

date of this order to be in compliance with all recordkeeping requirements.

7. *Reports.* All DEA registrants who manufacture or distribute cyclopropyl fentanyl must submit reports pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312 as of January 4, 2018.

8. *Order Forms.* All DEA registrants who distribute cyclopropyl fentanyl must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305 as of January 4, 2018.

9. *Importation and Exportation.* All importation and exportation of cyclopropyl fentanyl must be in compliance with 21 U.S.C. 952, 953, 957, 958, and in accordance with 21 CFR part 1312 as of January 4, 2018.

10. *Quota.* Only DEA registered manufacturers may manufacture cyclopropyl fentanyl in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303 as of January 4, 2018.

11. *Liability.* Any activity involving cyclopropyl fentanyl not authorized by, or in violation of, the CSA, occurring as of January 4, 2018, 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 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 in 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 temporary 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), 956(b), unless otherwise noted.

■ 2. In § 1308.11, add paragraph (h)(22) to read as follows:

#### § 1308.11 Schedule I.

\* \* \* \* \*

(h) \* \* \*  
(22) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylcyclopropanecarboxamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other name: cyclopropyl fentanyl).....(9845)

Dated: December 28, 2017.

**Robert W. Patterson,**  
*Acting Administrator.*

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### DEPARTMENT OF HOMELAND SECURITY

#### Federal Emergency Management Agency

#### 44 CFR Chapter I

[Docket ID FEMA–2016–0022]

#### Revisions to the Public Assistance Program and Policy Guide

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notification of availability.

**SUMMARY:** This document provides notice of the availability of the final policy *Public Assistance Program and Policy Guide (PAPPG)*.

**DATES:** FEMA applies the revisions in this policy to incidents declared on or after August 23, 2017, or to any application for assistance that, as of January 1, 2018 is pending before

FEMA, or to any application for assistance that has been denied, where a challenge to that denial is not yet finally resolved as of January 1, 2018.

**ADDRESSES:** This final policy is available online at <http://www.regulations.gov> and on FEMA's website at <http://www.fema.gov>. The final policy and supporting documents are available at <http://www.regulations.gov> under docket ID FEMA-2016-0022. You may also view a hard copy of the final policy at the Office of Chief Counsel, Federal Emergency Management Agency, 8NE, 500 C Street SW, Washington, DC 20472.

**FOR FURTHER INFORMATION CONTACT:** Christopher Logan, Division Director, Public Assistance, 202-786-0816.

**SUPPLEMENTARY INFORMATION:** This document announces the availability of the Third Edition of the Public Assistance Program and Policy Guide (PAPPG). The Third Edition revises a statutory and regulatory interpretation related to the eligibility of certain private nonprofit facilities for Public Assistance (PA) under 42 U.S.C. 5172, 42 U.S.C. 5122(11), and 44 CFR 206.221. Specifically, Third Edition clarifies that private nonprofit houses of worship will not be singled out for disfavored

treatment within the "community centers" subcategory of PA nonprofit applicants. Further discussion regarding these revisions is contained in the Foreword to the PAPPG.

This final policy does not have the force or effect of law.

**Authority:** 42 U.S.C. 5121 *et seq.*

Dated: January 2, 2018.

**Brock Long,**

*Administrator, Federal Emergency Management Agency.*

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