

potentially suspicious activity. In the November 2003 edition of its "SAR Activity Review,"⁷ FinCEN instructed financial institutions to file suspicious activity reports on verified matches of persons designated by OFAC. While this guidance ensured that the relevant information would be available to law enforcement, it also resulted in financial institutions being required to make two separate filings with the Department of the Treasury—one with OFAC pursuant to its Reporting, Procedures and Penalties Regulations, and one with FinCEN pursuant to its suspicious activity reporting rules.

Revised Guidance

FinCEN is hereby revising its prior guidance to eliminate the need for duplicative reporting in cases where a financial institution identifies a verified match with individuals or entities designated by OFAC. As of the date of publication of this interpretation, FinCEN will deem its rules requiring the filing of suspicious activity reports to be satisfied by the filing of a blocking report with OFAC in accordance with OFAC's Reporting, Penalties and Procedures Regulations. OFAC will then provide the information to FinCEN for inclusion in the suspicious activity reporting database where it will be made available to law enforcement. This construction of the suspicious activity reporting rules will serve the public interest by enabling FinCEN to obtain and provide potentially important information about terrorists and major drug traffickers to law enforcement on an expedited basis without imposing duplicative reporting burdens on the regulated industry.

Accordingly, a financial institution that files a blocking report with OFAC due to the involvement in a transaction or account of a person designated as a Specially Designated Global Terrorist, a Specially Designated Terrorist, a Foreign Terrorist Organization, a Specially Designated Narcotics Trafficker Kingpin, or a Specially Designated Narcotics Trafficker, shall be deemed to have simultaneously filed a suspicious activity report on the fact of the match with FinCEN, in satisfaction of the requirements of the applicable suspicious activity reporting rule. This interpretation does not affect a financial institution's obligation to identify and report suspicious activity beyond the fact of the OFAC match. To the extent that the financial institution is in possession of information not included on the blocking report filed with OFAC, a separate suspicious activity report should be filed with FinCEN including that information. This interpretation also does not affect a financial institution's obligation to file a suspicious activity report even if it has filed a blocking report with OFAC, to the extent that the facts and circumstances surrounding the OFAC match are independently suspicious—and are otherwise required to be reported under existing FinCEN regulations. In those cases, the OFAC blocking report would not satisfy a financial institution's suspicious activity report filing obligation.

Further, nothing in this interpretation is intended to preclude a financial institution

from filing a suspicious activity report to disclose additional information concerning the OFAC match,⁸ nor does it preclude a financial institution from filing a suspicious activity report if the financial institution has reason to believe that terrorism or drug trafficking is taking place, even though there is no OFAC match. Finally, this interpretation does not apply to blocking reports filed to report transactions and accounts involving persons owned by, or who are nationals of, countries subject to OFAC-administered sanctions programs. Such transactions should be reported on suspicious activity reports under the suspicious activity reporting rules if, and only, if, the activity itself appears to be suspicious under the criteria established by the suspicious activity reporting rules.

William J. Fox,
Director.

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

RIN 3095-AB41

Records Management; Unscheduled Records; Correction

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule; correction.

SUMMARY: NARA published in the **Federal Register** of December 15, 2004, a final rule allowing the transfer of unscheduled records to records storage facilities. Inadvertently, a word was deleted from the preamble, changing the meaning of a sentence. This document corrects that deletion.

DATES: This rule is effective January 14, 2005.

FOR FURTHER INFORMATION CONTACT: Cheryl Stadel-Bevans at telephone number (301) 837-3021 or fax number (301) 837-0319.

SUPPLEMENTARY INFORMATION: NARA published a final rule on December 15, 2004, at 69 FR 74976. The second sentence in the **SUPPLEMENTARY INFORMATION** contains an error. This correction inserts the missing word.

In the final rule published at 69 FR 74976, make the following correction. On page 74977, in the first column, insert the word "not" in line 6 so that the line reads "* * * Executive Order 12866 and has not been * * *".

⁸ Such a report would be a voluntary report under the statute and regulations. See 31 U.S.C. 5318(g)(3) (extending safe harbor protection from civil liability to voluntary filings).

Dated: December 17, 2004.

Nancy Y. Allard,

Federal Register Liaison Officer.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R05-OAR-2004-MI-0002; FRL-7849-1]

Approval and Promulgation of Implementation Plans: Michigan: Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a revision to the plan prepared by Michigan that will limit the emissions of oxides of nitrogen (NO_x) from large stationary sources (*i.e.* power plants, industrial boilers and cement kilns). This plan meets all of the requirements contained in an EPA rule that was published in the **Federal Register** on April 16, 2004. This rule, otherwise known as the NO_x SIP Call Phase I provides for NO_x reductions from sources in 20 States in the eastern half of the country. The effect of this approval is to ensure federal enforceability of the state air program plan and to maintain consistency between the state-adopted plan and the approved State Implementation Plan (SIP).

DATES: This "direct final" rule is effective February 22, 2005, unless EPA receives written adverse comment by January 24, 2005. If written adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit comments, identified by Regional Material in EDocket (RME) ID No. R05-OAR-2004-MI-0002, by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

Agency Web site: <http://docket.epa.gov/rmepub/>. Regional Material in EDocket (RME), EPA's electronic public docket and comments system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-

⁷ Issue 6 (Nov. 2003).