

DEPARTMENT OF THE INTERIOR**Office of the Secretary****43 CFR Part 2**

RIN 1090-AA61

Amendment to the Freedom of Information Act Regulations**AGENCY:** Office of the Secretary, Interior.**ACTION:** Direct final rule.

SUMMARY: This document amends the Department of the Interior's (DOI) regulations implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552. In particular, it: clarifies the time limit that requesters have for filing FOIA appeals; clarifies that requesters must include the required documentation with their appeals or their appeals may be rejected by the FOIA Appeals Officer; clarifies that requesters must file a FOIA request with each separate bureau/office from which they are seeking records; changes the language regarding requests for expedited processing to be consistent with the language used in the FOIA including removing a paragraph in that section pertaining to "due process rights;" makes the use of multitrack processing mandatory for all bureaus and offices; advises requesters that they may contact the bureau/office's FOIA Requester Service Center and the FOIA Public Liaison concerning the status of their requests; and includes current contact information for DOI's FOIA and Public Affairs/Office of Communications Contacts and its reading rooms (Headquarters). Additionally, the final rule revises the definitions of the terms: "representative of the news media" and "freelance journalist" in accordance with the Openness Promotes Effectiveness in Our National (OPEN) Government Act of 2007 (December 31, 2007). The term "news" is defined within the term "representative of the news media."

DATES: With the exception of § 2.3(k) and (r), this rule is effective May 14, 2009. Section 2.3(k) and (r) have been revised consistent with the OPEN Government Act of 2007 and are effective May 29, 2009 without further action unless significant adverse comments are received by May 14, 2009. If significant adverse comments to § 2.3(k) and (r) comments are received, DOI will publish a timely withdrawal of these paragraphs in the **Federal Register**.

ADDRESSES: You may submit comments, identified by the number 1090-AA61, on the portions of this rule identified in Part II, Procedural Matters and Required

Documentation, that have not previously been published for review by any of the following methods:

—*Federal rulemaking portal:* <http://www.regulations.gov> [Follow the instructions for submitting comments]; or

—*Mail or hand delivery:* OCIO/DOI, 1849 C Street, NW., Room 7456-MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT:

Alexandra Mallus, Office of the Chief Information Officer, MS-7438, Main Interior Building, 1849 C Street, NW., Washington, DC 20240; Telephone (202) 208-5342. E-Mail:

Alexandra_Mallus@ios.doi.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

The Department of the Interior published a final rule in the **Federal Register** on October 21, 2002, revising its regulations implementing the FOIA, 43 CFR part 2. In this publication, the language used in § 2.21(d)(6), "How will the bureau respond to my request?" and the language used in § 2.29, "How long do I have to file an appeal?" were inconsistent with each other concerning the timeframe for filing an appeal. This rule clarifies the 2002 final rule by noting that appeals must be received by the FOIA Appeals Officer no later than 30 workdays from the date of the final response. Additionally, this rule clarifies that a requester's failure to include all correspondence between himself/herself and the bureau concerning his/her FOIA request will result in the Department's rejection of the appeal unless the FOIA Appeals Officer determines that good cause exists to accept the defective appeal.

This rule also changes § 2.22, "What happens if a bureau receives a request for records it does not have or did not create?" to eliminate paragraph (a)(1) of § 2.22, which has been construed by some courts to require bureaus that had received a FOIA request to refer the request to another bureau for a search of its records, regardless of whether the bureau that received the request had responsive records. The result of this change is that FOIA requesters must submit their requests in accordance with § 2.10, which requires that the FOIA requester specify which bureau's records are being sought or, at a minimum, specify when the FOIA requester is seeking the records of more than one bureau.

Consistent with EO 13392, this rule adds a new paragraph (c) to § 2.12, "When can I expect the response?" advising requesters that they may contact the bureau/office's FOIA

Requester Service Center and the FOIA Public Liaison concerning the status of their requests. Additionally, the language in §§ 2.3 and 2.14 regarding expedited processing has been amended to reflect the FOIA's statutory language; therefore, the term "exceptional need" has been replaced with "compelling need," and paragraph (a)(3) in § 2.14 pertaining to "due process rights" has been removed.

This rule also revises the language in § 2.26, "Does the bureau provide multitrack processing of FOIA requests?" to make the use of multitrack processing mandatory for all bureaus and offices within the Department and remind the bureaus of the statutory requirement of due diligence.

Appendix A to part 2, Department of the Interior FOIA and Public Affairs Contacts and Reading Rooms, has been updated to include current contact information for DOI's FOIA and Public Affairs/Office of Communications Contacts and its reading rooms (Headquarters) and to delete the FOIA contacts and reading rooms for the field offices. In the future, bureaus/offices will maintain information pertaining to the field offices on their FOIA Web sites to ensure that their contact information is accurate and current.

Finally, this final rule revises the definition of the terms "representative of the news media" and "freelance journalist" (§ 2.3(k) and § 2.3(r)) in accordance with the OPEN Government Act of 2007 (December 31, 2007).

II. Procedural Matters and Required Documentation*Administrative Procedure Act*

On October 25, 2007, DOI published a proposed rule that revised its existing regulations under the FOIA. See 72 FR 60611, October 25, 2007. Interested persons were afforded an opportunity to participate in the rulemaking through submission of written comments on the proposed rule. The Department did not receive any comments from the public in response to its proposed rule.

Accordingly, those provisions previously published are now final. Additionally, the Department is publishing, as a direct final rule three additional administrative updates: (1) The contact information in Appendix A to part 2, Department of the Interior FOIA and Public Affairs Contacts and Reading Rooms; (2) incorporation of the definitions for the terms "representative of the news media" and "freelance journalist" in accordance with the OPEN Government Act of 2007; and (3) one technical change to § 2.29(a), which

clarifies the time appellants have to file an appeal.

Executive Order 12866—Regulatory Planning and Review

This document is not a significant rule and the Office of Management and Budget has not reviewed this rule under Executive Order 12866. We have made the assessments required by Executive Order 12866 and have determined that this rule will not:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments, or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; or
- (4) Raise novel legal or policy issues.

Regulatory Flexibility Act

DOI certifies that this regulation will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 606(b)). Under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for requesters. Thus, fees assessed by DOI are nominal.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule will not result in an annual effect on the economy of more than \$100 million per year; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign-based enterprises. It deals strictly with implementation of the FOIA within DOI.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments, or the private sector.

Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630—Takings

In accordance with Executive Order 12630, this rule does not have any takings implications. It deals strictly with implementation of the FOIA within DOI. Therefore, a takings assessment is not required.

Executive Order 13132—Federalism

In accordance with Executive Order 13132, this rule does not have Federalism implications as it deals strictly with implementation of the FOIA within DOI. Therefore, a Federalism assessment is not required.

Executive Order 12988—Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This rule does not contain any information collection requirements for which OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501–3520) is required.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act (42 U.S.C. 4321–4347) of 1969 is not required.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this rule is not expected to significantly affect energy supplies, distribution, or use, this action is not a significant energy action and no Statement of Energy Effects is required.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to such questions such as the following:

- (1) Are the requirements in the rule clearly stated?
- (2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A “section” appears in bold type and is preceded by the symbol “§” and a numbered heading; for example, “§ 2.7 What do I need to know before filing a FOIA request?”)

(5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, 1849 C Street, NW., MS-7229-MIB, Washington, DC 20240.

List of Subjects in 43 CFR Part 2

Administrative practice and procedure, Classified information, Courts, Freedom of information, Government employees, Privacy.

Dated: February 26, 2009.

Pamela K. Haze,

Acting Assistant Secretary, Policy, Management and Budget.

■ For the reasons given in the preamble, we hereby amend part 2 of title 43 of the Code of Federal Regulations, as set forth below:

PART 2—RECORDS AND TESTIMONY: FREEDOM OF INFORMATION ACT

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301, 552 and 552a; 31 U.S.C. 9701; and 43 U.S.C. 1460

Subpart A—General Information

■ 2. In § 2.3, revise paragraphs (i), (k), and (r) to read as follows:

§ 2.3 What terms do I need to know?

* * * * *

(i) *Expedited processing* means giving a FOIA request priority, and processing it ahead of other requests pending in the bureau because a requester has shown a compelling need for the records (see § 2.14).

* * * * *

(k) *Free-lance journalist* means an individual who is regarded as working for a news-media entity because he/she can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by that entity. A publication contract would present a

solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.

* * * * *

(r) *Representative of the news media* means 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. The term ‘news’ means information that is about current events or that would be of current interest to the public. Examples of news-media entities are newspapers, 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 or subscription by or free distribution to the general public. These examples are not all inclusive. As methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunication services), such alternative media will be considered to be news-media entities.

Subpart C—Requests for Records under the FOIA

■ 3. In § 2.12, add a new paragraph (c) to read as follows:

§ 2.12 When can I get the response?

* * * * *

(c) *Determining the status of your request.* To determine the status of your request, you should call, fax, or email the point of contact provided in the bureau/office’s acknowledgment letter to you, referencing the FOIA control number assigned to your request. You may also contact the appropriate FOIA Requester Service Center. If you are dissatisfied with the FOIA Requester Service Center’s response, you may contact the bureau/office’s FOIA Public Liaison to resolve the issue. (The relevant names and telephone numbers are listed at <http://www.doi.gov/foia/liaison.html>).

■ 4. In § 2.14, revise paragraph (a) to read as follows:

§ 2.14 When can I get expedited processing?

(a) A bureau will provide expedited processing when you request it if you demonstrate to the satisfaction of the bureau that there is a compelling need for the records. The following circumstances demonstrate a compelling need:

(1) Where failure to expedite the request could reasonably be expected to

pose an imminent threat to the life or physical safety of an individual; or

(2) An urgency to inform the public about an actual or alleged Federal Government activity if the request is made by a person primarily engaged in disseminating information. In most situations, a person primarily engaged in disseminating information will be a representative of the news media. The requested information must be the type of information which has particular value that will be lost if not disseminated quickly, and ordinarily refers to a breaking news story of general public interest. Therefore, information of historical interest only, or information sought for litigation or commercial activities, would not qualify, nor would a news media deadline unrelated to breaking news.

* * * * *

■ 5. In § 2.21, revise paragraph (d)(6) to read as follows:

§ 2.21 How will the bureau respond to my request?

* * * * *

(d) * * *

(6) A statement that the denial may be appealed to the FOIA Appeals Officer (see Appendix A to this Part), in accordance with the requirements in § 2.29.

* * * * *

■ 6. In § 2.22, revise paragraph (a) to read as follows:

§ 2.22 What happens if a bureau receives a request for records it does not have or did not create?

(a) *Consultations/referrals within DOI.* If a bureau (other than the Office of Inspector General) receives a request for records in its possession that another bureau created or is substantially concerned with, it will consult with the other bureau before deciding whether to release or withhold the records. Alternatively, the bureau may refer the request, along with the records, to that bureau for direct response. The bureau that received the request will notify you of the referral in writing, along with the name of a contact in the other bureau(s) to which the referral was made. A referral does not restart the statutory time limit for responding to your request.

* * * * *

■ 7. Revise § 2.26 to read as follows:

§ 2.26 Does the bureau provide multitrack processing of FOIA requests?

(a) All bureaus will use three processing tracks to distinguish between simple, normal, and complex requests based on the amount of time needed to

process the request. FOIA requests will be placed in one of the following tracks:

- (1) Simple: 1–5 workdays;
- (2) Normal: 20 workdays; or
- (3) Complex: Over 20 workdays.

(b) Bureaus will exercise due diligence in processing requests in accordance with the requirements of the FOIA. Requesters should assume, unless notified by the bureau, that their request is in the “Normal” track.

(c) A bureau should, if possible, give requesters in its “Complex” track the opportunity to limit the scope of their request in order to qualify for faster processing. A bureau doing so will contact the requester by telephone (which should be promptly followed up by a written communication) or in writing, whichever is more efficient in each case.

(d) See the Department’s FOIA home page at <http://www.doi.gov/foia/policy.html> for details.

Subpart D—FOIA Appeals

■ 8. Revise § 2.29 to read as follows:

§ 2.29 How long do I have to file an appeal?

(a) Appeals covered by § 2.28(a)(1), (2), (4), and (5). Your FOIA appeal must be received by the FOIA Appeals Officer no later than 30 workdays from the date of the final response.

(b) Appeals covered by § 2.28(a)(3). You may file an appeal any time after the time limit for responding to your request has passed.

(c) Appeals covered by § 2.28(a)(6). Your FOIA appeal must be received by the FOIA Appeals Officer no later than 30 workdays from the date of the letter denying the fee waiver.

(d) Appeals covered by § 2.28(a)(7). You should file an appeal as soon as possible.

(e) Appeals arriving or delivered after 5 p.m. E.T., Monday through Friday, will be deemed received on the next workday.

■ 9. In § 2.30, revise paragraph (b) to read as follows:

§ 2.30 How do I file an appeal?

* * * * *

(b) You must include with your appeal copies of all correspondence between you and the bureau concerning your FOIA request, including your request and the bureau’s response (if there is one). Failure to include with your appeal all correspondence between you and the bureau will result in the Department’s rejection of your appeal, unless the FOIA Appeals Officer determines, in the FOIA Appeal Officer’s sole discretion, that good cause

exists to accept the defective appeal. The time limits for responding to your appeal will not begin to run until the documents are received.

* * * * *

■ 10. Appendix A to part 2 is revised to read as follows:

Appendix A to Part 2—Department of the Interior FOIA and Public Affairs Contacts, and Reading Rooms

Departmental		
Departmental FOIA Officer Senior FOIA Program Officer “Policy Only-No Requests” MS-7438-MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208-5342 (202) 208-5412 Fax No. (202) 208-6867, (202) 501-2622	Departmental FOIA/Privacy Act Appeals Offi- cer MS-6556-MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208-5339 Fax No. (202) 208-6677	Departmental Privacy Officer MS-7438-MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208-3909 Fax No. (202) 208-6867
Public Affairs Office Office of Communications MS-6013, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208-6416 Fax No. (202) 208-5133	Reading Room—DOI’s Library MIB (C Street Entrance) 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208-5815 Fax No. (202) 208-6773	
Office of the Secretary		
FOIA Officer MS-116, SIB 1951 Constitution Ave., NW. Washington, DC 20240 Telephone No. (202) 565-1076 Fax No. (202) 219-2374	Public Affairs Office Office of Communications MS-6013, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208-6416 Fax No. (202) 208-5133	Reading Room—DOI’s Library MIB (C Street Entrance) 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208-5815 Fax No. (202) 208-6773
Office of Inspector General		
FOIA Officer MS-4428, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (703) 487-5436 Fax No. (703) 487-5406	Public Affairs Office MS-4428, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 513-0326 Fax No. (202) 219-3856	Reading Room Room 4428, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (703) 487-5443 Fax No. (703) 487-5400
Office of the Solicitor (SOL) Headquarters		
FOIA Officer MS-6556, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208-6221 Fax No. (202) 208-5206	Public Affairs Office Office of Communications MS-6013, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208-6416 Fax No. (202) 208-3231	Reading Room Room 2328, MIB 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 208-6505 Fax No. (202) 208-5206
Fish & Wildlife Service (FWS) Headquarters		
FOIA Officer Arlington Square, Room 380 4401 North Fairfax Dr. Arlington, VA 22203 Telephone No. (703) 358-2504 Fax No. (703) 358-2251	Public Affairs Office Arlington Square, MS-330 4401 North Fairfax Dr. Arlington, VA 22203 Telephone No. (703) 358-2220 Fax No. (703) 358-1930	Reading Room Arlington Square, MS-380 4401 North Fairfax Dr. Arlington, VA 22203 Telephone No. (703) 358-2504 Fax No. (703) 358-2251
National Park Service (NPS) Headquarters		
FOIA Officer Office of the CIO Org Code 2550 1849 C St., NW. Washington, DC 20240 Telephone No. (202) 354-1925 Fax No. (202) 371-5584	Public Affairs Office P.O. Box 37127 Washington, DC 20013-7127 Telephone No. (202) 208-6843 Fax No. (202) 219-0910	Reading Room Contact: NPS FOIA Officer 1201 Eye St., NW. 8th Floor Washington, DC 20005 Telephone No. (202) 354-1925 Fax No. (202) 371-5584

Bureau of Land Management (BLM) Headquarters

FOIA Officer
MS-WO-560
1620 L St., NW., Room 750
Washington, DC 20240
Telephone No. (202) 452-5013
Fax No. (202) 452-5002

Public Affairs Office
MS-WO-610
1620 L St., NW., Room 406
Washington, DC 20240
Telephone No. (202) 452-5125
Fax No. (202) 452-5124

Reading Room
1620 L St., NW.—Room 750
Washington, DC 20240
Telephone No. (202) 452-5193
Fax No. (202) 452-0395

Minerals Management Service (MMS) Headquarters

FOIA Officer
381 Elden St. MS-2200
Herndon, VA 20170-4817
Telephone No. (703) 787-1689
Fax No. (703) 787-1207

Public Affairs Office
Office of Communications
1849 C St., NW., MS-4230
Washington, DC 20240
Telephone No. (202) 208-3985
Fax No. (202) 208-3968

Reading Room
Public Information Office
1201 Elmwood Park Blvd.
New Orleans, LA 70123-2394
Telephone No. (800) 200-GULF
Fax No. (504) 736-2620

Office of Surface Mining (OSM) Headquarters

FOIA Officer
MS-130, SIB
1951 Constitution Ave., NW.
Washington, DC 20240
Telephone No. (202) 208-2961
Fax No. (202) 219-3092

Office of Communications
MS-262, SIB
1951 Constitution Ave., NW.
Washington, DC 20240
Telephone No. (202) 208-2565
Fax No. (202) 501-0549

Reading Room
Contact: OSM FOIA Officer
Room 263, SIB
1951 Constitution Ave., NW.
Washington, DC 20240
Telephone No. (202) 208-2961
Fax No. (202) 501-4734

U.S. Geological Survey (USGS) Headquarters

FOIA Officer
12201 Sunrise Valley Dr., MS-807
Reston, VA 20192
Telephone No. (703) 648-7158
Fax No. (703) 648-6853

Office of Communications
12201 Sunrise Valley Dr., MS-119
Reston, VA 20192
Telephone No. (703) 648-4460
Fax No. (703) 648-4466

Reading Room
USGS Library
12201 Sunrise Valley Dr.
Reston, VA 20192
Telephone No. (703) 648-4302
Fax No. (703) 648-6373

Bureau of Reclamation (BOR) Headquarters

FOIA Officer
P.O. Box 25007, 84-21300
Denver, CO 80225-0007
Telephone No. (303) 445-2048
Fax No. (303) 445-6575

Public Affairs Office
P.O. Box 25007, 82-40000
Denver, CO 80225-0007
Telephone No. (303) 236-7000
Fax No. (303) 236-9235

Reading Room
Reclamation Library
P.O. Box 25007, 84-27960
Denver, CO 80225-0007
Telephone No. (303) 445-2072
Fax No. (303) 445-6303

Bureau of Indian Affairs (BIA) Headquarters

FOIA Officer
MS-3071, MIB
1849 C St., NW.
Washington, DC 20240
Telephone No. (202) 208-4542
Fax No. (202) 208-6597

Public Affairs Office
MS-3658, MIB
1849 C St., NW.
Washington, DC 20240
Telephone No. (202) 208-3710
Fax No. (202) 501-1516

Reading Room
Room 3071, MIB
1849 C St., NW.
Washington, DC 20240
Telephone No. (202) 513-0883
Fax No. (202) 208-6597

Note: For more information on FOIA, including the most current listing of FOIA Contacts and reading rooms, visit DOI's FOIA Web site at <http://www.doi.gov/foia/>. Henceforth, contact information will be maintained and updated on DOI's FOIA Web site. If you do not have access to the Web, please contact the appropriate bureau FOIA Officer or the Departmental FOIA Office.

Dated: April 6, 2009.

[FR Doc. E9-8206 Filed 4-13-09; 8:45 am]

BILLING CODE 4310-RK-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****44 CFR Part 64**

[Docket ID FEMA-2008-0020; Internal Agency Docket No. FEMA-8069]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood

insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.