

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

40 CFR Part 1600

Organization and Functions of the Chemical Safety and Hazard Investigation Board

AGENCY: Chemical Safety and Hazard Investigation Board.

ACTION: Proposed Rule.

SUMMARY: This proposed rule augments 40 CFR Part 1600, which governs the administration of the Chemical Safety and Hazard Investigation Board (CSB). The proposed rule adds a requirement for the chairperson to add notation votes that have been calendared for public discussion to the agenda of a public meeting within 90 days of the calendared notation vote. The proposed rule also adds a requirement for the chairperson to conduct a minimum of four public meetings per year in Washington, DC. Following publication of this proposed rule, the CSB welcomes and will consider public comment, and then proceed to a final rule.

DATES: Written comments must be received on or before [insert 30 days after publication in the FEDERAL REGISTER].

ADDRESSES: You may submit written comments concerning this proposed rule via U.S. mail or email. Written comments may be sent by U.S. mail to Kara Wenzel, Assistant General Counsel,

Chemical Safety and Hazard Investigation Board, 2175 K Street NW, Suite 400, Washington, DC, 20037. You may submit electronic comments to: kara.wenzel@csb.gov.

FOR FURTHER INFORMATION CONTACT: Kara Wenzel, CSB Assistant General Counsel, 202-261-7625.

SUPPLEMENTARY INFORMATION: This proposed rule will promote increased transparency and accountability for Board activities. It aligns with the Open Government principles of transparency, participation, and collaboration, as outlined in the Memorandum on Transparency and Open Government (74 Fed. Reg. 4685, Jan. 26, 2009). The Board conducts some of its business through a process of notation voting. In notation voting, Board Members may vote to approve, disapprove, or calendar a notation item for discussion at a public meeting. The addition of a rule for the consideration of calendared notation votes within 90 days of the calendaring action will ensure that calendaring is used in the way it was intended. The addition will allow Board Members to use calendaring to prompt timely public discussion on a topic before they vote on it, at their discretion. It has the added effect of providing an additional opportunity for stakeholder input on Board activities.

The other portion of the new proposed rule will require the

CSB chairperson to schedule at least four public meetings in Washington, DC, each year. It will permit other Board Members to add items for discussion to the agendas of such CSB public meetings. It will also ensure that these meetings consider, at a minimum, calendared notation votes, current investigations and other important mission-related activities, and quarterly agency action plan progress. This portion of the proposed rule is intended to increase the transparency of Board actions, to promote the Board's accountability to the public, and to ensure regular, relevant feedback is received from stakeholders related to the agency's mission work.

Statutory Authority 5 U.S.C. §§ 301, 552(a)(1); 42 U.S.C. §7412(r)(6)(N)

Regulatory Impact

Administrative Procedure Act: 5 U.S.C. § 553(b)(3)(A), provides that when regulations involve matters of agency organization, procedure, or practice, the agency may publish regulations in final form. Because this proposed rule is intended to promote public participation and transparency for Board activities, the Board will accept and consider public comments up to 30 days before issuing a final rule.

Regulatory Flexibility Act: The Regulatory Flexibility

Act (5 U.S.C. §§ 601 et seq.) requires that a rule that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on such small entities. This analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. § 605(b). The CSB has considered the impact of this rule under the Regulatory Flexibility Act, and certifies that a final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act: The CSB reviewed this proposed rule to determine whether it invokes issues that would subject it to the Paperwork Reduction Act (PRA). While the PRA applies to agencies and collections of information conducted or sponsored by the CSB, the Act, 44 U.S.C. § 3518(c), exempts collections of information that occur "during the conduct of ... an administrative action, investigation, or audit involving an agency against specific individuals or entities," except for investigations or audits "undertaken with reference to a category of individual or entities such as a class of licensees or an entire industry." The rule proposed below fits squarely within this exemption, as it deals entirely with

administrative matters internal to the agency. Therefore, we have determined that the PRA does not apply to this rule.

Unfunded Mandates Reform Act of 1995: The proposed rule does not require the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995, 2 U.S.C. § 1531. This proposed rule does not include a federal mandate that may result in the annual expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of more than the annual threshold established by the Act (\$128 million in 2006, adjusted annually for inflation).

List of Subjects in 40 CFR Part 1600

Administrative practice and procedure.

Dated: May 6, 2015.

Mark Griffon

Board Member.

Accordingly, for the reasons set forth in the preamble, the Chemical Safety and Hazard Investigation Board proposes to amend 40 CFR part 1600.5 by amending subsection (b) and adding a new subsection (c) to read as follows:

PART 1600— ORGANIZATION AND FUNCTIONS OF THE CHEMICAL SAFETY
AND HAZARD INVESTIGATION BOARD

Authority: 5 U.S.C. §§ 301, 552(a)(1); 42 U.S.C.
§7412(r)(6)(N)

1600.5 Quorum and voting requirements.

(a) ***

(b) Voting. The Board votes on items of business in meetings conducted pursuant to the Government in the Sunshine Act. Alternatively, whenever a Member of the Board is of the opinion that joint deliberation among the members of the Board upon any matter at a meeting is unnecessary in light of the nature of the matter, impracticable, or would impede the orderly disposition of agency business, such matter may be disposed of by employing notation voting procedures. A written notation of the vote of each participating Board member shall be recorded by the General Counsel who shall retain it in the records of the Board. If a Board member votes to calendar a notation item, the Board must consider the calendared notation item at a public meeting of the Board within 90 days of the date on which the item is calendared. A notation vote to schedule a public meeting may not be calendared. The Chairperson shall add any calendared notation item to the agenda for the next CSB public meeting if one is to occur

within 90 days or to schedule a special meeting to consider any calendared notation item no later than 90 days from the calendar action.

(c) Public Meetings and Agendas. The Chairperson, or in the absence of a chairperson, a member designated by the Board, shall schedule a minimum of four public meetings per year in Washington, DC, to take place during the months of October, January, April, and July.

(i) Agenda: the Chairperson, or in the absence of a chairperson, a member designated by the Board, shall be responsible for preparation of a final meeting agenda. The final agenda may not differ in substance from the items published in the Sunshine Act notice for that meeting. Any member may submit agenda items related to CSB business for consideration at any public meeting, and the Chairperson shall include such items on the agenda. At a minimum, each quarterly meeting shall include the following agenda items:

(1) Consideration and vote on any notation items calendared since the date of the last public meeting;

(2) A review by the Board of the schedule for completion of all open investigations, studies, and other important work of the Board; and

(3) A review and discussion by the Board of the progress in

meeting the CSB's Annual Action Plan.

(ii) Publication of agenda information: the Chairperson shall be responsible for posting information related to any agenda item that is appropriate for public release on the CSB website no less than two days prior to a public meeting.

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