M Street, NE., Suite 5NW02E, Washington, DC 20507, by fax to (202) 663–4679, by email to *FOIA@eeoc.gov*, or by Internet to *https://egov.eeoc.gov/foia/*. Every appeal filed under this section must be clearly labeled as a ''Freedom of Information Act Appeal.'' Any appeal of a determination issued by a District Director or the District Director's designee must include a copy of the District Director's or the District Director's designee's determination. If a FOIA appeal is misdirected to a District Office, the District Office shall forward the appeal to the Legal Counsel, or the Assistant Legal Counsel, FOIA Programs, as appropriate, within 10 business days.

(b) The Legal Counsel or designee, or the Assistant Legal Counsel, FOIA Programs, as appropriate, shall act upon the appeal within 20 business days of its receipt, and more rapidly if practicable. If the decision is in favor of the person making the request, the decision shall order that records be promptly made available to the person making the

request. The Legal Counsel or designee, or the Assistant Legal Counsel, FOIA Programs, as appropriate, may extend the 20 business day period in which to render a decision on an appeal for that period of time which could have been claimed and used by the Assistant Legal Counsel, FOIA Programs, the District Director, or the District Director's designee under § 1610.9, but which was not in fact used in making the original determination.

(c) The decision on appeal shall be in writing and signed by the Legal Counsel or designee, or the Assistant Legal Counsel, FOIA Programs, as appropriate. A denial in whole or in part of a request on appeal shall set forth the exemption relied on, a brief explanation of how the exemption applies to the records withheld, and the reasons for asserting it, if different from those described by the Assistant Legal Counsel, FOIA Programs, the District Director, or the District Director's designee under § 1610.9. The decision on appeal shall indicate that the person making the request may, if dissatisfied with the decision, file a civil action in the United States District Court for the district in which the person resides or has his principal place of business, for the district where the records reside, or for the District of Columbia.

(d) No personal appearance, oral argument or hearing will ordinarily be permitted in connection with an appeal to the Legal Counsel or the Assistant Legal Counsel, FOIA Programs.

(e) On appeal, the Legal Counsel or designee, or the Assistant Legal Counsel, FOIA Programs, as appropriate, may reduce any fees previously assessed.

(f) In the event that the Commission terminates its proceedings on a charge after the District Director or the District Director's designee denies a request, in whole or in part, for the charge file but during consideration of the requester's appeal from that denial, the request may be remanded for redetermination. The requester retains a right to appeal to the Assistant Legal Counsel, FOIA Programs, from the decision on remand.

(g) A response to an appeal will advise the requester that the 2007 amendments to FOIA created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. A requester may contact OGIS in any of the following ways: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road—OGIS, College Park, MD 20740; *https://ogis.archives.gov*; email—*ogis@nara.gov*; telephone—202–741–5770; facsimile—202–741–5769; toll-free—1–877–684–6448.

■ 11. Revise § 1610.13 to read as follows:

§ 1610.13 Maintenance of files.

The Legal Counsel or designee, the Assistant Legal Counsel, FOIA Programs, and the District Directors or designees shall maintain files containing all material required to be retained by or furnished to them under this subpart. The material shall be filed by individual request.

■ 12. Amend § 1610.14 by revising paragraph (a) to read as follows:

§ 1610.14 Waiver of user charges.

(a) Except as provided in paragraph (b) of this section, the Legal Counsel or designee, the Assistant Legal Counsel, FOIA Programs, and the District Directors or designees shall assess fees where applicable in accordance with § 1610.15 for search, review, and duplication of records requested. They shall also have authority to furnish documents without any charge or at a reduced charge if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

* * * * *

■ 13. Amend § 1610.15 by adding paragraph (g) to read as follows:

§ 1610.15 Schedule of fees and method of payment for services rendered.

* * * * *

(g) A search fee will not be charged to requesters specified in paragraphs (a)(1) and (a)(3) of this section, and a duplication fee will not be charged to requesters specified in paragraph (a)(2) of this section, if the Commission issues an untimely determination and the untimeliness is not due to unusual or exceptional circumstances.

■ 14. Amend § 1610.18 by revising the introductory text and adding paragraph (h) to read as follows:

§ 1610.18 Information to be disclosed.

The Commission will provide the following information to the public. This information will also be made available electronically:

* * * * *

(h) Underlying annual FOIA report data.

§ 1610.19 [Amended]

■ 15. Amend § 1610.19 by removing paragraph (b)(2), redesignating paragraph (b)(3) as paragraph (b)(2), and removing the word ''working'' in the first sentence of paragraph (d) and the third sentence of paragraph (e)(1) and add in its place the word ''business''.

§ 1610.20 [Removed and Reserved]

■ 16. Remove and reserve § 1610.20.

■ 17. Revise § 1610.21 to read as follows:

§ 1610.21 Annual report.

(a) The Legal Counsel shall, on or before February 1, submit individual Freedom of Information Act reports for each principal agency FOIA component and one for the entire agency covering the preceding fiscal year to the Attorney General of the United States. The reports shall include those matters required by 5 U.S.C. 552(e), and shall be made available electronically on the agency Web site.

(b) When and as directed by the Attorney General, the Chief FOIA Officer, through the Office of the Chair, shall review and report to the Attorney General on the agency's performance in implementing its responsibilities under FOIA.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0441]

Drawbridge Operation Regulation; Tombigbee River, AL

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the regulation governing the operation of the Meridian Bigbee Railroad (MBRR) vertical lift bridge across the Tombigbee River, mile 128.6, near Naheola, between Choctaw and Morengo Counties, Alabama. The deviation is necessary for emergency replacement of the uphaul and downhaul ropes. This deviation allows the bridge to remain closed to navigation for two 10-hour closures on two consecutive weekends.

DATES: This deviation is effective from 7 a.m. July 13, 2013 through 5 p.m. July 21, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0441] is available at *http://www.regulations.gov.*