

**§ 1.90 Notice of sampling.**

When a sample of an article offered for import has been requested by the district director, FDA shall provide to the owner or consignee prompt notice of delivery of, or intention to deliver, such sample. Upon receipt of the notice, the owner or consignee shall hold such article and not distribute it until further notice from the district director or U.S. Customs and Border Protection of the results of examination of the sample.

■ 5. In § 1.94, revise the first sentence of paragraphs (a) and (c) to read as follows:

**§ 1.94 Hearing on refusal of admission or destruction.**

(a) If it appears that the article may be subject to refusal of admission, or that the article is a drug that may be subject to destruction under section 801(a) of the Federal Food, Drug, and Cosmetic Act, the district director shall give the owner or consignee a written or electronic notice to that effect, stating the reasons therefor. \* \* \*

\* \* \* \* \*

(c) If the article is a drug that may be subject to destruction under section 801(a) of the Federal Food, Drug, and Cosmetic Act, the district director may give the owner or consignee a single written or electronic notice that provides the notice of refusal of admission and the notice of destruction of an article described in paragraph (a) of this section. \* \* \*

**PART 1005—IMPORTATION OF ELECTRONIC PRODUCTS**

■ 6. The authority citation for part 1005 continues to read as follows:

**Authority:** 21 U.S.C. 360ii, 360mm.

■ 7. Revise § 1005.2 to read as follows:

**§ 1005.2 Definitions.**

As used in this part:

The term *owner* or *consignee* means the person who makes entry under the provisions of section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), namely, the “importer of record.”

**PART 1271—HUMAN CELLS, TISSUES, AND CELLULAR AND TISSUE-BASED PRODUCTS**

■ 8. The authority citation for part 1271 continues to read as follows:

**Authority:** 42 U.S.C. 216, 243, 263a, 264, 271.

■ 9. In § 1271.420, revise paragraph (a) to read as follows:

**§ 1271.420 HCT/Ps offered for import.**

(a) Except as provided in paragraphs (c) and (d) of this section, when an

HCT/P is offered for import, the importer of record must notify, either before or at the time of importation, the director of the district of the Food and Drug Administration (FDA) having jurisdiction over the port of entry through which the HCT/P is imported or offered for import, or such officer of the district as the director may designate to act in his or her behalf in administering and enforcing this part, and must provide sufficient information, including information submitted in the Automated Commercial Environment (ACE) system or any other electronic data interchange system authorized by the U.S. Customs and Border Protection Agency as required in part 1, subpart D of this chapter, for FDA to make an admissibility decision.

\* \* \* \* \*

Dated: November 21, 2016.

**Leslie Kux,**

*Associate Commissioner for Policy, Food and Drug Administration.*

In concurrence with FDA:

Dated: November 21, 2016.

**Timothy E. Skud,**

*Deputy Assistant Secretary (Tax, Trade, and Tariff Policy), Department of the Treasury.*

[FR Doc. 2016–28582 Filed 11–28–16; 8:45 am]

**BILLING CODE 4164–01–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration****21 CFR Part 558**

[Docket No. FDA–2016–N–1896]

**New Animal Drugs for Use in Animal Feed; Category Definitions; Confirmation of Effective Date**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** The Food and Drug Administration (FDA) is confirming the effective date of December 1, 2016, for the final rule that appeared in the *Federal Register* of August 24, 2016. The direct final rule amends the animal drug regulations by revising the definitions of the two categories of new animal drugs used in medicated feeds to base category assignment only on approved uses in major animal species. This document confirms the effective date of the direct final rule.

**DATES:** Effective date of final rule published in the *Federal Register* of August 24, 2016 (81 FR 57796) confirmed: December 1, 2016.

**FOR FURTHER INFORMATION CONTACT:** David Edwards, Center for Veterinary Medicine (HFV–220), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–6205.

**SUPPLEMENTARY INFORMATION:** In the *Federal Register* of August 24, 2016 (81 FR 57796), FDA solicited comments concerning the direct final rule for a 75-day period ending November 7, 2016. FDA stated that the effective date of the direct final rule would be on December 1, 2016, unless any significant adverse comment was submitted to FDA during the comment period. FDA did not receive any significant adverse comments.

**Authority:** Therefore, under the animal drug provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 354, 360b, 360ccc, 360ccc–1, and 371), and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 558 is amended. Accordingly, the amendments issued thereby are effective.

Dated: November 22, 2016.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2016–28607 Filed 11–28–16; 8:45 am]

**BILLING CODE 4164–01–P**

**DEPARTMENT OF JUSTICE****Drug Enforcement Administration****21 CFR Part 1308**

[Docket No. DEA–448]

**Schedules of Controlled Substances: Temporary Placement of Furanyl Fentanyl Into Schedule I**

**AGENCY:** Drug Enforcement Administration, Department of Justice.

**ACTION:** Final order.

**SUMMARY:** The Administrator of the Drug Enforcement Administration is issuing this final order to temporarily schedule the synthetic opioid, *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylfuran-2-carboxamide (furanyl fentanyl), and its isomers, esters, ethers, salts and salts of isomers, esters and ethers, into schedule I pursuant to the temporary scheduling provisions of the Controlled Substances Act. This action is based on a finding by the Administrator that the placement of furanyl fentanyl into schedule I of the Controlled Substances Act is necessary to avoid an imminent hazard to the public safety. As a result of this order, the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances will be imposed

on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle, furanyl fentanyl.

**DATES:** This final order is effective on November 29, 2016.

**FOR FURTHER INFORMATION CONTACT:**

Michael J. Lewis, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (202) 598-6812.

**SUPPLEMENTARY INFORMATION:**

**Legal Authority**

The Drug Enforcement Administration (DEA) implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. 21 U.S.C. 801-971. Titles II and III are referred to as the "Controlled Substances Act" and the "Controlled Substances Import and Export Act," respectively, and are collectively referred to as the "Controlled Substances Act" or the "CSA" for the purpose of this action. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while ensuring an adequate supply is available for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, every controlled substance is classified into one of five schedules based upon its potential for abuse, its currently accepted medical use in treatment in the United States, and the degree of dependence the drug or other substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and the current list of all scheduled substances is published at 21 CFR part 1308.

Section 201 of the CSA, 21 U.S.C. 811, provides the Attorney General with the authority to temporarily place a substance into schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b) if she finds that such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h)(1). In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1), the

Attorney General may extend the temporary scheduling for up to one year. 21 U.S.C. 811(h)(2).

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other schedule under section 202 of the CSA, 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act (FDCA), 21 U.S.C. 355. 21 U.S.C. 811(h)(1). The Attorney General has delegated her scheduling authority under 21 U.S.C. 811 to the Administrator of the DEA. 28 CFR 0.100.

**Background**

Section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), requires the Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of his intention to temporarily place a substance into schedule I of the CSA.<sup>1</sup> The Administrator transmitted the notice of intent to place furanyl fentanyl into schedule I on a temporary basis to the Assistant Secretary by letter dated June 22, 2016. The Assistant Secretary responded to this notice by letter dated July 8, 2016, and advised that based on review by the Food and Drug Administration (FDA), there are currently no investigational new drug applications or approved new drug applications for furanyl fentanyl. The Assistant Secretary also stated that the HHS has no objection to the temporary placement of furanyl fentanyl into schedule I of the CSA. The DEA has taken into consideration the Assistant Secretary's comments as required by 21 U.S.C. 811(h)(4). Furanyl fentanyl is not currently listed in any schedule under the CSA, and no exemptions or approvals are in effect for furanyl fentanyl under section 505 of the FDCA, 21 U.S.C. 355. The DEA has found that the control of furanyl fentanyl in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety, and as required by 21 U.S.C. 811(h)(1)(A), a notice of intent to temporarily schedule furanyl fentanyl was published in the **Federal Register** on September 27, 2016. 81 FR 66224.

<sup>1</sup> As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, Mar. 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

To find that placing a substance temporarily into schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the Administrator is required to consider three of the eight factors set forth in section 201(c) of the CSA, 21 U.S.C. 811(c): The substance's history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any, risk there is to the public health. 21 U.S.C. 811(h)(3). Consideration of these factors includes actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution. 21 U.S.C. 811(h)(3).

A substance meeting the statutory requirements for temporary scheduling may only be placed into schedule I. 21 U.S.C. 811(h)(1). Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. 21 U.S.C. 812(b)(1). Available data and information for furanyl fentanyl, summarized below, indicate that this synthetic opioid has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. The DEA's updated three-factor analysis, and the Assistant Secretary's July 8, 2016, letter, are available in their entirety under the tab "Supporting Documents" of the public docket of this action at [www.regulations.gov](http://www.regulations.gov) under FDMS Docket ID: DEA-2016-0018 (Docket Number DEA-448).

**Factor 4. History and Current Pattern of Abuse**

The recreational abuse of fentanyl-like substances continues to be a significant concern. These substances are distributed to users with often unpredictable outcomes. Furanyl fentanyl has recently been encountered by law enforcement and public health officials and the adverse health effects and outcomes are documented in the scientific literature. The documented negative effects of furanyl fentanyl are consistent with those of other opioids. On October 1, 2014, the DEA implemented STARLiMS (a Web-based, commercial laboratory information management system) to replace the System to Retrieve Information from Drug Evidence (STRIDE) as its laboratory drug evidence data system of record. DEA laboratory data submitted after September 30, 2014, are repositied in STARLiMS; data from STRIDE and STARLiMS were queried on November 2, 2016. STARLiMS registered 113

reports containing furanyl fentanyl, all reported in 2016, from Alabama, California, Connecticut, Delaware, Florida, Georgia, Illinois, Maryland, Mississippi, Missouri, Montana, New Jersey, New York, North Carolina, North Dakota, Rhode Island, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, and the District of Columbia.

The National Forensic Laboratory Information System (NFLIS) is a national drug forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by participating Federal, State and local forensic laboratories across the country. According to NFLIS, the first report of furanyl fentanyl was recorded in December 2015 in Oregon. From December 2015 through September 2016, a total of 494 submissions to state and local forensic laboratories identifying furanyl fentanyl were reported in NFLIS as a result of law enforcement encounters in California, Connecticut, Florida, Iowa, Kentucky, Massachusetts, Minnesota, Missouri, New Jersey, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Virginia, and Wisconsin (query date: November 2, 2016). The DEA is not aware of any laboratory identifications of furanyl fentanyl prior to 2015.

Evidence suggests that the pattern of abuse of fentanyl analogues, including furanyl fentanyl, parallels that of heroin and prescription opioid analgesics. Seizures of furanyl fentanyl have been encountered in powder form. Furanyl fentanyl has also been encountered in drug paraphernalia commonly associated with heroin or other opioid abuse including glassine bags, and as a residue on spoons and bottle caps. Furanyl fentanyl has been encountered as a single substance as well as in combination with other substances of abuse, including heroin, fentanyl, butyryl fentanyl, and U-47700. Furanyl fentanyl has been connected to fatal overdoses, in which intravenous routes of administration are documented.

#### **Factor 5. Scope, Duration and Significance of Abuse**

The scientific literature and reports collected by the DEA demonstrate furanyl fentanyl is being abused for its opioid properties. This abuse of furanyl fentanyl has resulted in morbidity and mortality (see updated DEA 3-Factor Analysis for full discussion). The DEA has received reports for at least 128 confirmed fatalities associated with furanyl fentanyl. The information on these deaths occurring in 2015 and 2016 was collected from email communications or toxicology and

medical examiner reports received by the DEA. These deaths were reported from five states—Illinois (36), Maryland (41), New Jersey (1), North Carolina (49), and Ohio (1). The scientific literature notes additional fatal overdoses connected to furanyl fentanyl. STARLiMS and NFLIS have a total of 607 drug reports in which furanyl fentanyl was identified in drug exhibits submitted to forensic laboratories from December 2015 through September 2016 from law enforcement encounters. It is likely that the prevalence of furanyl fentanyl in opioid analgesic-related emergency room admissions and deaths is underreported as standard immunoassays may not differentiate this substance from fentanyl.

The population likely to abuse furanyl fentanyl overlaps with the population abusing prescription opioid analgesics and heroin. This is evidenced by the routes of drug administration and drug use history documented in furanyl fentanyl fatal overdose cases. Because abusers of furanyl fentanyl are likely to obtain this substance through unregulated sources (*i.e.* on-line purchases or drug dealers), the identity, purity, and quantity are uncertain and inconsistent, thus posing significant adverse health risks to the end user. Individuals who initiate (*i.e.* use a drug for the first time) furanyl fentanyl abuse are likely to be at risk of developing substance use disorder, overdose, and death similar to that of other opioid analgesics (*e.g.*, fentanyl, morphine, etc.).

#### **Factor 6. What, if Any, Risk There Is to the Public Health**

Furanyl fentanyl exhibits pharmacological profiles similar to that of fentanyl and other  $\mu$ -opioid receptor agonists. The toxic effects of furanyl fentanyl in humans are demonstrated by overdose fatalities involving this substance. Abusers of furanyl fentanyl may not know the origin, identity, or purity of this substance, thus posing significant adverse health risks when compared to abuse of pharmaceutical preparations of opioid analgesics, such as morphine and oxycodone.

Based on reports in the scientific literature and information received by the DEA, the abuse of furanyl fentanyl leads to the same qualitative public health risks as heroin, fentanyl and other opioid analgesic substances. As with any non-medically approved opioid, the health and safety risks for users are great. The public health risks attendant to the abuse of heroin and opioid analgesics are well established and have resulted in large numbers of

drug treatment admissions, emergency department visits, and fatal overdoses.

Furanyl fentanyl has been associated with a number of fatalities and non-fatal overdoses as detailed in the scientific literature. The DEA has received information connecting furanyl fentanyl to at least 128 confirmed overdose deaths occurring in 2015 and 2016 in Illinois (36), Maryland (41), New Jersey (1), North Carolina (49), and Ohio (1).

#### **Finding of Necessity of Schedule I Placement To Avoid Imminent Hazard to Public Safety**

In accordance with 21 U.S.C. 811(h)(3), based on the data and information summarized above, the continued uncontrolled manufacture, distribution, importation, exportation, and abuse of furanyl fentanyl pose an imminent hazard to the public safety. The DEA is not aware of any currently accepted medical uses for this substance in treatment in the United States. A substance meeting the statutory requirements for temporary scheduling, 21 U.S.C. 811(h)(1), may only be placed into schedule I. Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available data and information for furanyl fentanyl indicate that this substance has a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. As required by section 201(h)(4) of the CSA, 21 U.S.C. 811(h)(4), the Administrator, through a letter dated June 22, 2016, notified the Assistant Secretary of the DEA's intention to temporarily place this substance into schedule I.

#### **Conclusion**

In accordance with the provisions of section 201(h) of the CSA, 21 U.S.C. 811(h), the Administrator considered available data and information, herein sets forth the grounds for his determination that it is necessary to temporarily schedule furanyl fentanyl into schedule I of the CSA, and finds that placement of this synthetic opioid into schedule I of the CSA is necessary to avoid an imminent hazard to the public safety. Because the Administrator hereby finds it necessary to temporarily place this synthetic opioid into schedule I to avoid an imminent hazard to the public safety, this final order temporarily scheduling furanyl fentanyl will be effective on the date of publication in the **Federal Register**, and will be in effect for a period of two

years, with a possible extension of one additional year, pending completion of the regular (permanent) scheduling process. 21 U.S.C. 811(h) (1) and (2).

The CSA sets forth specific criteria for scheduling a drug or other substance. Permanent scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures done “on the record after opportunity for a hearing” conducted pursuant to the provisions of 5 U.S.C. 556 and 557. 21 U.S.C. 811. The permanent scheduling process of formal rulemaking affords interested parties with appropriate process and the government with any additional relevant information needed to make a determination. Final decisions that conclude the permanent scheduling process of formal rulemaking are subject to judicial review. 21 U.S.C. 877. Temporary scheduling orders are not subject to judicial review. 21 U.S.C. 811(h)(6).

#### Requirements for Handling

Upon the effective date of this final order, furanyl fentanyl will become subject to the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, engagement in research, and conduct of instructional activities or chemical analysis with, and possession of schedule I controlled substances including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses), or who desires to handle, furanyl fentanyl must be registered with the DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958 and in accordance with 21 CFR parts 1301 and 1312, as of November 29, 2016. Any person who currently handles furanyl fentanyl, and is not registered with the DEA, must submit an application for registration and may not continue to handle furanyl fentanyl as of November 29, 2016, unless the DEA has approved that application for registration pursuant to 21 U.S.C. 822, 823, 957, 958, and in accordance with 21 CFR parts 1301 and 1312. Retail sales of schedule I controlled substances to the general public are not allowed under the CSA. Possession of any quantity of this substance in a manner not authorized by the CSA on or after November 29, 2016 is unlawful and those in possession of any quantity of this substance may be subject to prosecution pursuant to the CSA.

2. *Disposal of stocks.* Any person who does not desire or is not able to obtain a schedule I registration to handle furanyl fentanyl, must surrender all quantities of currently held furanyl fentanyl.

3. *Security.* Furanyl fentanyl is subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 821, 823, 871(b), and in accordance with 21 CFR 1301.71–1301.93, as of November 29, 2016.

4. *Labeling and packaging.* All labels, labeling, and packaging for commercial containers of furanyl fentanyl must be in compliance with 21 U.S.C. 825, 958(e), and be in accordance with 21 CFR part 1302. Current DEA registrants shall have 30 calendar days from November 29, 2016, to comply with all labeling and packaging requirements.

5. *Inventory.* Every DEA registrant who possesses any quantity of furanyl fentanyl on the effective date of this order must take an inventory of all stocks of this substance on hand, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11. Current DEA registrants shall have 30 calendar days from the effective date of this order to be in compliance with all inventory requirements. After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including furanyl fentanyl) on hand on a biennial basis, pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records.* All DEA registrants must maintain records with respect to furanyl fentanyl pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR parts 1304, and 1312, 1317 and § 1307.11. Current DEA registrants shall have 30 calendar days from the effective date of this order to be in compliance with all recordkeeping requirements.

7. *Reports.* All DEA registrants who manufacture or distribute furanyl fentanyl must submit reports pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304, and 1312 as of November 29, 2016.

8. *Order Forms.* All DEA registrants who distribute furanyl fentanyl must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of November 29, 2016.

9. *Importation and Exportation.* All importation and exportation of furanyl fentanyl must be in compliance with 21 U.S.C. 952, 953, 957, 958, and in accordance with 21 CFR part 1312 as of November 29, 2016.

10. *Quota.* Only DEA registered manufacturers may manufacture furanyl

fentanyl in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303 as of November 29, 2016.

11. *Liability.* Any activity involving furanyl fentanyl not authorized by, or in violation of the CSA, occurring as of November 29, 2016, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

#### Regulatory Matters

Section 201(h) of the CSA, 21 U.S.C. 811(h), provides for a temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. As provided in this subsection, the Attorney General may, by order, schedule a substance in schedule I on a temporary basis. Such an order may not be issued before the expiration of 30 days from (1) the publication of a notice in the **Federal Register** of the intention to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary. 21 U.S.C. 811(h)(1).

Inasmuch as section 201(h) of the CSA directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued, the DEA believes that the notice and comment requirements of the Administrative Procedure Act (APA) at 5 U.S.C. 553, do not apply to this temporary scheduling action. In the alternative, even assuming that this action might be subject to 5 U.S.C. 553, the Administrator finds that there is good cause to forgo the notice and comment requirements of 5 U.S.C. 553, as any further delays in the process for issuance of temporary scheduling orders would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety.

Further, the DEA believes that this temporary scheduling action is not a “rule” as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act. The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, the DEA is not required by the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order 12866 (Regulatory Planning and Review), section 3(f), and, accordingly, this action has not been reviewed by the Office of Management and Budget (OMB).

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Federalism) it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

As noted above, this action is an order, not a rule. Accordingly, the Congressional Review Act (CRA) is inapplicable, as it applies only to rules. However, if this were a rule, pursuant to the Congressional Review Act, "any rule for which an agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the federal agency promulgating the rule determines." 5 U.S.C. 808(2). It is in the public interest to schedule this substance immediately to avoid an imminent hazard to the public safety. This temporary scheduling action is taken pursuant to 21 U.S.C. 811(h), which is specifically designed to enable the DEA to act in an expeditious manner to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h) exempts the temporary scheduling order from standard notice and comment rulemaking procedures to ensure that the process moves swiftly. For the same reasons that underlie 21 U.S.C. 811(h), that is, the DEA's need to move quickly to place this substance into schedule I because it poses an imminent hazard to the public safety, it would be contrary to the public interest to delay implementation of the temporary scheduling order. Therefore, this order shall take effect immediately upon its publication. The DEA has submitted a copy of this final order to both Houses of Congress and to the Comptroller General, although such filing is not required under the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act), 5 U.S.C. 801–808 because, as noted above, this action is an order, not a rule.

#### List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

■ For the reasons set out above, the DEA amends 21 CFR Part 1308 as follows:

#### PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

**Authority:** 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. Amend § 1308.11 by adding paragraph (h)(19) to read as follows:

##### § 1308.11 Schedule I.

\* \* \* \* \*

(h) \* \* \*

(19) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylfuran-2-carboxamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: Furanyl fentanyl) (9834).

Dated: November 22, 2016

**Chuck Rosenberg,**

*Acting Administrator.*

[FR Doc. 2016–28693 Filed 11–28–16; 8:45 am]

**BILLING CODE 4410–09–P**

#### DEPARTMENT OF JUSTICE

##### 28 CFR Part 90

[OVW Docket No. 120]

RIN 1105–AB46

#### Conforming STOP Violence Against Women Formula Grant Program Regulations to Statutory Change; Definitions and Confidentiality Requirements Applicable to All OVW Grant Programs

**AGENCY:** Office on Violence Against Women, Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the regulations for the STOP (*Services • Training • Officers • Prosecutors*) Violence Against Women Formula Grant Program (STOP Program) and the general provisions governing Office on Violence Against Women (OVW) programs to comply with statutory changes and reduce repetition of statutory language. Also, this rule implements statutory requirements for nondisclosure of confidential or private information relating to all OVW grant programs.

**DATES:** This rule is effective December 29, 2016.

**FOR FURTHER INFORMATION CONTACT:** Marnie Shiels, Office on Violence Against Women, 145 N Street NE., Suite 10W.100, Washington, DC 20530, by telephone (202) 307–6026 or by email at [marnie.shiels@usdoj.gov](mailto:marnie.shiels@usdoj.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Executive Summary

The Violence Against Women Act (VAWA) was enacted on September 13, 1994, by title IV of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, 108 Stat. 1796. The STOP Program is codified at 42 U.S.C. 3796gg through 3796gg–5 and 3796gg–8. The final rule for this program, found at 28 CFR part 90, subpart B, was promulgated on April 18, 1995. General provisions affecting all OVW grant programs are found at 28 CFR part 90, subpart A.

This rule amends the general provisions applicable to all OVW grant programs and the regulations governing the STOP Program to comply with the amendments to these programs enacted by the Violence Against Women Act of 2000 (VAWA 2000), Division B of the Victims of Trafficking and Violence Protection Act of 2000, Public Law 106–386, 114 Stat. 1464 (Oct. 28, 2000), the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Public Law 109–162, 119 Stat. 2960 (Jan. 5, 2006), and the Violence Against Women Reauthorization Act of 2013 (VAWA 2013), Public Law 113–4, 127 Stat. 54 (Mar. 7, 2013). These changes to the regulations incorporate the statutory changes, make minor technical corrections, implement enhanced administrative and planning practices for formula grantees, and streamline existing regulations to reduce repetition of statutory language.

In addition, this rule amends an existing regulatory provision, § 90.2, that sets forth certain definitions that apply to all OVW grant programs. Furthermore, the rule adds a new regulatory provision, § 90.4, that is applicable to all OVW grant programs to implement statutory amendments requiring nondisclosure of confidential or private information pertaining to victims of domestic violence, dating violence, sexual assault and stalking.

#### II. Background

##### A. Overview of the Violence Against Women Act and Subsequent Reauthorizations

In 1994, Congress passed the Violence Against Women Act (VAWA), a comprehensive legislative package aimed at ending violence against women. VAWA was enacted on September 13, 1994, as title IV of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, 108 Stat. 1796. VAWA was designed to improve criminal justice system responses to domestic violence, sexual assault, and stalking, and to