private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year * * *.'' Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804. However, pursuant to the CRA, DEA is submitting a copy of this final rule to the Government Accountability Office, the House, and the Senate under the CRA.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. This action would not impose recordkeeping or reporting requirements on state or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Determination To Make Rule Effective Immediately

As indicated above, this rule finalizes the schedule I control status of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 that has already been in effect for over two years by virtue of the April 16, 2019, temporary scheduling order (84 FR 15505) and the subsequent one-year extension of that order (March 31, 2021, 86 FR 16669). The April 2019 order was effective on the date of publication, and was based on findings by the then-Acting Administrator that the temporary scheduling of these substances was necessary to avoid an imminent hazard to the public safety pursuant to 21 U.S.C. 811(h)(1).

Because this rule finalizes the control status of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 that has already been in effect for over two years, it does not alter the legal obligations of any person who handles these substances. Rather, it merely makes permanent the current scheduling status and corresponding legal obligations. Therefore, DEA is making the rule effective on the date of publication in the **Federal Register**, as any delay in the effective date is unnecessary and would be contrary to the public interest. *See* 5 U.S.C. 553(d).

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, 21 CFR part 1308 is amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR 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:
■ a. Add paragraphs (d)(89) through (d)(93); and
■ b. Remove and reserve paragraphs (h)(37) through (41);

The additions read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(89) ethyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (other name: 5F-EDMB-PINACA)	7036
(90) methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate (other names: 5F-MDMB-PICA; 5F-MDMB-2201)	7041
(91) *N*-(adamantan-1-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (other names: FUB-AKB48; FUB-APINACA; AKB48 N-(4-FLUOROBENZYL))	7047
(92) 1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide (other names: 5F-CUMYL-PINACA; SGT-25)	7083
(93) (1-(4-fluorobenzyl)-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (other name: FUB-144)	7014

* * * * *

Anne Milgram,

Administrator.

[FR Doc. 2022–07320 Filed 4–6–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 38

Notification of Interpretation of Section 188 of the Workforce Innovation and Opportunity Act

AGENCY: Office of the Secretary, Labor.

ACTION: Notification of interpretation.

SUMMARY: This Notification is to inform the public that, consistent with the Supreme Court's 2020 decision in *Bostock* v. *Clayton County* and Title IX of the Education Amendments of 1972, the U.S. Department of Labor (DOL), beginning April 7, 2022, will interpret the prohibition on discrimination on the basis of sex that is codified in Section 188 of the Workforce Innovation and Opportunity Act to include discrimination on the basis of sexual orientation. DOL will continue to interpret and enforce Section 188's prohibition on discrimination on the basis of sex to include discrimination on the basis of gender identity and transgender status. This interpretation will guide DOL's Civil Rights Center in processing complaints and conducting investigations and compliance reviews, but does not determine the outcome in any particular case or set of facts.

DATES: This notification is effective April 7, 2022.

FOR FURTHER INFORMATION CONTACT: Naomi Barry-Perez, Director, Civil Rights Center, U.S. Department of Labor, 200 Constitution Ave. NW, Room N–4123, Washington, DC 20210.

SUPPLEMENTARY INFORMATION: DOL is informing the public that, consistent with the Supreme Court's decision in *Bostock* v. *Clayton County,* 140 S. Ct. 1731 (2020), and Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.,* DOL, beginning April 7, 2022, will interpret the prohibition on discrimination on the basis of sex in Section 188 of the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. 3248, to include discrimination on the basis of sexual orientation.[1] DOL will continue to interpret and enforce Section 188's prohibition on discrimination on the basis of sex to include discrimination on the basis of gender identity and transgender status, as set forth in the regulations issued under Section 188.29 CFR 38.7.

The Civil Rights Center (CRC) at DOL is responsible for enforcing Section 188 of WIOA and regulations issued under Section 188, which prohibit exclusion of an individual from participation in, denial of the benefits of, discrimination in, or denial of employment in the administration of or in connection with, any programs and activities funded or otherwise financially assisted in whole or in part under Title I of WIOA on various bases, including sex. 29 U.S.C. 3248(a).

On June 15, 2020, the U.S. Supreme Court held that the prohibition on employment discrimination based on sex in Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.,* encompasses discrimination based on sexual orientation, gender identity, and transgender status. The Court concluded that the plain meaning of ''because of

[1] The regulations implementing WIOA Section 188 (29 CFR part 38) use the phrases ''on the basis of . . . sex'' and ''based on sex.'' The relevant statutory language (at 29 U.S.C. 3248(a)(2)) uses the phrase ''because of . . . sex.'' These phrases are used interchangeably in this notification.

sex'' in Title VII necessarily includes discrimination because of sexual orientation, gender identity, and transgender status. *Bostock* v. *Clayton County,* 140 S. Ct. 1731, 1753–54 (2020).

Since *Bostock,* at least one Federal circuit court of appeal has concluded that the plain language of Title IX's prohibition on sex discrimination must be read similarly, and the Supreme Court has denied review of that decision. *Grimm* v. *Gloucester Cnty. Sch. Bd.,* 972 F.3d 586, 616 (4th Cir. 2020), *as amended* (Aug. 28, 2020), *petition for cert. denied,* No. 20–1163 (June 28, 2021).

On March 26, 2021, the Civil Rights Division of the U.S. Department of Justice, the agency charged with coordination of the implementation and enforcement of Title IX by executive agencies, issued a memorandum concluding that ''the best reading of Title IX's prohibition on discrimination 'on the basis of sex' is that it includes discrimination on the basis of gender identity and sexual orientation.'' [2] The Civil Rights Division reached this conclusion after considering the text of Title IX, *Bostock* and other Supreme Court case law, including dissenting opinions, and developing jurisprudence in this area, including the circuit court opinion cited above. The Civil Rights Division subsequently updated its Title IX Legal Manual to state that the Department of Justice interprets Title IX to prohibit discrimination based on gender identity and sexual orientation.[3]

In addition, on June 22, 2021, the Office for Civil Rights of the U.S. Department of Education, the agency responsible for that Department's enforcement of Title IX, published a notice in the **Federal Register** clarifying that it will enforce Title IX's prohibition on discrimination based on sex to include discrimination based on both sexual orientation and gender identity.[4] The Office for Civil Rights concluded that the Supreme Court's interpretation of sex discrimination in *Bostock* properly applies to Title IX based on the textual similarity between Title VII and Title IX; subsequent case law including the *Grimm* decision cited above, as well as cases recognizing the harm that students may endure as a result of differential treatment based on gender identity or sexual orientation; [5] and the Civil Rights Division's memorandum discussed above.

Section 188 of WIOA expressly incorporates Title IX's prohibition on sex discrimination. 29 U.S.C. 3248(a)(2) (specifying that ''[n]o individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity [funded or otherwise financially assisted in whole or in part under Title I of WIOA] because of . . . sex (except as otherwise permitted under title IX of the Education Amendments of 1972 . . .)''); *see also id.* 3248(a)(1) (providing that ''programs and activities funded or otherwise financially assisted in whole or in part under [WIOA] are considered to be programs and activities receiving Federal financial assistance'' for the purpose of applying the prohibition against discrimination on the basis of sex under Title IX).

Consistent with the Supreme Court's interpretation of Title VII in *Bostock* and with the case law and interpretations discussed above applying the same conclusion to Title IX, beginning April 7, 2022, CRC interprets Section 188's prohibition on discrimination on the basis of sex to include discrimination on the basis of sexual orientation, as well as gender identity and transgender status. This interpretation will guide CRC in processing complaints and conducting investigations and compliance reviews, but it does not determine the outcome in any particular case, which will depend on the specific facts and circumstances. Any action taken by CRC in a specific case will take account of all relevant facts and legal requirements, including, where applicable, Title IX's religious exemption and other exemptions, which are incorporated into Section 188, *see* 29 U.S.C. 3248(a)(2), and the Religious Freedom Restoration Act, 42 U.S.C. 2000bb *et seq.*

If you think that you have, or any specific class of individuals has, been subjected to discrimination under a WIOA Title I-financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either: (1) The recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose) or (2) CRC, via postal mail addressed to The Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N–4123, Washington, DC 20210, or electronically as directed on the CRC website at *https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/external/how-to-file-complaint.* The complaint will be processed in accordance with the procedures at 29 CFR 38.69–.85. After investigating the complaint, if the Director of CRC finds reasonable cause to believe that the recipient has violated WIOA Section 188 or its implementing regulations, the Director is required to issue an Initial Determination that includes the opportunity for the recipient to engage in voluntary compliance negotiations. 29 CFR 38.87(e).

Martin J. Walsh,

Secretary, Department of Labor.

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BILLING CODE 4510–04–P

[2] Memorandum from Principal Deputy Assistant Attorney General Pamela S. Karlan, Civil Rights Division, U.S. Department of Justice, to Federal Agency Civil Rights Directors and General Counsels, Application of *Bostock* v. *Clayton County* to Title IX of the Education Amendments of 1972 (Mar. 26, 2021), available at *https://www.justice.gov/crt/page/file/1383026/download.*

[3] Civil Rights Division, U.S. Department of Justice, Title IX Legal Manual, Title IX Cover Addendum post-Bostock, available at *https://www.justice.gov/file/1423496/download.*

[4] U.S. Department of Education, Enforcement of Title IX of the Education Amendments of 1972 with Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of *Bostock* v. *Clayton County,* Notice of Interpretation, 86 FR 32637 (June 22, 2021).

[5] *See, e.g., Grimm,* 972 F.3d at 617–18 (describing injuries to a transgender boy's physical and emotional health as a result of denial of equal treatment); *Dodds* v. *U.S. Dep't of Educ.,* 845 F.3d 217, 221–22 (6th Cir. 2016) (describing ''substantial and immediate adverse effects on the daily life and well-being of an eleven-year-old'' transgender girl from denial of equal treatment); *Doe* v. *Univ. of Scranton,* No. 3:19–CV–01486, 2020 WL 5993766, at *1–3 (M.D. Pa. Oct. 9, 2020) (describing harassment and physical targeting of a gay college student that interfered with the student's educational opportunity); *Harrington* v. *City of Attleboro,* No. 15–CV–12769–DJC, 2018 WL 475000, at *6–7 (D. Mass. Jan. 17, 2018) (describing '''widespread peer harassment' and physical assault [of a lesbian high school student] because of stereotyping animus focused on [the student's] sex, appearance, and perceived or actual sexual orientation'').

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0212]

RIN 1625–AA00

Safety Zone; Anacostia River, Washington, DC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Anacostia River. The safety zone is needed to protect personnel, vessels, and the marine environment on these navigable waters near Washington, DC on April 16, 2022