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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department o Agriculture

Section 213.3113 is amended to show that six positions of Regional Director, GS–14 and GS–15, are excepted under Schedule A.

Effective February 19, 1975, § 213.3113 (d) (1) is revised as set out below.

§ 213.3113 Department of Agriculture.

* * * * *

(d) *Agricultural Stabilization and Conservation Service.*

(1) Six positions of Regional Director at GS–14 and GS–15.

(5 U.S.C. secs. 3301, 3302; E. O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75–4579 Filed 2–18–75;8:45 am]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Relief of Restrictions on Importation of Slaughter Sheep and Goats From Canada

Statement of considerations. On December 5, 1974, there was published in the FEDERAL REGISTER (39 FR 42375), proposed amendments to 9 CFR Part 92, to provide for the importation of sheep and goats from Canada for immediate slaughter without the inspection on the premises of origin which is now required. In view of the fact that Canada has animal disease eradication programs comparable to those of the United States, this action is taken to relieve restrictions no longer deemed necessary to protect the livestock industry of the United States. Sheep and goats for immediate slaughter, however, must be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government stating in substance: (1) That the sheep and goats have been inspected and found free of evidence of communicable disease, and (2) That, as far as can be determined, they have not been exposed to any such disease during the preceding 60 days. The sheep and goats must be consigned from the port of entry directly to a recognized slaughtering establishment and under the condition that they there be slaughtered within two weeks from the date of entry.

A period of 30 days was allowed for submission of comments by interested persons. No comments were received.

Therefore, after due consideration of all relevant information available to the Department, the proposed amendments are hereby adopted without change.

1. § 92.21 is amended by adding a new paragraph (c) reading as follows:

§ 92.21 Sheep and goats from Canada.

* * * * *

(c) Sheep and goats for immediate slaughter may be imported from Canada without the certification prescribed in paragraph (a) of this section but shall be subject to the other applicable provisions of this part and shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government stating that: (1) The sheep and goats were inspected on the premises where assembled for shipment to the United States within the 30 days immediately prior to the date of export and were found free of evidence of communicable disease, and (2) As far as can be determined, they have not been exposed to any such disease during the 60 days immediately preceding their exportation.

2. § 92.23 is amended to read:

§ 92.23 Animals from Canada for immediate slaughter.

Cattle, sheep, goats, and swine imported from Canada for immediate slaughter shall be consigned from the port of entry directly to a recognized slaughtering establishment and there be slaughtered within two weeks from the date of entry.

(Secs. 6 and 10, 26 Stat. 416, 417, as amended; sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132 (21 U.S.C. 104, 105, 111, 134a, 134b, 134c, 134f); 37 FR 28464, 28477, 38 FR 19141.)

Effective date. The foregoing amendments shall become effective on February 19, 1975.

The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the spread of animal diseases, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that further public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public procedure with respect to the amendments are impracticable and unnecessary and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 13th day of February, 1975.

J. M. HEJL,
Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.75–4453 Filed 2–18–75;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

Miscellaneous Amendments

The provisions of section 170 of the Atomic Energy Act of 1954, as amended, (the Act) require the holder of a license for a production or utilization facility to have and maintain financial protection to cover public liability claims. Section 170 of the Act in conjunction with section 201 of the Energy Reorganization Act of 1974 requires the Nuclear Regulatory Commission to indemnify the licensee and other persons indemnified against public liability claims in excess of the amount of financial protection required. Subsection 170b. of the Act requires that for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100 electrical megawatts or more, the amount of financial protection required shall be the maximum amount available from private sources. For other licensees, the Commission may require lesser amounts of financial protection. Financial protection may be in the form of private insurance, private contractual indemnities, self-insurance or other proof of financial responsibility, or a combination of such measures. Nonprofit educational institutions and Federal agencies are not required to obtain financial protection.

The insurers who provide the nuclear liability insurance, Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters, have advised the Commission that effective January 1, 1975, the maximum amount of privately available nuclear energy liability insurance would be increased from $110 million to $125 million.

Pursuant to the provisions of subsection 170b. of the Act, the amount of financial protection required for facilities having a rated capacity of 100 electrical megawatts or more will be increased to $125 million, effective March 21, 1975. The following amendments to 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," reflect this requirement.

Since the amendments set out below conform the Commission's regulations to a statutory requirement, the Commission has found that good cause exists for omitting public notice of proposed rule making and public procedure thereon as unnecessary.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Part 140, Code of Federal Regulations, are published as a document subject to codification.

§ 140.11 [Amended]

1. Section 140.11(a)(4) is amended by deleting "$110,000,000" and substituting therefor "$125,000,000."

§ 140.91 [Amended]

2. Section 140.91, Appendix A, Conditions, Paragraph 4, is amended by deleting footnote 1 and substituting therefor a new footnote 1 to read as follows:

[1] For policies issued by Nuclear Energy Liability Insurance Association the amount will be "$96,875,000," for policies issued by Mutual Atomic Energy Liability Underwriters, the amount will be "$28,125,000."

3. Section 140.91, Appendix A. Optional Amendatory Endorsement, paragraph III, is amended by deleting footnote 1 and substituting therefor a new footnote 1 to read as follows:

[1] For policies issued by Nuclear Energy Liability Insurance Association the amount will be "$96,875,000," for policies issued by Mutual Atomic Energy Liability Underwriters, the amount will be "$28,125,000."

§ 140.92 [Amended]

4. Section 140.92, Appendix B, Article II, Paragraph 8(a), is amended by deleting the amount "$85,250,000" wherever it appears and substituting therefor "$96,875,000."

5. Section 140.92, Appendix B, Article II, Paragraph 8(b), is amended by deleting the amount "$24,750,000" wherever it appears and substituting therefor "$28,125,000."

6. Section 140.92, Appendix B, Article II, Paragraph 8(c), is amended by deleting the amount "$110,000,000" wherever it appears and substituting therefor "$125,000,000."

7. Section 140.92, Appendix B, Article III, Paragraph 4(b)(2), is amended by changing "$110,000,000" to "$125,000,000."

§ 140.93 [Amended]

8. Section 140.93, Appendix C, Article II, Paragraph 8, is amended by deleting the amount "$110,000,000" wherever it appears and substituting therefor the amount "$125,000,000."

9. Section 140.93, Appendix C, Article III, Paragraph 4(b)(2), is amended by changing "$110,000,000" to "$125,000,000."

§ 140.94 [Amended]

10. Section 140.94, Appendix D, Article II, Paragraph 6, is amended by changing "$110,000,000" to "$125,000,000."

§ 140.95 [Amended]

11. Section 140.95, Appendix E, Article III, Paragraph 4(b)(2), is amended by changing "$110,000,000" to "$125,000,000."

Effective date. The foregoing rule becomes effective on March 21, 1975.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 4, Pub. L. 85-256, 71 Stat. 576 (42 U.S.C. 2210))

Dated at Washington, D.C., this 13th day of February 1975.

For the Nuclear Regulatory Commission.

JOHN C. HOYLE,
Acting Secretary of the Commission.

[FR Doc.75-4500 Filed 2-18-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 74-SO-101]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Redesignation of Federal Airways; Correction

On Monday, February 3, 1975, the Federal Aviation Administration published an amendment to Part 71 of the Federal Aviation Regulations (FR Doc. 75-2990; 40 FR 4905). Amendatory item number 3 of that document contains transposed digits in a reference in line 9 of that paragraph on page 4906. The ninth line of amendatory item 3 reading, "267° radials; * * *" is amended by correcting it to read: "276° radials; * * *"

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on February 12, 1975.

F. L. CUNNINGHAM,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-4388 Filed 2-18-75;8:45 am]

[Airspace Docket No. 75-SO-9]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Areas

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to lower the ceiling for Restricted Areas R-3004 Fort Gordon, Ga., and R-6004 Savannah River Plant, S.C., from 18,000 feet MSL to 17,000 feet MSL.

This change can be effected without detriment to the intended purpose of the restricted areas and it will allow a portion of airspace to be returned to public use.

Since this amendment restores airspace to the public, it is a minor matter upon which the public would have no particular desire to comment, therefore, notice and public procedure are unnecessary. Since this action relieves a restriction upon the public, it may become effective in less than 30 days.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective February 19, 1975, as hereinafter set forth.

In § 73.30 (40 FR 669) the designated altitudes for R-3004 Fort Gordon, Ga., are changed to read as follows:

Designated altitudes. Surface to 17,000 feet MSL.

In § 73.60 (40 FR 693) the designated altitudes for R-6004 Savannah River Plant, S.C., are changed to read as follows:

Designated altitudes. Surface to 17,000 feet MSL.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Washington, D.C., on February 11, 1975.

F. L. CUNNINGHAM,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-4390 Filed 2-18-75;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8739]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Bendix Corp. and Fram Corp.

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or applies sec. 7, 38 Stat. 731; as amended; 15 U.S.C. 18) [Cease and desist order, The Bendix Corporation, et al., Southfield, Mich., Docket 8739, Nov. 12, 1974]

In the Matter of the Bendix Corporation, a Corporation, and Fram Corporation, a Corporation

Consent order requiring, among other things, the establishment of a "New Company" within six months of the effective date of this order and its spin-off to shareholders or the public within two years. When it commences business, the New Company will own Fram Corporation's private label filter division, three of Bendix's and two of Fram's manufacturing divisions and a portion of Bendix's automotive sales divisions. Further, respondent is prohibited from making any acquisitions for a ten-year period, within the fields of automotive

filters for aftermarket distribution, aerospace filters, liquid separators, and automobile parts for aftermarket distribution.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

I. For the purposes of this Order, the following definitions shall apply:

1. *Respondent.* The Bendix Corporation, and those persons, partnerships, corporations or other legal entities acting on its behalf, including, but not limited to, its officers, directors, agents, representatives, employees, majority-owned subsidiaries, successors and assigns; *Provided, however,* That the term Respondent shall not be construed to include the New Company (as hereinafter referred to).

2. *Automobile parts.* All parts used on and in connection with the operation of passenger cars and light trucks. (As used in this Order the term "light trucks" means trucks having a gross vehicle weight of less than 10,000 pounds.)

3. *Bendix ignition parts.* Automobile parts consisting of rotors, condensers, points and distributor caps, as presently manufactured by Bendix; as well as all other parts as may from time to time be manufactured by Bendix which are substitutes therefor, or improvements thereof.

4. *Automobile chemicals.* Automobile parts cleaners, hand cleaners, starting fluid and any other Automobile Chemical products sold by Bendix as of the Effective Date of this Order except for brake fluid and brake lubricant.

5. *Effective date of this order.* The date of issuance of the Commission's Decision and Order with respect to this matter.

6. *Spin-off date.* The date within two (2) years after the Effective Date of this Order when Respondent divests itself of all right, title and interest in, and all capital stock of, the New Company as provided in this Order.

7. *Net parent investment.* The net book value of the assets of the New Company less the book value of the liabilities of the New Company determined in a manner consistent with the footnotes to the New Company balance sheet and income statement (pro forma combined-unaudited) attached as Exhibit IV to this Order.

8. *Intra-New Company eliminations.* Elimination of the sales between those divisions, subsidiaries and product lines to be transferred to the New Company pursuant to Part II(B) hereof.

II. *It is ordered,* That:

(A) Within six (6) months from the Effective Date of this Order, Respondent shall have existing or cause to be formed a separate corporation (herein "New Company") with at least sufficient shares of authorized capital stock to comply with the provisions of this Order.

(B) Within six (6) months from the Effective Date of this Order, Respondent shall transfer to New Company:

(1) All of the assets, properties, businesses, goodwill, rights, privileges and interests of whatever nature, real, personal, tangible and intangible (subject to liabilities) comprising the following existing divisions and/or subsidiaries of The Bendix Corporation (hereinafter "Bendix") and Fram Corporation (hereinafter "Fram"):

(a) Bendix Motor Components Division, whose principal plant and offices are located at 18th Street at Oakwood, Elmira, New York; *Provided,* That Bendix shall not transfer the facilities and personnel of said Division which are directly involved in or related to the manufacture or sale of bicycle brakes; said assets not to be transferred are listed in Exhibit I to this Order, which is attached and made a part hereof. The portion of said Division to be transferred had, on an unaudited pro forma basis, fiscal 1973 sales (before Intra-New Company Eliminations) of $19,531,000, pretax profits of $1,898,000 and, as of September 30, 1973, net assets of $8,175,000;

(b) Bendix's Filter Division, whose principal plant and offices are located at 434 West, 12 Mile Road, Madison Heights, Michigan, and which, on an unaudited pro forma basis, had fiscal 1973 sales (before Intra-New Company Eliminations) of $5,346,000, pretax net profits of $320,000, and, as of September 30, 1973, net assets of $3,100,000;

(c) Bendix's Fuel Devices Division, whose principal plant and offices are located at 696 Hart Avenue, Detroit, Michigan, and which, on an unaudited pro forma basis, had fiscal 1973 sales (before Intra-New Company Eliminations) of $9,351,000, pretax net profits of $1,117,000, and, as of September 30, 1973, net assets of $4,264,000;

(d) Fram's Campbell Filter Company, whose principal plant and offices are located at Fram Road, Dexter, Missouri, and which, on an unaudited pro forma basis, had fiscal 1973 sales (before Intra-New Company Eliminations) of $8,227,000, pretax net profits of $1,755,000, and, as of September 30, 1973, net assets of $3,472,000;

(e) Fram's Industrial Filter Division, whose principal plant and offices are located at 2929 East Apache, Tulsa, Oklahoma, and which, on an unaudited pro forma basis, had fiscal 1973 sales (before Intra-New Company Eliminations) of $8,056,000, pretax net profits of $335,000, and, as of September 30, 1973, net assets of $3,074,000;

(f) Fram's General Products Division, whose principal plant and offices are located at U.S. No. 1 By Pass South, Henderson, North Carolina, and which, on an unaudited pro forma basis, had fiscal 1973 sales (before Intra-New Company Eliminations) of $15,099,000, pretax net profits of $260,000, and, as of September 30, 1973, net assets of $11,420,000.

A list of the general product lines to be transferred pursuant to this subparagraph (1) is attached to and made a part of this Order as Exhibit II.

(2) All of the assets and businesses (subject to liabilities) of Bendix's Automotive Aftermarket Operations Division (hereinafter "AAO"), which, on an unaudited pro forma basis, had fiscal 1973 sales (before Intra-New Company Eliminations) of $15,942,000, pretax net profits of $1,650,000, and, as of September 30, 1973, net assets of $5,838,000, consisting generally of all AAO's equipment, furniture and fixtures which relate to the product lines of AAO being divested as set forth in Exhibit III hereof, including a leasehold of a suitable warehouse facility, with adequate office space, of not less than 50,000 square feet; all AAO's books, catalogs, promotional materials, supplier and customer lists, records, accounts, data processing programs, inventories, machinery, and, subject to the provisions of subparagraph (C) of Part II of this Order, all rights to names, trade names trademarks, service names and service marks owned by Respondent (including all rights to P&D marks and names limited to the United States), pertaining to said AAO product lines; all AAO contracts (i) with third persons to manufacture, remanufacture or supply said product lines or components thereof to AAO, and (ii) with third persons to purchase any such product lines from AAO, to the extent that such contracts cover said product lines; provided, however, that Bendix shall not be required to divest any of its assets or businesses which relate to its brake, brake parts, brake fluid, brake lubricant, power steering, power hydraulics, or universal joint product lines.

(C) The assets to be transferred pursuant to subparagraph (1) of Part II(B) above shall include, without limitation, all books, catalogs, promotional materials, supplier and customer lists, records, accounts, data processing programs, inventories, tools, dies, jigs, machinery, equipment, manufacturing facilities, research and development capabilities, real and personal property, contract rights (including, but not limited to, all supply and sales contracts and all employment contracts), all rights to names, trade names, trademarks, service names and service marks owned by Respondent (including all rights to P&D marks and names limited to the United States, relating to, or associated with, the businesses to be transferred pursuant to Part 11(B)(1) (a) through (f), *Provided,* That Respondent shall not be required to transfer or otherwise divest the names, trade names, trademarks, service names and service marks (i) which consist of or which include "Bendix" or "Fram", or (ii) "Stromberg" in Asia, Australia and South Africa.

(D) Respondent shall make available to the New Company adequate administrative, sales and service personnel to carry on the businesses to be transferred to New Company.

(E) Respondent shall grant a non-exclusive royalty-free license to the New Company on reasonable terms and conditions to use the name "Bendix" in the United States for a period of five (5) years from the Effective Date of this Order in connection with the sale of (i) automotive starter drives of the general type manufactured by Bendix's Motor

[1] Copies of the decision and order and exhibits filed with the original document.

Components Division and (ii) Automobile Chemicals.

(F) Respondent shall, concurrently with the above-described transfers, grant to the New Company the right to purchase, on reasonable terms and conditions no less favorable than those offered to any other customers for replacement use (but subject always to the requirements of law), for a period of five (5) years from the Effective Date of this Order, and for any part of said five year period, all or any part of the New Company's requirements of Bendix Ignition Parts, as the New Company, at its option shall desire.

(G) Unaudited pro forma financial statements of the New Company shall be and are attached and made a part of this Order as Exhibit IV.

III. *It is further ordered,* That:

(A) As of the date of transfer to New Company of the assets and businesses to be transferred pursuant to Part II of this Order, the New Company will have a Net Parent Investment of not less than forty-two (42) million dollars (including good will not to exceed $3.2 million).

(B) Pending the transfer of the assets and businesses to the New Company pursuant to Part II of this Order, Respondent shall use its best efforts to conduct such businesses in the ordinary course, and shall not make any change in the businesses to be divested or in the New Company (apart from making changes in the ordinary course of said businesses) which would impair the capacity of the New Company to continue the businesses transferred to the New Company pursuant to this Order.

(C) Pending the Spin-Off Date, Respondent shall use its best efforts to assist the New Company in commencing business, and in promoting its products and independent corporate identity. Prior to the Spin-Off Date, Respondent will notify all customers of the businesses transferred to the New Company that the New Company is a successor to Bendix and/or Fram with respect to the divested product lines, and that its products are those previously sold of furnished by Bendix or Fram.

(D) Pending the Spin-Off Date, the New Company, in order to insure an orderly transfer, may use all Bendix and Fram trademarks, trade names, service names and service marks previously used in connection with any lines of business transferred to it, and may inform others that it is associated with, and is a subsidiary of, Bendix and Fram.

(E) Respondent shall not, without the consent of the New Company, employ for three (3) years after the Spin-Off Date, any personnel (i) whose duties relate exclusively to the assets or businesses to be transferred to the New Company pursuant to Part II of this Order, or (ii) as shall be transferred to the New Company under Part II(D). Respondent will use its best efforts to encourage such persons to become employed by the New Company.

(F) In the period beginning on the date the New Company is organized pursuant to Part II(A) hereof until five years after the Spin-Off Date, Respondent shall not loan any sum of money or other thing of value to, or extend or advance credit to, or indemnify or guarantee the obligations of, the New Company, other than with respect to products or services sold on credit by Respondent to the New Company in the ordinary course of business.

(G)(1) Immediately after the New Company is organized, Respondent shall vote the stock of the New Company for the election of an interim Board of Directors to serve until the election of an initial Board of Directors;

(2) On or prior to the Spin-Off Date, Respondent shall cause the election of an initial Board of Directors of the New Company whose initial terms shall not exceed one (1) year;

(3) Respondent shall not vote any of the stock of the New Company except: (a) as provided in subparagraph 1 or Part III(G),(b) with respect to organizational matters, and (c) with respect to matters preparatory to spin-off;

(4) No member of the initial Board of Directors of the New Company shall at the time of his election or during the period of his service be an officer, director, or employee of Respondent; and

(5) Subsequent to the election of an initial Board of Directors of the New Company, no employee, officer, or director of Respondent shall concurrently be an employee, officer, or director of the New Company.

IV. *It is further ordered,* That:

(A) Within two (2) years of the Effective Date of this Order, Respondent shall divest itself of all right, title and interest in the New Company: (1) by transferring the capital stock of the New Company to persons who are at the time owners of Bendix common stock or Bendix common and preferred stock, or (2) by means of a public offering of the stock of the New Company which is registered pursuant to the Securities Act of 1933, or (3) by any combination of (1) and (2) above; subject always to the provisions of Paragraph (B) of this Part.

(B) In no case shall Respondent knowingly sell, divest, or otherwise transfer, directly or indirectly, any stock of the New Company to any person (other than an underwriter or selling dealer) who is at the time of the transfer the beneficial owner of more than two (2) percent of the outstanding common stock of Bendix; *Provided, however,* That in the event of a transfer of New Company stock under Part IV(A) (1) or (3) hereof, nothing in this Order shall prohibit any of the shareholders of Bendix who are the beneficial owners of more than two (2) percent of the outstanding common stock of Bendix from exercising any rights they may have as such shareholders to obtain their pro-rata shares of any shares of stock of the New Company; and *Further, provided, however,* That in the event of a public offering of New Company stock under Part IV(A) (2) or (3) hereof, Respondent shall exercise its best efforts to achieve a wide distribution of said stock.

V. *It is further ordered,* That Respondent shall:

(A) Not later than sixty (60) days after completion of the transfers described in Part II hereof, furnish to the Commission an independently certified balance sheet of the New Company.

(B) Cause the New Company to furnish to the Commission within one hundred twenty (120) days following the close of its first fiscal year, an independently certified income statement and balance sheet with respect to its first fiscal year's operations.

(C) Submit concurrently to the Commission copies of all registration statements or amendments thereto filed with the Securities and Exchange Commission with respect to any distribution of stock pursuant to Part IV(A).

VI. *It is further ordered,* That, for a period of two (2) years from the Spin-Off Date, Respondent shall not engage in the United States in:

(A) The manufacture or sale of the product lines presently manufactured or sold by Respondent as set forth in Exhibit II (other than sales of such products purchased from others and incorporated as component parts in other products sold by Respondent or sold by Respondent as spare parts for such other products).

(B) The manufacture or sale of Automobile Chemicals or of Bendix Ignition Parts except as provided in Part II(F) above; *Provided, however,* That to the extent that the New Company shall not during said two-year period purchase from Respondent Bendix Ignition Parts in quantities equal to the then current production capacity for such parts of Respondent, Respondent may to this extent: (i) manufacture and sell said ignition parts to new vehicle manufacturers for purposes of installation by them on new vehicles or for resale by them through their service operations as replacement parts under said manufacturers' brand or trade names; (ii) manufacture and sell said ignition parts to other manufacturers of ignition parts for resale by said manufacturers under a brand or trade name other than Respondent's; and (iii) manufacture and sell said ignition parts as part of an automotive tune-up kit which includes spark plugs, *Provided,* That Respondent will make available, on reasonable terms and conditions, spark plugs to the New Company under the New Company's own trade name subject to Respondent's then available production capacity.

VII. It is further ordered, That for ten (10) years from the Effective Date of this Order, Respondent shall not acquire, directly or indirectly, without the prior approval of the Commission, the share capital or assets (other than products acquired for use or resale in the ordinary course of Respondent's business, or other than the acquisition by Respondent of the share capital or assets of any corporation not organized in the United States of which Respondent owns more than 50 percent of the issued and outstanding share capital as of the Effective Date of this Order) of any corporation

engaged in the manufacture or sale in the United States of:

(A) Automotive filters, *Provided*, That nothing in this subparagraph (A) shall prohibit Respondent from acquiring the share capital or assets of any corporation engaged at the time in the manufacture or sale of automotive filters solely to any vehicle manufacturers for purposes of installation by them on any vehicles or for resale by them through their service operations as replacement parts;

(B) Aerospace filters;

(C) Liquid separators; or

(D) Automobile Parts (other than automotive filters which are covered separately by subparagraph (A) of this Part VII), *Provided*, That nothing in this subparagraph (D) shall prohibit Respondent from acquiring the share capital or assets of:

(1) Any corporation engaged at the time in the manufacture or sale of such Automobile Parts solely to any vehicle manufacturers for purposes of installation by them on any vehicles or for resale by them through their service operations as replacement parts, or to any other manufacturer of such Automobile Parts for resale by such manufacturer under a brand or trade name other than Respondent's; or

(2) Any corporation engaged at the time in the manufacture or sale of such Automobile Parts whose sales of such Automobile Parts during the calendar year preceding acquisition (exclusive of sales to any vehicle manufacturers for purposes of installation by them on any vehicles or for resale by them through their service operations as replacement parts) did not exceed twenty (20) percent of said corporation's total sales and were not in excess of One Million Dollars ($1,000,000).

The provisions of this Part VII of this Order shall apply to any arrangements pursuant to which Respondent acquires the market share of any concern, corporate or non-corporate, which is engaged in the manufacture of automotive filters, aerospace filters, liquid separators, or Automobile Parts other than automotive filters (a) through such concern discontinuing the marketing, distribution and/or sale of any said products under its own trade name or labels and thereafter distributing such products under Respondent's trade names or labels, or (b) by reason of such concern's discontinuing the manufacture of any of said products or the sale of any of said products to certain customers, and thereafter transferring to Respondent customer lists or in any other way making available to Respondent access to customers or customer accounts for any of said products.

No acquisition made by Respondent pursuant to the provisions contained in this Part VII shall be deemed immune or exempt from the provisions of the antitrust laws by reason of anything contained in this Order.

VIII. *It is further ordered*, That, Respondent shall, within six (6) months after the Effective Date of this Order, and every six (6) months thereafter, until Respondent has fully complied with Parts II through VI of this Order, submit in writing to the Commission a report setting forth in detail the manner and form in which Respondent intends to comply, is complying, and has complied with Parts II through VI of this Order. All compliance reports shall include such other information and documentation as may hereafter reasonably be required to show compliance with this Order.

With respect to Part VII of this Order, Respondent shall, on the first anniversary date of the Effective Date of this Order and on each anniversary date thereafter to and including the tenth anniversary date, submit a report, in writing, setting forth in detail the manner and form in which Respondent intends to comply, is complying and has complied with Part VII of this order, a list of all acquisitions or mergers made by Respondent in the categories described in Part VII, the date of such acquisition or merger, the products involved, and such additional information relating thereto as may from time to time reasonably be required.

IX. *It is further ordered*, That Respondent shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other change in the corporation, which may affect obligations arising out of this Order.

Decision and order issued by the Commission Nov. 12, 1974.[2]

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-4394 Filed 2-18-75;8:45 am]

[Docket No. C-2595]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

J. Walter Thompson Co.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly;* § 13.170 *Qualities or properties of product or service;* § 13.205 *Scientific or other relevant facts;* § 13.210 *Scientific tests;* § 13.265 *Tests and investigations.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1685 *Nature;* § 13.1710 *Qualities or properties;* § 13.1740 *Scientific or other relevant facts.* Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2063 *Scientific or other relevant facts.* Subpart—Using deceptive techniques in advertising: § 13.2275 *Using deceptive techniques in advertising;* 13.2275-70 Television depictions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45)) [Cease and desist order, J. Walter Thompson Company, New York City, Docket C-2595, Oct. 8, 1974.]

In the Matter of J. Walter Thompson Company, a corporation

Consent order requiring a New York City advertising agency, among other things to cease using deceptive demonstrations and making unsubstantiated claims concerning structural strength, quietness or performance of motor vehicles.

The Decision and Order, including further order requiring report of compliance therewith, is as follows:[1]

It is ordered, That respondent, J. Walter Thompson Company, its successors and assigns, its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising or offering for sale or distribution, in commerce as "commerce" is defined in the Federal Trade Commission Act, of the Ford LTD automobile, the Ford Galaxie automobile or any other motor vehicle, do forthwith cease and desist from:

(a) Unfairly or deceptively advertising any such product by presenting evidence, including tests, experiments, or demonstrations, or the results thereof, that appears or purports to be evidence of the structural strength, quietness or performance of such product, that is material to inducing the sale of such product, but which is not competent or reliable evidence to prove such fact or product feature.

(b) Making any statements or representations, directly or by implication, concerning the structural strength, quietness or performance of the said product or any part thereof, unless there exists a reasonable basis for such statements or representations, provided that such a reasonable basis shall consist of competent and reliable scientific tests or other competent and reliable objective materials; including competent and reliable opinions of scientific, engineering or other experts who are qualified by professional training and experience to render competent judgments in such matters.

It is further ordered, That respondent corporation shall forthwith distribute a copy of this order to its operating divisions involved in the advertising or promotion of the Ford LTD automobile, the Ford Galaxie automobile or any other motor vehicle marketed by the Ford Division, Ford Motor Company.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

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[2] Copies of the complaint, initial decision, and original order reported in 77 FTC 731.

[1] Copies of the Complaint, Decision and Order, filed with the original document.

It is further ordered, That respondent shall, within sixty (60) days after the effective date of this order, file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form of its compliance with this order.

Decision and order issued by the Commission, Oct. 8, 1974, Commissioner Thompson dissenting.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-4437 Filed 2-18-75;8:45 am]

[Docket No. C-2572]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Trailer Coach Association and Louis Bell

Subpart—Advertising falsely or misleadingly: § 1310 *Advertising falsely or misleadingly;* § 13.170 *Qualities or properties of product or service;* 13.170-34 Economizing or saving; § 13.180 *Quantity.* Subpart—Corrective actions and/or requirements: § 13.533 *Corrective actions and/or requirements;* 13.533-20 Disclosures; 13.533-45 Maintain records; 13.533-45(k) Records, in general. Subpart — Misrepresenting oneself and goods—Goods: § 13.1710 *Qualities or properties.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Trailer Coach Association, et al., Anaheim, Calif., Docket C-2572, Oct. 8, 1974]

In the Matter of Trailer Coach Association, a Corporation, and Louis C. Bell, Individually and as President of Said Corporation.

Consent order requiring an Anaheim, Calif., trade association representing manufacturers, component suppliers, and dealers of mobile homes and recreational vehicles, among other things to cease making representations as to energy use or energy-saving characteristics of their recreational vehicles or as to the supply or availability of gasoline without having a reasonable basis for such claim.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

It is ordered, That respondent Trailer Coach Association, a corporation, its successors and assigns, and its officers, and Louis C. Bell, individually and as president of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of recreational vehicles, including but not limited to travel trailers, motor homes, van conversions, truck campers and camping trailers, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Making any representation, directly or by implication, as to energy use or energy saving characteristics of ownership or operation of any recreational vehicle or vehicles, or as to the supply or availability of gasoline or any other form of energy; unless, at the time the representation is made, respondents have a reasonable basis for such representation, consisting of tests or surveys;

a. based on reliable data and adhering to generally accepted statistical principles,

b. which shall fully and completely substantiate the representation, and

c. the results and methodology of which, together with the original data collected, are available for public inspection and condensed in a report written in terms understandable to the average consumer, at each of respondents' offices.

2. Making any representation, directly or by implication, as to energy use or energy saving characteristics of ownership or operation of any recreational vehicle or vehicles; unless respondents clearly and conspicuously disclose, in immediate conjunction with the representation:

a. The specific forms of energy referred to, unless the representation applies to total consumption of all forms of energy by the consumer or family.

b. The particular type and size of recreational vehicle to which the representation applies, and the nature and extent of accessory equipment, unless it applies to all types and sizes of such vehicles regardless of accessory equipment installed.

c. The particular locations and conditions of use, including but not limited to the season, duration, and number of miles traveled, to which the representation applies, unless it applies to all conditions of use and to all locations and regions in the United States.

d. The specific manner of operation of the recreational vehicle, home, automobiles, and other energy-consuming possessions to which the representation applies, unless it applies to the customary or usual manner of operation of all such possessions by the average consumer of family.

It is further ordered, That respondents forthwith deliver, to all persons and firms which respondents know or have reason to know may engage in dissemination of representations originated or distributed by respondents since June 1, 1973, as to energy use or energy saving characteristics of ownership or operation of recreational vehicles, or as to the supply or availability of gasoline or any other form of energy, a notice containing the following information, without mitigation:

1. The energy-related representations contained in the referenced advertising have been the subject of an investigation by the Federal Trade Commission, which has resulted in the entry of a consent order directing that distribution of the referenced advertisements be restricted.

2. At the time the energy-related representations were made, Trailer Coach Association did not have adequate substantiation to support such representations.

3. Trailer Coach Association has been ordered by the Federal Trade Commission to cease and desist from making energy claims related to recreational vehicles unless Trailer Coach Association can support such claims with reliable and statistically valid tests or surveys.

4. None of the energy-related representations originated or distributed by Trailer Coach Association since June 1, 1973, and no materials containing such representations, are to be further disseminated to the public or others until such time as respondents certify in writing to such person or firm that Trailer Coach Association is in possession of the substantiation required by this order.

5. Further dissemination by the person or firm of such representations without the certification required above may constitute a violation of the Federal Trade Commission Act by the person or firm itself.

It is further ordered, That respondents shall maintain complete records relative to the manner and form of their compliance with this order, and shall retain each record for three years after such record is made. Such records shall include all advertising, promotional material, the basis for all applicable advertising claims, correspondence with persons who formulate or place advertising, and other pertinent documents.

It is further ordered, That respondents promptly distribute a copy of this order to each operating division, to all present and future personnel of respondents engaged in the preparation, creation or placing of advertising, and to all present and future agencies engaged in the preparation, creation or placing of advertising on behalf of respondents; and that respondents secure from each such person and agency a signed statement acknowledging receipt of said order.

It is further ordered, That respondents notify the Commission at least thirty days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered that the individual respondent named herein promptly notify the Commission if he discontinues his present business or employment and if he affiliates with another business or employment related to the promotion, sale or distribution of recreational vehicles. Such notice shall include his current business address and a statement as to the nature of the business or employment in which he is engaged, as well as a description of his duties and responsibilities.

It is further ordered that respondents shall, within sixty days after service

[1] Copies of the complaint and decision and order filed with the original document.

upon them of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

Decision and order issued by the Commission Oct. 8, 1974.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-4438 Filed 2-18-75;8:45 am]

[Docket C-2587]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

4 Wheel Country, Inc. and Harvey G. Ferguson

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements;* 13.73-92 Truth in Lending Act; § 13.155 *Prices;* 13.155-95 Terms and conditions; 13.155-95(a) Truth in Lending Act. Subpart—Corrective actions and/or requirements: § 13.533 *Corrective actions and/or requirements;* 13.533-20 Disclosures. Subpart—Misrepresenting oneself and goods—Goods: § 13.470 *Scientific or other relevant facts.*—Prices: § 13.1823 *Terms and conditions;* 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements;* 13.1852-75 Truth in Lending Act; § 13.1895 *Scientific or other relevant facts;* § 13.1905 *Terms and conditions;* 13.1905-40 Insurance coverage; 13.1905-50 Sales contract; 13.1905-60 Truth in Lending Act. Subpart—Securing signatures wrongfully: § 13.2175 *Securing signatures wrongfully.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605.) [Cease and desist order, 4 Wheel Country, Inc., et al., Yakima, Wash., Docket C-2587, Oct. 23, 1974.]

In the Matter of 4 Wheel Country, Inc., a Corporation, and Harvey G. Ferguson, Individually and as an Officer of Said Corporation

Consent order requiring a Yakima, Wash., retailer of new and used mobile homes, travel trailers, campers and other motor vehicles, among other things to cease violating the Truth in Lending Act by failing to disclose to customers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act. Further, respondent must cease representing that credit insurance is mandatory in order to obtain credit and filling out contracts in such a manner as to obtain customer's signature requesting said insurance without full disclosure of what the customer is signing.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

It is ordered, That respondents 4 Wheel Country, Inc., a corporation, and its officers, and Harvey G. Ferguson, individually and as an officer of said corporation, and respondents' successors, assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 et. seq.), do forthwith cease and desist from:

1. Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by § 226.8(c)(2) of Regulation Z.

2. Failing to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as required by § 226.8(c)(3) of Regulation Z.

3. Failing to use the term "amount financed" to describe the amount of credit extended, as required by § 226.8(c)(7) of Regulation Z.

4. Failing to disclose the sum of all charges required by § 226.4 of Regulation Z to be included therein, and describe that sum as the "finance charge," as required by § 226.8(c)(8)(i) of Regulation Z.

5. Failing to compute and disclose the annual percentage rate accurately to the nearest quarter of one percent, as required by §§ 226.5(b) and 226.8(b)(2) of Regulation Z.

6. Failing to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price," as required by § 226.8(c)(8)(ii) of Regulation Z.

7. Failing to disclose the number, amounts and due dates or periods of payments scheduled to repay the indebtedness, and the sum of such payments, and to describe that sum as the "total of payments," as required by § 226.8(b)(3) of Regulation Z.

8. Failing to identify the amount or the method of computing the amount of any default, delinquency or similar charge payable in the event of late payments, as required by § 226.8(b)(4) of Regulation Z.

9. Failing to describe or identify the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, as required by § 226.8(b)(5) of Regulation Z.

10. Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by § 226.8(b)(7) of Regulation Z.

11. Failing to furnish to the customer, before the transaction is consummated, a duplicate of the instrument or other statement containing the disclosures prescribed by § 226.8 of Regulation Z, as required by § 226.8(a) of Regulation Z.

12. Failing to itemize and include in the finance charge, for purposes of disclosure of the finance charge and computation of the annual percentage rate, any and all charges or premiums for Vendor's Single Interest insurance unless all subrogation rights against the customer have been effectively waived by the insurer in accordance with § 226.4(a)(7) of Regulation Z.

13. Failing to itemize and include in the finance charge, for purposes of disclosure of the finance charge and computation of the annual percentage rate, any and all charges or premiums for credit life, accident, health or disability insurance, unless respondents can demonstrate that they have:

(a) Refrained from including the cost of such insurance in the "amount financed" and in all other amounts affected by the election or declination of insurance, as such amounts are set forth on the sales contract and any document containing credit cost disclosures, until respondents have completed the actions prescribed by paragraphs (b) and (c), below, and have secured the customer's signature on the statement there provided.

(b) Quoted to the customer, whether in person, by telephone, or otherwise, installment payment amounts exclusive of the charges or premiums for such insurance.

(c) Read and presented to the customer the following statement, printed clearly and conspicuously in 12-point or larger type on one side of a single sheet of paper:

Credit life, accident, health and/or disability insurance are entirely optional. You are NOT REQUIRED to purchase such personal insurance in order to obtain credit through our company, and your voluntary decision in this regard will not affect the granting of credit to you.

Your cost for such insurance, if you choose to purchase it, will be:

[Itemize, as applicable]

I have read this statement to the customer.

(Sales Representative) (Date and Time)

I ACKNOWLEDGE THAT THIS STATEMENT WAS READ TO ME at the date and time indicated. In light of the costs shown above, my voluntary choice is to:

[ ] Not purchase any such personal insurance.
[ ] Purchase credit life insurance.
[ ] Purchase [specify type(s)] insurance.

(Signature of Consumer) (Date and Time)

14. Making any marks or otherwise instructing a consumer as to signing or dating any document respecting an election of optional insurance, prior to a clear, voluntary exercise of the consumer's free and independent choice of such insurance.

15. Misrepresenting, orally or otherwise, directly or by implication, that credit life, accident, health and/or disability insurance coverage is required as

[1] Copies of the Complaint and decision and order filed with the original document.

a condition of obtaining credit from or through respondents.

16. Discouraging, by misrepresentation, oral or otherwise, directly or by implication, the declination of optional or voluntary credit life, accident, health and/or disability insurance.

17. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with Sections 226.4 and 226.5 of Regulation Z, at the time and in the manner, form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of the preparation, creation or placing of advertising, and that respondents secure from each such person a signed statement acknowledging receipt of said order.

It is further ordered, That respondents prominently display the following notice in two or more locations, including that portion of respondents' business premises most frequented by prospective customers, and including also each area where customers normally sign consumer credit documents or other binding instruments; *provided, however,* That such notices shall be considered prominently displayed only if so positioned as to be easily observed and read by the intended individuals:

NOTICE TO CREDIT CUSTOMERS

IF THE DEALER IS FINANCING OR ARRANGING THE FINANCING OF YOUR PURCHASE, YOU ARE ENTITLED TO CONSUMER CREDIT COST DISCLOSURES AS REQUIRED BY THE FEDERAL TRUTH IN LENDING ACT. THESE MUST BE PROVIDED TO YOU IN WRITING BEFORE YOU ARE ASKED TO SIGN ANY DOCUMENT OR OTHER PAPERS WHICH WOULD BIND YOU TO SUCH A PURCHASE. This notice required by order of the Federal Trade Commission.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business of employment. Such notice shall include the respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Decision and order issued by the Commission October 23, 1974.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-4439 Filed 2-18-75;8:45 am]

[Docket No. C-2582]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Ford Motor Co.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly;* § 13.170 *Qualities or properties of product or service;* § 13.205 *Scientific or other relevant facts;* § 13.210 *Scientific tests;* § 13.265 *Tests and investigations.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1685 *Nature;* § 13.1710 *Qualities or properties;* § 13.1740 *Scientific or other relevant facts.* Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2063 *Scientific or other relevant facts.* Subpart—Using deceptive techniques in advertising: § 13.-2275 *Using deceptive techniques in advertising;* 13.2275-70 Television depictions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.) [Cease and desist order, Ford Motor Company, Dearborn, Mich., Docket C-2582, Oct. 8, 1974.]

In the Matter of Ford Motor Company, a corporation

Consent order requiring a Dearborn, Mich., manufacturer of automobiles, among other things to cease using deceptive demonstrations and making unsubstantiated claims concerning structural strength, quietness or performance of motor vehicles.

The Decision and Order, including further order requiring report of compliance therewith, is as follows: [1]

It is ordered That respondent, Ford Motor Company, its successors and assigns, its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution, in commerce as "commerce" is defined in the Federal Trade Commission Act, of the Ford LTD automobile, the Ford Galaxie automobile or any other motor vehicle marketed by the Ford Division, do forthwith cease and desist from:

(a) Unfairly or deceptively advertising any such product by presenting evidence, including tests, experiments, or demonstrations, or the results thereof, that appears or purports to be evidence of the structural strength, quietness or performance of such product, that is material to inducing the sale of such product, but which is not competent or reliable evidence to prove such fact or product feature.

(b) Making any statements or representations directly or by implication, concerning the structural strength, quietness or performance of the said products or any part thereof, unless there exists a reasonable basis for such statements or representations; *Provided* that such a reasonable basis shall consist of competent and reliable scientific tests or other competent and reliable objective materials, including competent and reliable opinions of scientific, engineering or other experts who are qualified by professional training and experience to render competent judgments in such matters.

It is further ordered That respondent corporation shall forthwith distribute a copy of this order to its operating divisions involved in the advertising, promotion, distribution, or sale of the Ford LTD automobile, the Ford Galaxie automobile or any other motor vehicle marketed by the Ford Division.

It is further ordered That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered That respondent shall, within sixty (60) days after the effective date of this order, file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form of its compliance with this order.

Decision and order issued by the Commission, Oct. 8, 1974.[2]

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-4434 Filed 2-18-75;8:45 am]

[Docket No. C-2590]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Kirby of North Providence, Inc., and Emanuel Toro

Subpart—Advertising falsely or misleading: § 13.73 *Formal regulatory and statutory requirements;* 13.73-92 Truth in Lending Act; § 13.75 *Free goods or services;* § 13.155 *Prices;* 13.155-95 Terms and conditions; 13.155-95(a) Truth in Lending Act; 13.155-100 Usual as reduced, special, etc.; § 13.205 *Scientific or other relevant facts;* § 13.240 *Special or limited offers.* Subpart—Contracting for sale any evidence of indebtedness prior to specified time: § 13.527 *Contracting for sale any evidence of indebtedness*

[1] Copies of the Complaint, Decision and Order, filed with the original document.

[2] Commissioner Thompson dissenting.

prior to specified time. Subpart—Delaying or withholding corrections, adjustments or action owed: § 13.675 *Delaying or withholding corrections, adjustments or action owed.* Subpart—Failing to maintain records: § 13.1051 *Failing to maintain records;* 13.1051–20 Adequate. Subpart—Misrepresenting oneself and goods—Goods: § 13.1625 *Free goods or services;* § 13.1740 *Scientific or other relevant facts;* § 13.1747 *Special or limited offers;* § 13.1760 *Terms and conditions;* 13.1760–50 Sales contract. Subpart—Prices: § 13.1817 *Reductions for prospect referrals;* § 13.1823 *Terms and conditions;* 13.1823–20 Truth in Lending Act; § 13.1825 *Usual as reduced or to be increased.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements;* 13.1852–75 Truth in Lending Act; § 13.1857 *Instruments sale to finance companies;* § 13.1892 *Sales contract, right-to-cancel provision;* § 13.-1895 *Scientific or other relevant facts;* § 13.1905 *Terms and conditions;* 13.1905–50 Sales contract; 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, Kirby of North Providence, Inc., et al., North Providence, R.I., Docket C-2590, Nov. 1, 1974.]

In the Matter of Kirby of North Providence, Inc., a Corporation, and Emanuel Toro, Individually and as an Officer of Said Corporation

Consent order requiring a North Providence, R.I., retailer of vacuum cleaners and related products, devices, parts and attachments, among other things to cease using misrepresentations to sell its products and violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of credit, such information as required by Regulation Z of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:[1]

I. *It is ordered*, That respondents Kirby of North Providence Inc., a corporation, its successors and assigns, and its officers, and Emanuel Toro individually and as an officer of said corporation trading under said corporate name or any trade name or names, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with advertising, offering for sale, sale and distribution of vacuum cleaners and related parts, attachments and devices or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, orally, visually, in writing or in any other manner, that:

(a) Any price for said products is a special or reduced price; unless such price constitutes a significant reduction from the regular selling price at which such products have been sold by respondents for a reasonably substantial period of time in the recent, regular course of their business; or misrepresenting in any manner, the savings available to purchasers.

(b) Any offer to sell said products is limited as to time or is limited or restricted in any other manner.

(c) Respondents offer reductions from the regular selling price of said products upon the occasion of the purchaser furnishing the names of other persons as prospective purchasers of such products unless the respondents clearly set forth on the contract the dollar amount of such reduction together with terminology which describes the nature of such reduction from the regular selling price and can affirmatively show that such regular selling price constitutes the price at which respondents have sold such products for a reasonably substantial period of time in the recent, regular course of business; or, in any manner, misrepresenting the amount of discounts, commissions, referral fees or allowances of any type receivable by the purchaser of respondents' products.

2. Failing to maintain adequate records, (a) which disclose the facts upon which any savings claim, including former pricing claims and comparative value claims of the type covered by paragraph 1(a) of this Order are based; and (b) from which the validity of any savings claim, including former pricing claims and similar representations of the type covered by paragraph 1(a) of this Order can be determined.

3. Failing to disclose to prospective customers, at the time of the initial contact by respondents via telephone call or any other type of contact, the fact that the individual making the call or contact is a representative of respondents, that the purpose of the call is to solicit the sale of said products and that if the prospective customer so agrees, respondents will send a salesman to the home of the prospective customer to demonstrate such products.

4. Representing to prospective customers that they will be provided with a free gift, valuable merchandise, or other consideration, at the time of the prior contact by respondents, unless respondents clearly and conspicuously disclose, orally or in writing, that such gift, merchandise or other consideration will be provided only if the prospective customers consent to allow respondents' sales representatives to visit their homes to demonstrate said products; or in any manner, misrepresenting the conditions, limitations, restrictions or requirements imposed upon the receipt of such free gifts, merchandise or other consideration.

5. Failing to inform the prospective purchaser prior to the signing of a contract wherein the respondents extend or offer to extend or arrange or offer to arrange for the extension of consumer credit that it is respondents' customary practice to sell, transfer, or assign their customers' obligations to various financial institutions, naming the specific financial institution which will receive the contract, if known by respondents, at the time of the sale.

6. Assigning, selling or otherwise transferring respondents' notes, contracts or other documents evidencing a purchaser's indebtedness, unless any rights or defenses which the purchaser has and may assert against respondents are preserved and may be asserted against any assignee or subsequent holder of such note, contract or other documents evidencing the indebtedness.

7. Failing to include the following statement clearly and conspicuously on the face of any note, contract, or other instrument of indebtedness executed by or on behalf of respondents' customers:

NOTICE: Any holder takes this instrument subject to the terms and conditions of the contract which gave rise to the debt evidenced hereby, any contractual provision or other agreement to the contrary notwithstanding.

8. Contracting for any sale arising out of a door to door solicitation which shall become binding on the buyer prior to midnight of the third day, excluding Sundays and legal holidays, after the date of signing of the contract.

9. Failing to orally disclose prior to the time of sale, and in writing conspicuously and clearly on any conditional sales contract, promissory note or other instrument executed by the buyer that the buyer may rescind or cancel the sale by written notice of cancellation to respondents' address prior to midnight of the third day, excluding Sundays and legal holidays, after the date of the sale. Upon such cancellation the burden shall be on respondent to collect any goods left in the buyer's home and to return any payments received from him. Nothing contained in this right-to-cancel provision shall relieve buyers of the responsibility for taking reasonable care of the goods prior to, and for a reasonable period following, cancellation.

10. Failing to provide a separate and clearly understandable form which the buyer may use as a notice of cancellation.

11. Failing to refund immediately all monies or property to customers who have requested contract cancellation in writing within three (3) days from the execution of such contract.

12. Negotiating any conditional sales contract, promissory note, or other instrument of indebtedness to a finance company or other third party prior to midnight of the fifth day, excluding Sundays and legal holidays, after the day of execution by the buyer.

Provided, however, that nothing contained in paragraphs 7 through 12 of this Order shall relieve respondent of any contractual obligations required by federal law or that law of the state in which the contract is negotiated. When such obligations are inconsistent, respondent may apply to the Commission for relief from this provision with respect to contracts executed in the state in which

[1] Copies of the Complaint & decision and order filed with the original document.

such different obligations are required.

II. *It is ordered* That respondents Kirby of North Providence, Inc., a corporation, its successors and assigns, and its officers, and Emanuel Toro, individually and as an officer of said corporation, trading under said corporate name or trading or doing business under any other name or names, and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension or arrangement for the extension of consumer credit, or advertisement to aid, promote, assist, directly or indirectly, any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to disclose the date on which the finance charge begins to accrue when that date is different from the date of the transaction, as required by § 226.8(b)(1) of Regulation Z.

2. Failing to disclose the finance charge expressed as an annual percentage rate, as required by § 226.8(b)(2) of Regulation Z.

3. Failing to disclose the downpayment in property made in connection with the credit sale, and to describe that amount as the "trade-in," as required by § 226.8(c)(2) of Regulation Z.

4. Failing to disclose the "deferred payment price" as the sum of the cash price, all other charges which are part of the amount financed but are not part of the finance charge, and the finance charge, as required by § 226.8(c)(8)(ii) of Regulation Z.

5. Failing to make consumer credit cost disclosures before consummation of the transaction, and to furnish the customer with a duplicate of the instrument or a statement by which the disclosures required by § 226.8 are made, as prescribed by § 226.8(a) of Regulation Z.

6. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form, and amount required by §§ 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondent corporation shall forthwith deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in (a) the offering for sale or sale of respondents' products or services or in the consummation of any extension of consumer credit or in (b) any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging the receipt of the order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Decision and order issued by the Commission Nov. 1, 1974.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-4435 Filed 2-18-75;8:45 am]

[Docket No. C-2579]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Bob's Muldoon Lockers, et al.

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements;* 13.73-92 Truth in Lending Act; § 13.155 *Prices;* 13.155-95 Terms and conditions; 13.155-95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions;* 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements;* 13.1852-75 Truth in Lending Act; § 13.1905 *Terms and conditions;* 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Muldoon Lockers, Inc., et al., Anchorage, Alaska, Docket C-2579, Oct. 22, 1974]

In the matter of Muldoon Lockers, Inc., a corporation doing business as Bob's Muldoon Lockers, and Bob R. Buchta, individually and as an officer of said corporation.

Consent order requiring an Anchorage, Alaska, retailer of meat and meat products, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

It is ordered, That respondents Muldoon Lockers, Inc., a corporation doing business as Bob's Muldoon Lockers, and Bob R. Buchta, individually and as an officer of said corporation, and respondents' successors, assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with any extension or arrangement for the extension of consumer credit, or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "advertisement" and "consumer credit" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Representing in any such advertisement, directly or by implication, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under § 226.8 of Regulation Z as required by § 226.10(d)(2) of Regulation Z:

a. the cash price;

b. the amount of the downpayment required or that no downpayment is required, as applicable;

c. the number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

d. the amount of the finance charge expressed as an annual percentage rate, and

e. the deferred payment price.

2. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, at the time and in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of the preparation, creation or placing of advertising, to all persons engaged in reviewing the legal sufficiency of advertising, and to all present and future agencies engaged in preparation, creation or placing of advertising on behalf of respondents, and that respondents secure from each such person and agency a signed statement acknowledging receipt of said order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly

[1] Copies of the complaint & decision and order filed with the original document.

notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include the respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Decision and order issued by the Commission Oct. 22, 1974.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-4436 Filed 2-18-75;8:45 am]

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 511—WAGE ORDER PROCEDURE FOR PUERTO RICO, THE VIRGIN ISLANDS, AND AMERICAN SAMOA

Compensation of Committee Members

Pursuant to authority in section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, as amended; 29 U.S.C. 205) and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp. p. 1004), I hereby amend 29 CFR 511.4 to read as set forth below. The purpose of this amendment is to increase the compensation of each member of an industry committee from $100 to $108 for each day spent in the work of the committee.

As this amendment concerns only a rule of agency practice, and is not substantive, notice of proposed rule making, opportunity for public participation, and delay in effective date are not required by 5 U.S.C. 553. It does not appear that such participation or delay would serve a useful purpose. Accordingly, this revision shall be effective immediately.

§ 511.4 Compensation of committee members.

Each member of an industry committee will be allowed a per diem of $108 each day actually spent in the work of the committee, and will, in addition, be reimbursed for necessary transportation and other expense incident to traveling in accordance with Standard Government Travel Regulations then in effect. All travel expenses will be paid on travel vouchers certified by the Administrator or his authorized representative. Any other necessary expenses which are incidental to the work of the committee may be incurred by the committee upon approval of, and shall be paid upon certification of, the Administrator or his authorized representative.

[Sec. 5, 52 Stat. 1062, as amended; 29 U.S.C. 205]

Signed at Washington, D.C. this 12 day of February 1975.

BETTY SOUTHARD MURPHY,
Administrator,
Wage and Hour Division.

[FR Doc.75-4431 Filed 2-18-75;8:45 am]

PART 541—DEFINING AND DELIMITING THE TERMS "ANY EMPLOYEE IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN ELEMENTARY OR SECONDARY SCHOOLS), OR IN THE CAPACITY OF OUTSIDE SALESMAN"

Labor Standards

Section 13(a)(1) of the Fair Labor Standards Act of 1938, as amended, exempts from its minimum wage and overtime pay provisions any employee employed in a bona fide executive, administrative, or professional capacity, as such terms are defined and delimited by regulations of the Secretary of Labor. The Administrator of the Wage and Hour Division has been delegated the authority to issue such regulations, which are contained in 29 CFR 541. Among other conditions, these regulations currently provide that executive employees must be paid at a rate of not less than $125 a week on a salary basis ($115 a week if employed in Puerto Rico, the Virgin Islands, or American Samoa), that administrative employees must be paid at a rate of not less than $125 a week on a salary or fee basis ($100 a week if employed in Puerto Rico, the Virgin Islands, or American Samoa), and that professional employees must be paid at a rate of $140 a week on a salary or fee basis ($125 a week if employed in Puerto Rico, the Virgin Islands, or American Samoa). The regulations also contain a so-called upset salary test for certain employees who are paid not less than $200 a week ($150 a week if employed in Puerto Rico, the Virgin Islands, or American Samoa). All of these salary tests are exclusive of board, lodging, or other facilities.

On August 16, 1974, there was published in the FEDERAL REGISTER (39 FR 29603) a notice of proposed rulemaking to increase the minimum salary requirements of the exemption for bona fide executive, administrative, and professional employees. Interested persons were afforded the opportunity to submit written views, comments, data, or arguments within 30 days to the Administrator of the Wage and Hour Division, Washington, D.C. 20210. On September 17, 1974, a further notice was published in the FEDERAL REGISTER (39 FR 33377) extending the time for comment to October 29, 1974, and announcing a public hearing which was held in Washington, D.C. on October 22, 1974, as scheduled.

The August 16 notice, in order to make the salary tests in 29 CFR 541 more realistic and effective as qualifying requirements for exemption from the Act's monetary provisions, proposed that the salary tests in §§ 541.1(f) and 541.2(e) be increased to $160 per week for executive and administrative employees ($130 per week if employed in Puerto Rico, the Virgin Islands, or American Samoa) and that the salary test in § 541.3(e) be increased to $185 per week for professional employees ($150 a week if employed in Puerto Rico, the Virgin Islands, or American Samoa). It was further proposed that the upset salary test in §§ 541.1(f), 541.2(e) and 541.3(e) be increased to $300 per week ($200 per week if employed in Puerto Rico, the Virgin Islands or American Samoa), and that the special salary test for the motion picture industry in § 541.5a be increased to $250 per week.

The August 16 notice made clear that these proposed rates would, when adopted, be in effect for an interim period pending the completion and analysis of a study by the Bureau of Labor Statistics covering a six-month period in 1975.

The rapid increase in the cost of living since the salary tests were last adjusted justifies an interim increase in those tests pending completion of this study. Now, as before, it is believed that the widely accepted Consumer Price Index may be utilized as a guide for establishing these interim rates. The increase in the Consumer Price Index between March 1970 (114.5) and February 1974 (141.5) was 23.67 percent. It was this percentage rate, plus an upward adjustment for anticipated added increases during the period between February and August, 1974, that formed the basis of the regular salary tests set forth in the August 16 proposal. The actual increases which took place during that period would have justified a slightly higher salary rate for executive and administrative employees ($164 per week) and a slightly lower one for professional employees ($183 per week). However, in order to eliminate any inflationary impact, the interim rates hereinafter specified are set at a level slightly below the rates based on the CPI. As thus modified, these interim rates should, on the basis of all the available information, including wage and salary data relating to nonexempt employees, be well within the figures revealed by the subsequent study to be made in 1975. Because the interim rates are somewhat more conservative than the subsequent study may justify, no distinction will be made for employees covered prior to the Fair Labor Standards Amendments of 1966 and those covered by subsequent amendments to the Act. Therefore, a regular salary of not less than $155 per week will be required for bona fide executive and administrative employees. The salary test for bona fide professional employees will be set at $170 a week, thus maintaining the differential which currently exists between the salary tests for these employees and for bona fide executive and administrative employees. These rates will become effective on April 1, 1975.

An upset salary test for higher salaried executive, administrative, and professional employees has been a part of the regulations since 1950. It was adopted for administrative convenience and contemplated that the salaries specified in the proviso would be high enough to include only individuals whose exempt status was not in question. A bona fide executive, administrative, or professional employee who does not meet this higher salary test would, of course, qualify for exemption under the regular salary test if the other basic requirements are also met. The proposed upset salary test was $300 a week, but a careful review of the record convinces me that this rate is too high. There are, however, considerations which warrant a proportionate increase in the upset salary test. For example, there are indications that certain employers are utilizing the high salary test to employ otherwise nonexempt employees (i.e., those who perform work in excess of the 20 percent tolerance for nonexempt work or the 40 percent tolerance allowed in the case of executive and administrative employees in retail and service establishments) for excessively long workweeks. Such employees do not qualify for exemption under the regulations' regular salary tests and some may no longer qualify for exemption under the interim upset salary test which, based on the record before me, is set at not less than $250 per week, to become effective on April 1, 1975.

The interim rates for Puerto Rico, the Virgin Islands, and American Samoa will be adopted as proposed; i.e., $130 per week for executive and administrative employees, $150 per week for professional employees, and $200 per week for such employees under the upset or special high salary proviso. These rates (which do not apply to employees of the Federal Government) are to become effective in Puerto Rico, the Virgin Islands and American Samoa on April 1, 1975.

The interim special salary requirement for the motion picture industry in § 541.5a will also be adopted as proposed: i.e., $250 per week, effective April 1, 1975.

These interim rates, pending completion of the study to be made in 1975, are necessary because present economic conditions have substantially impaired the current salary tests as effective guidelines for determining the exempt status of bona fide executive, administrative and professional employees. The present rates have become obsolete and interim rates are required to protect the interests of all concerned, including employees and employers, and to enable the Wage and Hour Division to administer the Act in a proper and equitable manner. The use of interim rates is not, however, to be considered a precedent.

Accordingly, Part 541 of Title 29, Code of Federal Regulations, is amended as follows:

1. Paragraph (f) of § 541.1 is revised to read as follows:

§ 541.1 Executive.

* * * * *

(f) Who is compensated for his services on a salary basis at a rate of not less than $155 per week (or $130 per week, if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa), exclusive of board, lodging, or other facilities: *Provided*, That an employee who is compensated on a salary basis at a rate of not less than $250 per week (or $200 per week, if employed by other than the Federal Government in Puerto Rico, the Virgin Islands or American Samoa), exclusive of board, lodging, or other facilities, and whose primary duty consists of the management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section.

2. Paragraph (e) of § 541.2 is revised to read as follows:

§ 541.2 Administrative.

* * * * *

(e) (1) Who is compensated for his services on a salary or fee basis at a rate of not less than $155 per week ($130 per week, if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa), exclusive of board, lodging, or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e) (1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers in the school system, educational establishment, or institution by which employed: *Provided*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week ($200 per week if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa), exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

3. Paragraph (e) of § 541.3 is revised to read as follows:

§ 541.3 Professional.

* * * * *

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $170 per week ($150 per week, if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa), exclusive of board, lodging, or other facilities: *Provided*, That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a) (3) of this section: *Provided further*, That an employee who is compensated on a salary or fee basis at a rate of not less than $250 per week (or $200 per week, if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa), exclusive of board, lodging, or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1) or (3) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section.

4. Part 541 of Title 29, Code of Federal Regulations, is amended by adding a new section, § 541.52 as follows:

§ 541.52 Special provision for motion picture producing industry.

The requirements of §§ 541.1, 541.2, and 541.3 that the employee be paid "on a salary basis" shall not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least $250 a week (exclusive of board, lodging, or other facilities).

5. Paragraphs (a) and (b) of § 541.117 are to read as follows:

§ 541.117 Amount of salary required.

(a) Except as otherwise noted in paragraph (b) of this section, compensation on a salary basis at a rate of not less than $155 per week, exclusive of board, lodging, or other facilities, is required for exemption as an executive. The $155 a week may be translated into equivalent amounts for periods longer than 1 week. The requirement will be met if the employee is compensated biweekly on a salary basis of $310, semimonthly on a salary basis of $335.84 or monthly on a salary basis of $671.67. However, the shortest period of payment which will meet the requirement of payment "on a salary basis" is a week.

(b) In Puerto Rico, the Virgin Islands, and American Samoa, the salary test for exemption as an "executive" is $130 per week for other than an employee of the Federal Government.

* * * * *

6. Paragraph (b) of § 541.118 is amended to read as follows:

§ 541.118 Salary basis.

* * * * *

(b) *Minimum guarantee plus extras.*—It should be noted that the salary may consist of a predetermined amount constituting all or part of the employee's compensation. In other words, additional compensation besides the salary is not

inconsistent with the salary basis of payment. The requirement will be met, for example, by a branch manager who receives a salary of $155 or more a week and in addition, a commission of 1 percent of the branch sales. The requirement will also be met by a branch manager who receives a percentage of the sales or profits of the branch, if the employment arrangement also includes a guarantee of at least the minimum weekly salary (or the equivalent for a monthly or other period) required by the regulations. Another type of situation in which the requirement will be met is that of an employee paid on a daily or shift basis, if the employment arrangement includes a provision that the employee will receive not less than the amount specified in the regulations in any week in which the employee performs any work. Such arrangements are subject to the exceptions in paragraph (a) of this section. The test of payment on a salary basis will not be met, however, if the salary is divided into two parts for the purpose of circumventing the requirement of payment "on a salary basis". For example, a salary of $200 in each week in which any work is performed, and an additional $50 which is made subject to deductions which are not permitted under paragraph (a) of this section.

* * * * *

7. Section 541.119 is revised to read as follows:

§ 541.119 Special proviso for high salaried executives.

(a) Except as otherwise noted in paragraph (b) of this section, § 541.1 contains an upset or high salary proviso for managerial employees who are compensated on a salary basis at a rate of not less than $250 per week exclusive of board, lodging, or other facilities. Such a highly paid employee is deemed to meet all the requirements in paragraphs (a) through (f) of § 541.1 if the employee's primary duty consists of the management of the enterprise in which employed or of a customarily recognized department or subdivision thereof and includes the customary and regular direction of the work of two or more other employees therein. If an employee qualifies for exemption under this proviso, it is not necessary to test that employee's qualifications in detail under paragraphs (a) through (f) of § 541.1 of this Part.

(b) In Puerto Rico, the Virgin Islands, and American Samoa the proviso of § 541.1(f) applies to those managerial employees (other than employees of the Federal Government) who are paid on a salary basis at a rate of not less than $200 per week.

(c) Mechanics, carpenters, linotype operators, or craftsmen of other kinds are not exempt under the proviso no matter how highly paid they might be.

8. Paragraphs (a) and (b) of § 541.211 are revised to read as follows:

§ 541.211 Amount of salary or fees required.

(a) Except as otherwise noted in paragraphs (b) and (c) of this section, compensation on a salary or fee basis at a rate of not less than $155 a week, exclusive of board, lodging or other facilities, is required for exemption as an administrative employee. The requirement will be met if the employee is compensated biweekly on a salary basis of $310, semimonthly on a salary basis of $335.84, or monthly on a salary basis of $671.67.

(b) In Puerto Rico, the Virgin Islands, and American Samoa, the salary test for exemption as an administrative employee is $125 per for other than an employee of the Federal Government.

* * * * *

9. Section 541.214 is revised to read as follows:

§ 541.214 Special proviso for high salaried administrative employees.

(a) Except as otherwise noted in paragraph (b) of this section, § 541.2 contains a special proviso including within the definition of "administrative" an employee who is compenstated on a salary or fee basis at a rate of not less than $250 per week exclusive of board, lodging, or other facilities, and whose primary duty consists of either the performance of office or nonmanual work directly related to management policies or general business operations of the employer or the employer's customers, or the performance of functions in the administration of a school system, or educational establishment or institution, or of a department of subdivision thereof, in work directly related to the academic instruction or training carried on therein, where the performance of such primary duty includes work requiring the exercise of discretion and independent judgment. Such a highly paid employee having such work as his or her primary duty is deemed to meet all the requirements in § 541.2(a) through (e). If an employee qualifies for exemption under this provisio, it is not necessary to test the employee's qualifications in detail under § 541.2 (a) through (e).

(b) In Puerto Rico, the Virgin Islands, and American Samoa, the proviso of § 541.2(e) applies to those administrative employees other than an employee of the Federal Government who are compensated on a salary or fee basis of not less than $200 per week.

10. Paragraphs (a) and (b) of § 541.311 are to read as follows:

§ 541.311 Amount of salary or fees required.

(a) Except as otherwise noted in paragraphs (b) and (c) of this section, compensation on a salary or fee basis at a rate of not less than $170 per week, exclusive of board, lodging or other facilities, is required for exemption as a "professional employee." An employee will meet this requirement if paid a biweekly salary of $340, a semimonthly salary of $368.33 or a monthly salary of $736.67.

(b) In Puerto Rico, the Virgin Islands, and American Samoa the salary test for exemption as a "professional" for other than employees of the Federal Government is $150 per week.

* * * * *

11. Paragraphs (c) and (d) of § 541.313 are revised to read as follows:

§ 541.313 Fee basis.

* * * * *

(c) The adequacy of a fee payment. Whether it amounts of payment at a rate of not less than $170 per week to a professional employee or at a rate of not less than $155 per week to an administrative employee can ordinarily be determined only after the time worked on the job has been determined. In determining whether payment is at the rate specified in the regulations in Subpart A of this part the amount paid to the employee will be tested by reference to a standard workweek of 40 hours. Thus compliance will be tested in each case of a fee payment by determining whether the payment is at a rate which would amount to at least $170 per week to a professional employee or at a rate of not less than $155 per week to an administrative employee if 40 hours were worked.

(d) The following examples will illustrate the principle stated above:

(1) A singer receives $50 for a song on a 15-minute program (no rehearsal time is involved). Obviously the requirement will be met since the employee would earn $170 at this rate of pay in far less than 40 hours.

(2) An artist is paid $100 for a picture. Upon completion of the assignment, it is determined that the artist worked 20 hours. Since earnings at this rate would yield the artist $200 if 40 hours were worked, the requirement is met.

(3) An illustrator is assigned the illustration of a pamphlet at a fee of $150. When the job is completed, it is determined that the employee worked 60 hours. If the employee worked 40 hours at this rate, the employee would have earned only $100. The fee payment of $150 for work which required 60 hours to complete therefore does not meet the requirement of payment at a rate of $170 per week and the employee must be considered nonexempt. It follows that if in the performance of this assignment the illustrator worked in excess of 40 hours in any week, overtime rates must be paid. Whether or not the employee worked in excess of 40 hours in any week, records for such an employee would have to be kept in accordance with the regulations covering records for nonexempt employees (Part 516 of this chapter).

12. Section 541.315 is revised to read as follows:

§ 541.315 Special proviso for high salaried professional employees.

(a) Except as otherwise noted in paragraph (b) of this section, the definition of "professional" contains a special proviso for employees who are compensated on a salary or fee basis at a rate of at least $250 per week exclusive of board, lodging, or other facilities. Under this proviso, the requirements for exemption in § 541.3 (a) through (e) will be deemed to be met by an employee who receives the higher salary or fees and whose primary duty consists of the performance

of work requiring knowledge of an advanced type in a field of science or learning, or work as a teacher in the activity of imparting knowledge, which includes work requiring the consistent exercise of discretion and judgement, or consists of the performance of work requiring invention, imagination, or talent in a recognized field of artistic endeavor. Thus, the exemption will apply to highly paid employees employed either in one of the "learned" professions or in an "artistic" profession and doing primarily professional work. If an employee qualifies for exemption under this proviso, it is not necessary to test the employee's qualifications in detail under § 541.3 (a) through (e).

(b) In Puerto Rico, the Virgin Islands, and American Samoa the second proviso of § 541.3(e) applies to those "professional" employees (other than employees of the Federal government) who are compensated on a salary or fee basis of not less than $200 per week.

13. Section 541.601 is revised to read as follows:

§ 541.601 Special provision for motion picture producing industry.

Under § 541.5a, the requirement that the employee be paid "on a salary basis" does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least $250 a week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under §§ 541.1, 541.2, or 541.3 and who is employed at a base rate of at least $250 a week is exempt if he is paid at least pro rata (based on a week of not more than 6 days) for any week when he does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if he is employed at a daily rate under the following circumstances: (a) The employee is in a job category for which a weekly base rate is not provided and his daily base rate would yield at least $250 if 6 days were worked; or (b) the employee is in a job category having a weekly base rate of at least $250 and his daily base rate is at least one-sixth of such weekly base rate.

The higher minimum salary tests will be effective on April 1, 1975.

(Sec. 13, Stat. 1067, as amended; 29 U.S.C. 213; Reorganization Plan No. 6 of 1950 (3 CFR 1945–53 Comp. p. 1004); Secretary's Order No. 13–71 (3 CFR 8755), and Employment Standards Order 1–74 (39 FR 33841).

Signed this 12th day of February at Washington, D.C.

BETTY SOUTHARD MURPHY,
Administrator,
Wage and Hour Division.

[FR Doc.75-4433 Filed 2-18-75;8:45 am]

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

PART 1904—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

Employers of Ten or Fewer Employees

1. *Purpose.* Notice is hereby given pursuant to the Administrative Procedure Act, 5 U.S.C. 552(a)(1)(D) and sections 8(d) and 8(g)(2) of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) (29 U.S.C. 657 (d) and (g)(2)) of the Department of Labor's interpretation of the funding limitation in Title I of the Appropriations Act for Fiscal Year 1975 (Pub. Law 93–517). That Act provides as follows: "None of the funds appropriated in this Act shall be used to require recordkeeping and reporting under the Occupational Safety and Health Act of 1970 from employers of ten or fewer employees, and such exclusion shall be governed by the current rules and regulations in CFR, Title 29, Chapter XVII, Part 1904.15." This notice does not amend 29 CFR Part 1904 because of the temporary nature of the funding limitation in the Pub. Law 93–517, but it sets out the scope of that limitation and its relation to State plans approved under section 18 of the Act. Notice of the funding limitation has been prepared as a rulemaking document in order to give the public the most effective notice possible.

2. *Scope.* The funding limitation under Pub. L. 93–517 is applicable to all employers of ten or fewer employees covered by the Act. As stated in the preamble to the notice of proposed rulemaking on 29 CFR 1904.15, the term "employee" is used without limitation. Therefore, the term is intended to include all employees, whether full-time employees, part-time employees, or seasonal employees (37 FR 14316, July 19, 1972).

3. *Requirements.* (a) In accordance with 29 CFR 1904.15(a), an employer who had no more than ten (10) employees at any one time during calendar year 1973 need not comply with any of the requirements of 29 CFR Part 1904, except § 1904.8 concerning fatalities or multiple hospitalization accidents (i.e., he need not prepare the log, OSHA 100, the supplementary record, OSHA 101, nor prepare or post the summary, OSHA 102).

(b)(1) When an employer with only eight, nine, or ten employees is notified in writing in March, 1975 by the Bureau of Labor Statistics that he has been selected to participate in a statistical survey of occupational injuries and illnesses for 1974, he must report to the Bureau of Labor Statistics on the basis of records kept during calendar year 1974 (see the legislative history, Cong. Record H 11099, November 26, 1974).

(2) The exception to complying with the requirements of 29 CFR Part 1904 in paragraph (a) of this section shall, in accordance with 29 CFR 1904.15(b), not apply when an employer of only eight, nine, or ten employees has been notified in writing by the Bureau of Labor Statistics that he has been selected to participate in a statistical survey of occupational injuries and illnesses for 1975. If selected, an employer will be required to maintain a log of occupational injuries and illnesses, OSHA 100, in accordance with 29 CFR 1904.2 and to make reports in accordance with 29 CFR 1904.21 for the period of time which is specified in the notice.

4. State plans. Under section 18(c)(7) of the Act and 29 CFR 1902.3(k), a State plan is required to provide that employers maintain records and make reports to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) in the same manner and to the same extent as if the State plan was not in effect. Those provisions do not limit State authority, under State law, to require additional data or to implement recordkeeping requirements for all employers regardless of the number of employees. This interpretation of State authority has been applied with respect to the limitation on recordkeeping requirements for employers of seven or fewer employees. (See 29 CFR 1952.4(a), 39 FR 29181, August 14, 1974). That regulation requires States with approved plans to adopt recordkeeping and reporting requirements which are substantially identical to 29 CFR Part 1904 and approves the extension of the State requirements to employers of seven or fewer employees. Since the funding limitation in Pub. L. 93–517 only applies to recordkeeping and reporting required under the Federal Act, States with approved State plans may, consistent with State law, require, or continue to require, that employers of ten or fewer employees comply with State recordkeeping and reporting requirements.

5. Public notice. Because this notice involves an interpretation of a statute, public comment is determined to be unnecessary as authorized by 5 U.S.C. 553.

6. Effective date. This notice is effective February 12, 1975, and will continue to be applicable for as long at the funding limitation in Pub. Law 93–517 remains in effect, unless modified or revised by the Assistant Secretary in the FEDERAL REGISTER.

(Secs. 8(d), 8(g)(2), 84 Stat. 1598 (29 U.S.C. 657(d), 657(g)(2)); 5 U.S.C. 552(a)(1)(D)).

Signed at Washington, D.C. this 12th day of February, 1975.

JOHN STENDER,
Assistant Secretary of Labor.

JULIUS SHISKIN,
Commissioner of Bureau of Labor Statistics.

[FR Doc.75-4430 Filed 2-18-75;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75 048]

PART 117—DRAWBRIDGE OPERATION REGULATIONS, PEQUONNOCK RIVER, CONNECTICUT

Correction

Part 117 of Title 33 of the Code of Federal Regulations is amended by changing the spelling from "Poquonock" to "Pequonnock" as it appears in the heading of § 117.130 and § 117.131, and as it appears in § 117.130(a), § 117.130 (c) (2) and (4).

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499; 49 U.S.C. 1655 (g) (2); 49 CFR 1.46(c) (5), 33 CFR 1.05-1 (c) (4))

Effective date. This revision shall become effective on February 20, 1975.

Dated: February 13, 1975.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard Chief, Office of Marine Environment and Systems.

[FR Doc. 75-4459 Filed 2-18-75;8:45 am]

[CGD 3-75-3-R]

PART 127—SECURITY ZONES

Governors Island, New York

This amendment to the Coast Guard's Security Zone Regulations, establishes the waters of Buttermilk Channel, New York as a security zone. This security zone is established because of the presence of the Italian Fishing Vessel "Antonietta Madre" which, having been duly seized, is in the custody of the United States of America.

This amendment is issued without publication of a notice of proposed rule making and this amendment is effective in less than 30 days from the date of publication, because this security zone involves a foreign affairs function of the United States.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.318, to read as follows:

§ 127.318 Buttermilk Channel, New York.

That area of the waters of Buttermilk Channel, New York Harbor, within a 200 yard (radius) circle drawn from the center of the "Y" shaped pier on the eastern shore of Governors Island, N.Y.

(46 Stat. 220, as amended, 6(b), 80 Stat. 937; 50 U.S.C. Art. 191, 49 U.S.C. Art. 1655(b); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949–1953 Comp. 356, 778, 873, 3 CFR 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b))

Effective date: This amendment becomes effective on 12 February 1975:

Dated: February 12, 1975.

FRANK OLIVER,
Captain, U.S. Coast Guard Captain of the Port of New York.

[FR Doc.75-4460 Filed 2-18-75;8:45 am]

Title 40—Protection of the Environment

[FRL 330-2]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

PART 423—STEAM ELECTRIC POWER GENERATING POINT SOURCE CATEGORY

Miscellaneous Amendments and Corrections

Notice is hereby given that the Environmental Protection Agency (EPA) is correcting 40 CFR Part 423, Steam Electric Power Generating Point Source Category, as set forth below. 40 CFR Part 423 was promulgated on October 8, 1974, pursuant to §§ 301, 304 (b) and (c), 306(b), and 307(c) of the Federal Water Pollution Control Act as amended 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b), and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500 (the Act).

The purpose of this notice is to correct errors in the preamble and Subparts A through D. The corrections encompass typographical, clerical and editorial errors and do not involve any substantive or policy issues.

In FR Document 74-23333 appearing on pages 36186 through 36207 in the issue of October 8, 1974, make the following changes:

1. In the preamble, comment No. 3, 5th paragraph, line 15, the word "regliation" is corrected to "regulation" (39 FR 36188, 1st column).

2. In the preamble, comment No. 21, 2nd paragraph, line 27, delete the comma after the word "practiced" and insert the word "and" (39 FR 36196 1st column).

3. In the preamble, comment No. 22, 1st paragraph, line 15, the word "phosphorous" is corrected to "phosphorus" (39 FR 36196, 2nd column).

4. In the preamble, comment No. 22, 1st paragraph, line 16, the word "sewerage" is revised to "sewage" (39 FR 36196, 2nd column).

5. In the preamble, comment No. 22, 3rd paragraph, line 34, "56,000,000" is revised to "5,600,000" (39 FR 36196, 3rd column).

6. In the preamble, comment No. 29, 2nd paragraph, line 5, "280,000,000,000" is revised to "28,000,000,000" (39 FR 36197, 2nd column).

7. Section 423.11 (e), (h), and (l) shall be revised to read as follows:

§ 423.11 [Amended]

(e) The term "blowdown" shall mean the minimum discharge of recirculating water for the purpose of discharging materials contained in the process, the further buildup of which would cause concentrations or amounts exceeding limits established by best engineering practice.

* * * * *

(h) The term "low volume waste sources" shall mean, taken collectively as if from one source, wastewater from all sources except those for which specific limitations are otherwise established in this subpart. Low volume waste sources would include but are not limited to wastewaters from wet scrubber air pollution control systems, ion exchange water treatment systems, water treatment evaporator blowdown, laboratory and sampling streams, floor drainage, cooling tower basin cleaning wastes and blowdown from recirculating house service water systems. Sanitary wastes and air conditioning wastes are specifically not included in low volume waste sources.

* * * * *

(l) The term "recirculated cooling water" shall mean water which is passed through the main cooling condensers for the purpose of removing waste heat from the generating unit, passed through a cooling device for the purpose of removing such heat from the water and then passed again, except for blowdown, through the main cooling condensers.

§ 423.12 [Amended]

8. In § 423.12(b)(2) the word "biphenol" is revised to "biphenyl."

9. In § 423.12(b)(4) line 1, the word "quality" is revised to "quantity."

10. Section 423.12(b)(10) shall be revised to read as follows:

(10) In the event that waste streams from various sources are combined for treatment or discharge, the quantity of each pollutant or pollutant property controlled in paragraphs (b) (1) through (9) of this section attributable to each controlled waste source shall not exceed the specified limitation for that waste source.

§ 423.13 [Amended]

11. In § 423.13(b) the word "biphenol" is revised to "biphenyl."

12. In § 423.13(e) the word "sluicing" is revised to "transport water."

13. In § 423.13(h) the term "condenser" is revised to "cooling" both times the term occurs.

14. Section 423.13(l)(3) is revised to read as follows:

(3) Heat may be discharged in blowdown (overflow) from a cooling pond or cooling lake where the owner or operator of a unit otherwise subject to this limitation can demonstrate that a cooling pond, or cooling lake in service or

under construction as of the effective date of this regulation, is used to cool recirculated cooling water before it is recirculated to the main condensers.

§ 423.15 [Amended]

15. In section 423.15(b) the word "biphenol" is revised to "biphenyl."

§ 423.16 [Amended]

16. Section 423.16, 2nd paragraph, 4th and 5th lines of the table are revised by deleting "Do." in each line and substituting "No limitation" in each line.

17. In § 423.16, 3rd paragraph, line 8, the word "dischrage" is revised to "discharge."

18. Section 423.21 (d), (f), and (j) shall be revised to read as follows:

§ 423.21 [Amended]

* * * * *

(d) The term "blowdown" shall mean the minimum discharge of recirculating water for the purpose of discharging materials contained in the process, the further buildup of which would cause concentrations or amounts exceeding limits established by best engineering practice.

* * * * *

(f) The term "low volume waste sources" shall mean, taken collectively as if from one source, wastewater from all sources except those for which specific limitations are otherwise established in this subpart. Low volume waste sources would include but are not limited to wastewaters from wet scrubber air pollution control systems, ion exchange water treatment systems, water treatment evaporator blowdown, laboratory and sampling streams, floor drainage, cooling tower basin cleaning wastes and blowdown from recirculating house service water systems. Sanitary wastes and air conditioning wastes are specifically not included in low volume waste sources.

* * * * *

(j) The term "recirculated cooling water" shall mean water which is passed through the main cooling condensers for the purpose of removing waste heat from the generating unit, passed through a cooling device for the purpose of removing such heat from the water and then passed again, except for blowdown, through the main cooling condensers.

* * * * *

§ 423.22 [Amended]

19. In § 423.22(b)(2) the word "biphenol" is revised to "biphenyl."

20. Section 423.22(b)(10) shall be revised to read as follows:

(b) In the event that waste streams from various sources are combined for treatment or discharge, the quantity of each pollutant or pollutant property controlled in paragraphs (b) (1) through (9) of this section attributable to each controlled waste source shall not exceed the specified limitation for that waste source.

21. In § 423.23(b) the word "biphenol" is revised to "biphenyl."

22. In § 423.23(i), lines 4 and 5, the phrase "low volume waste sources" is deleted and the phrase "cooling tower blowdown" is substituted therefore.

23. In § 423.23(i), 3rd item in table "Phosphates" is revised to "Phosphorus."

§ 423.25 [Amended]

24. In § 423.25(b) the word "biphenol" is revised to "biphenyl."

§ 423.26 [Amended]

25. Section 423.26, 2nd paragraph, 4th and 5th lines of the table are amended by deleting "Do." in each line and substituting "No limitation" in each line.

§ 423.30 [Amended]

26. In section 423.30, 1st paragraph, 6th line, delete the word "generally."

27. Section 423.31 (c), (e) and (i) shall be revised to read as follows:

§ 423.31 [Amended]

* * * * *

(c) The term "blowdown" shall mean the minimum discharge of recirculating water for the purpose of discharging materials contained in the process, the further buildup of which would cause concentrations or amounts exceeding limits established by best engineering practice.

* * * * *

(e) The term "low volume waste sources" shall mean, taken collectively as if from one source, wastewater from all sources except those for which specific limitations are otherwise established in this subpart. Low volume waste sources would include but are not limited to wastewaters from wet scrubber air pollution control systems, ion exchange water treatment systems, water treatment evaporator blowdown, laboratory and sampling streams, floor drainage, cooling tower basin cleaning wastes and blowdown from recirculating house service water systems. Sanitary wastes and air conditioning wastes are specifically not included in low volume waste sources.

* * * * *

(i) The term "recirculated cooling water" shall mean water which is passed through the main cooling condensers for the purpose of removing waste heat from the generating unit, passed through a cooling device for the purpose of removing such heat from the water and then passed again, except for blowdown, through the main cooling condensers.

* * * * *

28. In § 423.31(h), 5th line, delete the word "process."

§ 423.32(b)(2) [Amended]

29. In § 423.32(b)(2) the word "biphenol" is revised to "biphenyl."

30. Section 423.32(b)(10) shall be revised to read as follows:

(10) In the event that waste streams from various sources are combined for treatment or discharge, the quantity of each pollutant or pollutant property controlled in paragraphs (b) (1) through (9) of this section attributable to each controlled waste source shall not exceed the specified limitation for that waste source.

§ 423.33 [Amended]

31. In section 423.33, 1st paragraph, 7th line, after "technology" insert "economically achievable."

32. In § 423.33(b) the term "condenser" is revised to read "cooling" both times the term occurs.

33. In § 423.33(b) the word "biphenol" is revised to "biphenyl."

34. In § 423.33(i), 3rd item in table, the word "Phosphate" is revised to "Phosphorus."

§ 423.40 [Amended]

35. In § 423.40, 1st paragraph, line 2, the word "resutling" is revised to "resulting."

§ 423.41 [Amended]

36. In § 423.41(c), 2nd line, insert the phrase "point source" before the word "rainfall."

Dated: January 29, 1975.

JOHN QUARLES,
Acting Administrator.

[FR Doc.75-4362 Filed 2-18-75;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E-157]

PART 101-32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES

Implementation of Federal Information Processing Standards Publications (FIPS PUBS) Into Solicitation Documents

This amendment adds standard terminology developed from Federal Information Processing Standards Publications (FIPS PUBS) initiated by the National Bureau of Standards, U.S. Department of Commerce.

The table of contents for Part 101-32 is amended by adding the following entries:

101-32.1304-15	FIPS PUB 32, optical character recognition character sets.
101-32.1304-16	FIPS PUB 33, character set for handprinting.
101-32.1305-3	FIPS PUB 30, software summary for describing computer programs and automated data systems.

Subpart 101-32.13—Implementation of Federal Information Processing Standards Publications (FIPS PUBS) Into Solicitation Documents

Sections 101-32.1304-15, 101-32.1304-16, and 101-32.1305-3 are added as follows:

§ 101-32.1304-15 FIPS PUB 32, optical character recognition character sets.

(a) FIPS PUB 32 provides the description, scope, and identification for different character sets (OCR-A and OCR-B)

to be used in the application of Optical Character Recognition (OCR) systems. (Technical specifications of the standard are included with FIPS PUB 32.)

(b) The standard terminology for use in solicitation documents is:

All applicable Optical Character Recognition (OCR) equipment or services resulting from this solicitation must comply with the provisions of FIPS PUB 32. Applicable OCR equipment also includes data input devices such as typewriters, line printers, and CRT displays. Applicable services include data preparation and processing of information represented in OCR form.

§ 101–32.1304–16 FIPS PUB 33, character set for handprinting.

(a) FIPS PUB 33 announces the adoption of the American National Standard X3.45–1974, Character Set for Handprinting, as a Federal standard. The standard provides the description, scope, and application rules for a character set for handprinting. (Technical specifications of the standard are not included with FIPS PUB 33.)

(b) The standard terminology for use in solicitation documents is:

All applicable Optical Character Recognition (OCR) equipment or services, which result from this solicitation and which are capable of reading handprinted material, must comply with FIPS PUB 33. The applicable services include data preparation and processing of information represented in OCR form.

§ 101–32.1305–3 FIPS PUB 30, software summary for describing computer programs and automated data systems.

(a) FIPS PUB 30 provides for the use of Standard Form 185, Federal Information Processing Standard Software Summary, and the instructions for describing computer programs and/or automated data systems for identification purposes. (Copies of SF–185 are available as a GSA Federal supply stock item FSN 7540–118–8541.)

(b) The standard terminology for use in solicitation documents is:

All documentation of computer programs and/or automated data systems that results from this solicitation must include completed SF–185 summaries as described by FIPS PUB 30.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective February 19, 1975.

Dated: February 6, 1975.

DWIGHT A. INK,
Acting Administrator of General Services.

[FR Doc.75–4448 Filed 2–18–75;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER G—EMERGENCY OPERATIONS

[General Order 75, 2d Rev., Amdt. 34]

PART 308—WAR RISK INSURANCE

Miscellaneous Amendments

In FR Doc. 74–21243, appearing in the FEDERAL REGISTER issue of September 13, 1974 (39 FR 33000), Part 308 was amended to reflect the following changes:

Amend §§ 308.6 *Period of interim binders and renewal procedure*, 308.106 *Standard form of war risk hull insurance interim binder and optional disbursements insurance endorsement*, 308.206 *Standard form of war risk protection and indemnity insurance interim binder*, and 308.305 *Standard form of Second Seamen's war risk insurance interim binder*, by changing the expiration dates contained therein to read "midnight April 7, 1975, G.m.t."

The same is hereby further amended by changing the expiration dates contained therein to read "midnight September 7, 1975, G.m.t."

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

Dated: February 12, 1975.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.75–4465 Filed 2–18–75;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1064—LIMITATION OF FREE BAGGAGE ALLOWANCE; NOTICE OF AND PROCEDURES FOR BAGGAGE EXCESS VALUE DECLARATION

[No. MC–C–6829]

[No. MC–C–6829 (Sub-No. 1)]

Limitation of Free Baggage Allowance—Greyhound Lines—Petition for Investigation and Limitation of Free Baggage Allowance—Reasonableness of the $50 Limitation

George M. Stafford, Chairman, to whom the matter which is the subject of this order has been assigned for action thereon.

Upon consideration of the records in the above-entitled proceedings (including the report and order of the Commission at 120 M.C.C. 719), and of the letter-petition of the National Bus Traffic Association, Inc., filed February 3, 1975; and

It appearing, That although the said letter-petition seeks postponement of the effective date of the regulations promulgated in these proceedings from March 3, 1975, to July 1, 1975, in order to provide adequate time for publication of new tariffs and the preparation of the required notices, such purposes may be accomplished within an extension of time until June 2, 1975, and good cause appearing therefor:

It is ordered, That the effective date of the order of December 4, 1974, in these proceedings be, and it is hereby postponed to June 2, 1975, and that the letter-petition in all other respects be, and it is hereby, denied.

Dated at Washington, D.C., this 10th day of February, 1975.

By the Commission, Chairman Stafford.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75–4458 Filed 2–18–75;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[26 CFR Part 178]

[Notice No. 287]

COMMERCE IN FIREARMS AND AMMUNITION

Pistols and Revolvers; Proposed Reporting Requirements on Multiple Sales

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Director, Bureau of Alcohol, Tobacco and Firearms, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, on or before March 21, 1975. Written comments or suggestions which are not exempt from disclosure by the Bureau of Alcohol, Tobacco and Firearms, may be inspected by any person upon compliance with 27 CFR 71.22(d)(7). The provisions of 27 CFR 71.31(b) shall apply with respect to designation of portions of comments or suggestions as exempt from disclosure. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing to the Director, within the 30-day period. In such case, a public hearing will be held, and notice of the time, place and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in 18 U.S.C. 923(g) (82 Stat. 1223).

Dated: November 11, 1974.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering amendments to the Commerce in Firearms and Ammunition regulations to require firearms licensees to report the sale or other disposition of two or more pistols or revolvers at one time, or during any five consecutive business days, to an unlicensed person. Authority to prescribe the proposed report is contained in 18 U.S.C. 923(g).

The purpose of the proposed regulations is to enable ATF to monitor and deter illegal interstate commerce in pistols and revolvers by unlicensed persons. Investigations and surveys conducted by ATF indicate that a large number of the pistols and revolvers used in the commission of crimes in States with strict firearms laws were originally sold in States with less strict firearms laws and then transported and sold illegally in interstate commerce.

A licensee is generally prohibited by 18 U.S.C. 922(b)(3) and 26 CFR 178.99 from selling firearms to nonlicensees who do not reside in the State where the licensee maintains his place of business. A nonlicensee is generally prohibited by 18 U.S.C. 922(a)(3) and 26 CFR 178.29 from transporting into or receiving into the State where he resides any firearms purchased or obtained outside the State. A nonlicensee is also generally prohibited by 18 U.S.C. 922(a)(5) and 26 CFR 178.30 from transferring, selling, trading, giving, transporting, or delivering any firearms to any other nonlicensee who the transferor knows, or has reasonable cause to believe, resides in any State other than that in which the transferor resides.

Current regulations in 26 CFR Part 178 prescribe a definition of the term "firearm" which generally includes all weapons other than antique firearms. Since the proposed reporting requirement would not apply to all firearms but rather only to pistols and revolvers, a precise definition of the terms "pistol" and "revolver" is being prescribed.

The proposed regulations will require a licensee to prepare and forward a report whenever the licensee sells or otherwise disposes of two or more pistols and/or revolvers to an unlicensed person at one time or during any five consecutive business days.

The information required to be submitted on the form prescribed by the proposed regulations will generally be the name, address and identification of the purchaser and a statement of the quantity and type of the pistols and revolvers involved in the multiple sale.

It is therefore proposed to amend the regulations in 26 CFR Part 178 as follows:

1. Section 178.11 is amended by adding, in alphabetical order, a definition of the terms "pistol" and "revolver" to read as follows:

§ 178.11 Meaning of terms.

* * * * *

Pistol. A weapon originally designed, made, and intended to fire a small projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).

* * * * *

Revolver. A small projectile weapon, of the pistol type, having a breechloading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

* * * * *

2. A new § 178.126a is added immediately following § 178.126 to prescribe reports of multiple sales of pistols and revolvers. The added provision reads as follows:

§ 178.126a Reporting multiple sales or other disposition of pistols and revolvers.

Each licensee shall prepare a report of multiple sales or other disposition whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols or revolvers, or any combination of pistols and revolvers totalling two or more, to an unlicensed person. The report shall be prepared on Form 3310.4, Report of Multiple Sale or Other Disposition of Pistols and Revolvers, and forwarded to the office specified thereon not later than the close of business on the day that the multiple sale or other disposition occurs.

EXAMPLE 1. A licensee sells a pistol and revolver in a single transaction to an unlicensed person. This is a multiple sale and must be reported not later than the close of business on the date of the transaction.

EXAMPLE 2. A licensee sells a pistol on Monday and sells a revolver on the following Friday to the same unlicensed person. This is a multiple sale and must be reported not later than the close of business on Friday. If the licensee sells the same unlicensed person another pistol or revolver on the following Monday, this would constitute an additional multiple sale and must also be reported.

EXAMPLE 3. A licensee maintaining business hours on Monday through Saturday sells a revolver to an unlicensed person on Monday and sells another revolver to the same person on the following Saturday. This does not constitute a multiple sale and need not be reported since the sales did not occur during five consecutive business days.

(82 Stat. 1223 (18 U.S.C. 923(g)))

[FR Doc.75-4405 Filed 2-18-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1207]

[Amdt. 1 to § 1207.403]

POTATO RESEARCH AND PROMOTION PLAN

Proposed Increase in Expenses

Consideration is being given to a $207,000 increase in expenses recommended by the National Potato Promotion Board.

The Potato Board was established pursuant to the Potato Research and Promotion Plan (7 CFR Part 1207) issued under the Potato Research and Promotion Act (7 U.S.C. 2611-2627).

All persons who desire to submit written data, views, or arguments in connection with this proposal may file the same in duplicate with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than March 7, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Statement of consideration. On June 19, 1974, the Secretary approved Potato Board expenses of $1,968,937, for the fiscal period ending June 25, 1975 (39 FR 22941).

On October 25, 1974, the Administrative Committee voted to budget an additional $50,000 for its merchandising project. Due to unexpectedly heavy participation by food chains in the improved retail display program, there is a need to buy more material and pay a temporary helper to properly service the program.

On February 1, 1975, the Administrative Committee voted to budget an additional $157,000 for a new advertising campaign to market the plentiful supplies of potatoes available by informing consumers that potatoes are now an even better bargain as an economical source of nutrients. The February 1 potato stocks on hand were 23 percent larger than a year earlier.

These proposed increases would result in a Potato Board budget of $2,175,937 for the fiscal period ending June 30, 1975.

The proposal is as set forth below:

Revise § 1207.403(a) (39 FR 22941) as follows:

§ 1207.403 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending June 30, 1975, by the National Potato Promotion Board for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate will amount to $2,175,937.

* * * * *

Dated: February 13, 1975.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.75-4452 Filed 2-18-75;8:45 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 728]

1976 NATIONAL ALLOTMENT FOR WHEAT

Proposed Determinations

Notice is hereby given that the Secretary of Agriculture proposes to make determinations and issue regulations relative to the 1976 national allotment for wheat. Section 379c(a)(1) of the Agricultural Adjustment Act of 1938, as amended by the Agriculture and Consumer Protection Act of 1973, requires that the Secretary proclaim a national wheat acreage allotment not later than April 15, 1975. The national allotment shall be the number of acres which the Secretary determines on the basis of the estimated national average yield will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for the crop. If the Secretary determines that carryover stocks are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks.

Prior to determining the 1976 national allotment, consideration will be given to any data, views and recomendations relative to the estimated national yield, estimated domestic utilization of wheat, estimated exports, estimated carryover and other data pertinent to this determination which are submitted in writing to the Director, Grain Division, agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than March 21, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

Signed at Washington, D.C., on February 11, 1975.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.75-4398 Filed 2-18-75;8:45 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

[15 CFR Part 9]

HOUSEHOLD APPLIANCES AND EQUIPMENT

Proposed Procedures on Voluntary Labeling Program To Effect Energy Conservation

Notice is hereby given that the Department of Commerce proposes to amend Part 9 of Title 15, Code of Federal Regulations, providing procedures for a voluntary labeling program for household appliances and equipment to effect energy conservation. Two amendments are under consideration.

The first such amendment would revise the definition of the term "manufacturer" at 15 CFR 9.2(b) to clarify the intention of the Department to include private brand labelers within that term. The revised definition has been employed in proposed and final specifications issued to date under Part 9 and it is appropriate to make the underlying procedures consistent with these.

The second such amendment would revise the list of appliances and equipment included in the program under 15 CFR 9.3 by adding television receivers to that list. The procedures, at § 9.3, provide that "additional appliances and equipment may be included in the program by the Secretary pursuant to rulemaking procedures as set out in 5 U.S.C. 553." It has been tentatively determined that it would be appropriate to add television receivers to the program because it appears that the technology is available to reduce significantly the energy consumption of these receivers given the incentive provided by this program, and because television receivers, as a group, consume significant amounts of energy, and any savings would be proportional to that. The Association of Home Appliance Manufacturers has estimated that in 1973 television receivers in the United States used the equivalent of 207 trillion Btu's of energy, amounting to 0.3 percent of the total national energy usage during that year. This amount exceeds the energy consumption of room air conditioners and clothes dryers, both of which are already included in the program.

Interested persons are invited to participate in the proposed rule making by submitting written comments or suggestions in four copies to the Assistant Secretary for Science and Technology, in Room 3862, U.S. Department of Commerce, Washington, D.C. 20230, on or before March 21, 1975.

A public docket will be available for examination by interested persons at the Central Reference and Records Inspection Facility of the Department of Commerce, Room 7043, Main Commerce Building, 14th Street between E Street and Constitution Avenue NW, Washington, D.C. 20203.

In consideration of the foregoing, it is proposed to amend Part 9 of Title 15, Code of Federal Regulations, as follows:

1. By revising paragraph (b) of § 9.2 to read as follows:

§ 9.2 Definitions.

* * * * *

(b) The term "manufacturer" means any person engaged in the manufacturing or assembling of new appliances or equipment in the United States, or in the

importing of such products for sale or resale, or any person whose brand or trademark appears on such products who owns such brand or trademark and has authorized its use on such products, if the brand or trademark of the person actually manufacturing or assembling the products does not appear on the products.

* * * * *

2. By revising the first sentence of § 9.3 to read as follows:

§ 9.3 Appliances and equipment included in program.

The appliances and equipment included in this program are room and central air conditioners, household refrigerators, home freezers, clothes washers, dishwashers, clothes dryers, kitchen ranges and ovens, water heaters, comfort heating equipment, and television receivers. * * *

(Sec. 2, 31 Stat. 1449, as amended, sec. 1, 64 Stat. 371; 15 U.S.C. 272, Reorganization Plan No. 3 of 1946, Part VI; Message from the President of the United States Concerning Energy Resources, April 18, 1973 (119 Cong. Rec. H2886); 15 CFR Part 9)

Issued February 13, 1975.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

[FR Doc.75-4400 Filed 2-18-75;8:45 am]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 522]

EMPLOYMENT OF INEXPERIENCED PERSONS AT SUBMINIMUM WAGES

Proposed Limited Pilot Project

Section 4(d)(3) of the Fair Labor Standards Amendments of 1974 (Pub. L. 93-259), as amended, provides in pertinent part that the Secretary of Labor shall conduct a continuing study on means to prevent curtailment of employment opportunities for manpower groups which, because of limited education, training and work experience, have had historically high incidences of unemployment. Each report of the results of such study shall include suggestions respecting the Secretary's authority under section 14 of the Act.

That section provides that the Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall "by regulations or by orders provide for the employment of learners * * *, under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe." (29 U.S.C. 214(a)). The term "learners" can include persons who, because of their limited education, training and work experience, will normally require more training and assistance from their employer.

Pursuant to these two sections, I propose to enter into an agreement with the Urban Institute, 2100 M Street, NW., Washington, D.C. 20037, for the conduct of a pilot project. Employers will be approved for participation in this project by the Wage and Hour Division.

Interested parties may present written data, views, and argument to the Administrator, Wage and Hour Division, Room 5146, U.S. Department of Labor, Washington, D.C. 20210, not later than March 21, 1975. Such submissions may bear on the substance and details of this proposal. Upon consideration of such submissions, any changes as are appropriate will be made in this part if, or when it is finally published in the FEDERAL REGISTER.

Part 522 of Title 29 would be amended by adding a new § 522.12 to read as follows:

§ 522.12 Issuance of certificates for a limited pilot project for the employment of inexperienced persons.

(a) Notwithstanding the provisions of § 522.1 through § 522.10, the Administrator may issue certificates to provide for the employment of inexperienced persons at less than the applicable minimum wage rate under section 6 of the Act as part of an experimental program to determine the effects of such lower wages on employment patterns of young and adult workers.

(b) The number of establishments participating in such project shall be limited to eight and shall, to the extent feasible, be geographically distributed so as to fairly represent all regions of the United States. The number of such workers shall not exceed the lesser of five percent of the workers in the establishment or 100.

(c) The Administrator shall designate such establishments, with due regard for avoiding the creation of unfair labor cost advantages and impairing or depressing wage or working standards established for experienced workers for work of a like or comparable character in the industry.

(d) The project shall be administered consistent with all purposes and provisions of the Fair Labor Standards Act.

(e) The special minimum rates of such workers shall be not less than 80 percent of the otherwise applicable minimum wage rate prescribed by section 6 of the Act.

(f) The issuance of any such certificate shall not create a substantial probability of reducing the full-time employment opportunities for other workers.

(g) The Administrator shall neither designate nor continue designation as a participant in this project, any employer who has engaged in conduct in violation of any provision of the Act which has not been remedied or which provides reasonable grounds to conclude that the terms and qualifications of the project may not be complied with, nor any employing establishment where abnormal labor conditions such as a strike, lock-out, or other similar condition exists.

(h) This pilot project shall be so designed as to reasonably assure that all such workers will continue in the employment of the employer after the termination of such project, at a rate equal to or in excess of the minimum wage rate prescribed by section 6 of the Act, and the Administrator is expected to obtain in writing satisfactory assurances for each such employer to that effect.

(i) This section shall terminate and have no force and effect after December 31, 1976.

(Secs. 4(d)(3) and 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; 29 U.S.C. 204, 214), Reorganization Plan No. 6 of 1950 (3 CFR 1945-53 Comp. p. 1004), and Secretary's Order No. 13-71 (36 FR 8755) and Employment Standards Order 1-74 (39 FR 33841).)

Signed at Washington, D.C. this 12th day of February 1975.

BETTY SOUTHARD MURPHY,
Administrator, Wage and Hour Division.

[FR Doc.75-4432 Filed 2-18-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Parts 144, 175, 176]

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM, COLLEGE WORK-STUDY PROGRAM, AND NATIONAL DIRECT STUDENT LOAN PROGRAM

Notice of Proposed Rule Making

Notice is hereby given that, pursuant to the authority contained in sections 464, 444, 413B and 413C, of the Higher Education Act of 1965, as amended (20 U.S.C. 1087dd, 42 U.S.C. 2754, and 20 U.S.C. 1070b-1 and 1070b-2), the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Parts 144, 175 and 176 of Title 45 of the Code of Federal Regulations governing the operation of the National Direct Student Loan (NDSL) Program, the College Work-Study (CWS) Program, and the Supplemental Educational Opportunity Grant (SEOG) Program, respectively. The proposed amendments would provide procedures and standards which the Commissioner would use to review and approve, on an annual basis, the various private systems used by institutions of higher education for calculating the expected family contributions for dependent students applying for assistance under these three programs. The proposed amendments would also revise the current regulations the coordination of financial aid programs administered by the Office of Education with other resources available to the student.

1. *Review and approval of need analysis systems.* Section 413B(a)(2)(C) of the Higher Education Act requires that the Commissioner "prescribe, for the guidance of institutions, basic criteria and schedules for the determination of the amount of need" of students who

apply for SEOG awards. Under the existing regulations (45 CFR 176.13), the Commissioner has exercised this statutory responsibility by approving certain, specifically named need analysis systems without specifying any duration for such approval. The same regulation further provides that the Commissioner will approve other systems or methods which produce expected family contribution figures which are comparable to those produced by the named systems, with the duration of such approval again being unspecified. The authorizing legislation for the NDSL and CWS programs permit the Commissioner to adopt similar provisions for these two programs. However, in order to administer the three programs involved herein in the manner best fulfilling their statutory purposes, the Commissioner has now determined that he should review these need analysis systems annually and should, each year, publish a list of those which he has approved for use by institutions during the subsequent year.

The proposed regulation set forth herein would provide the procedures and standards for such annual review and approval. The first element of these standards is merely a check that the method under review produces a comprehensive set of figures and maintains its internal consistency and validity. The second element establishes a set of benchmark figures for expected family contributions, which will be compared with the figures produced by the method or system submitted for approval. This set of figures is derived by referring to the previously approved system which was used by the greatest number of students, at a time when that system produced expected family contribution figures which the Commissioner determined met the statutory purposes of these three programs, and updating the output of that system in accordance with the changes in the Consumer Price Index. The updated figures thus produced become the benchmark by which all systems, including the one being used as the referent, are reviewed and approved. Each year, the Commissioner will make public a set of sample cases, comprised of various combinations of standard family characteristics, and the benchmark expected family contribution for each case. These benchmarks will be based upon updating, in accordance with CPI, and figures produced by the previously approved system used by the greatest number of students. Each need analysis system submitted for approval will be required to demonstrate that its method of calculating expected family contributions produces figures which are within $50 of the benchmark figures for at least 75% of the sample cases. Any system which produces figures within the parameters set forth above will then be approved for use in distributing Federal student assistance. Systems seeking approval will submit their results for the sample cases on or before June 30 and the list of approved systems will be published on or before September 1.

If, following the comment period, this proposed review mechanism is published as a final regulation, it is the Commissioner's intention to implement it immediately, so that it would apply to student aid awards to be used by students during the 1975–76 academic year. Consequently, as soon as a final regulation were to be published, the Commissioner would act as quickly as possible to approve systems and publish a list of approved systems, in order that such systems would be made known on a timely basis for the institutions to make award decisions for the 1975–76 academic period. The benchmark expected family contribution figures for the initial implementation of the review mechanism would be derived by reducing, by 20 percent, the 1974–75 "Expected Parent's Contributions From Adjusted Effective Income" published by the College Scholarship Service.

For the 1976–77 academic year, the normal time frame of system submission and approval would be in effect. That is to say, systems must be submitted by June 30, 1975 in order to appear in the Comissioner's September 1, 1975 list. Such systems would then be used by incontribution figures for that initial imapplication during the fall of 1975 and making decisions on awarding assistance for use by students during the 1976–77 academic year.

2. *Coordination with other student aid resources.* The second proposed amendment revises the current regulation for the SEOG program (45 CFR 176.14) regarding the institution's responsibilities for coordinating student aid programs administered by the Commissioner with other resources available to the student—the regulation commonly referred to as the "over-award provision"—and adds similar provisions for the NDSL and CWS programs. Under the proposed regulation, institutions would be required to use a need analysis system approved by the Commissioner pursuant to the provisions discussed in paragraph (1) above for determining the total amount of aid which may be awarded to a dependent student under the three programs covered by this notice and the Basic Educational Opportunity Grants Program. However, in determining whether such a student's total aid package (including assistance from sources other than the Federal programs) would result in an over-award, the institutions would be permitted to use other need analysis systems approved by the Commissioner which produce different expected family contribution figures. Thus, by using a different need analysis system for the purpose of resolving the over-award question, the institution may provide more total support to a dependent student that would be the case if the institution were required to use one of the systems approved under the procedures discussed in paragraph (1) above. The list of systems from which an institution may choose for the purpose of determining whether there is an over-award would include any system published by an organization which has had a system approved by the Commissioner for use in making awards to independent students under these three programs.

The use of two levels of parental contribution—one for determining need for purposes of calculating Federal assistance and a second for determining whether a student has received a total amount of aid in excess of his need—should be regarded as only an interim measure. Institutions' should be advised that it is the intention of the Commissioner to move as expeditiously as possible and in cooperation with concerned parties toward bringing these two levels of expected parental contribution into agreement. This interim measure should not be interpreted as giving approval to a dual standard of need, but merely as recognition of the hardship which might otherwise be experienced by institutions which have already made commitments to students using the measurement of expected family contribution which would, under this proposed regulation, be approved for purposes of determining maximum allowable assistance that may be awarded to a student receiving Federal funds.

3. *Independent students.* In making awards to independent students under the three programs covered by this notice the institutions would continue to follow the general procedures set forth in the existing regulations.

4. *Public comment.* Interested parties are invited to submit written comments, suggestions or objections regarding these proposed amendments to the regulations to Dr. John D. Phillips, Associate Commissioner for Student Assistance, U.S. Office of Education, DHEW, Room 4076, ROB#3, 7th and D Streets, S.W., Washington, D.C. 20202.

All relevant material received not later than March 21, 1975, will be considered. All written comments received in response to this notice will be available for public inspection at the above office on Mondays through Friday between 8:30 a.m. and 4:30 p.m.

In addition, in order to provide further opportunity for discussion a public hearing has been scheduled for 10 a.m. Friday, February 28, 1975 in the HEW auditorium, 330 Independence Avenue, SW., Washington, D.C. 20201. Persons desiring to present oral comments are requested to notify Dr. John D. Phillips at the above address no later than February 25, 1975.

(Catalog of Federal Domestic Assistance No. 13.418, Supplemental Educational Opportunity Grant Program; No. 13.463, Higher Education Work-Study; No. 13.471, National Direct Student Loans)

Dated: February 4, 1975.

DUANE J. MATTHEIS,
Acting U.S. Commissioner of Education.

Approved: February 13, 1975.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

PART 144—NATIONAL DIRECT STUDENT LOAN PROGRAM

1. Part 144 of Title 45 of the Code of Federal Regulations is amended by adding §§ 144.14 and 144.15, which read as follows:

§ 144.14 Approved need analysis systems.

(a) In order to comply with the requirements of § 144.7(b), an institution shall utilize a need analysis system or method of calculation approved by the Commissioner for that purpose pursuant to this section.

(b) Dependent students. (1) The Commissioner has approved the following systems for the purpose of § 144.7(b), with respect to dependent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190); and

(ii) The Income Tax System, if adjusted to reflect the number of the parents' dependent children who are attending institutions of higher education. For purposes of this section, the expected family contribution calculated according to the Income Tax System, shall be an amount equal to the amount of Federal income tax paid by the parents of a student, plus 5 percent of such parents' net assets in excess of $10,000 and any amount the student is reasonably able to contribute.

(2) The Commissioner will approve any other need analysis system for the purpose of § 144.7(b), for use with respect to dependent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected parents' contribution figures for dependent students which: (*a*) increase in reasonably smooth increments as the parents' financial strength, measured in real terms, increases; and (*b*) are equal for families of equal measured financial strength; and

(ii) The system must produce expected parents' contribution figures which, for at least 75 percent of a set of sample cases developed and made available by the Commissioner, deviate by less than $50 from the figures produced for such sample cases by decreasing the figures produced by the largest private system (excluding the Income Tax System) approved for use during the current fiscal year by the estimated percent increase in the Consumer Price Index between the December immediately preceding and the December immediately following the submission of the system for approval. In developing the set of sample cases to be made available for this purpose, the Commissioner shall select cases in which: (*a*) The parental income, net of Federal and State income taxes, social security tax and business expenses, is equal in the prior year and the current year; (*b*) parental assets, net of related debt and retirement allowance, are equal in the prior year and the current year; and (*c*) other family and financial circumstances are identical in the prior year and the current year.

(c) Independent students. (1) The Commissioner has approved the following systems for the purpose of § 144.7(b), with respect to independent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190); and

(ii) The system of need analysis published by the American College Testing Service; and

(iii) The system of need analysis published by the College Scholarship Service.

(2) The Commissioner will approve any other need analysis system for the purpose of § 144.7(b), for use with respect to independent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected family contribution figures for independent students which: (*a*) Increase in reasonably smooth increments as the family financial strength, measured in real terms, increases; and (*b*) are equal for families of equal measured financial strength; and

(ii) The system must produce expected family contribution figures which are comparable to those produced by one of the systems specified in paragraph (c)(1) of this section.

(d) Application procedures for system approval. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to paragraph (b)(2) of this section shall submit such system to the Commissioner prior to June 30 of each year. Such submission shall consist of sufficient information to enable the Commissioner to determine that the system meets the criteria set forth in that subparagraph, including the expected family contribution figures produced by the system for the sample cases developed and made available by the Commissioner. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to paragraph (c)(2) of this section shall, prior to June 30 of any year, submit to the Commissioner sufficient information to enable him to determine that the system meets the criteria set forth in that subparagraph. On or before September 1 of each year, the Commissioner will publish in the FEDERAL REGISTER a list of all need analysis systems or methods of calculation which have been approved for use in the succeeding academic year.

(e) Duration of approval. Need analysis systems approved pursuant to paragraphs (b)(1) and (c)(1) of this section are approved without a specific expiration date. A need analysis system approved pursuant to paragraph (b)(2) of this section, and included on the list published by the Commissioner on or before September 1, of one year, may be used by an institution (1) in preparing its application for funds under this part which is to be submitted on or before the published closing date next following that September 1; and (2) in determining the eligibility of students for loans under this part, and in calculating the amount of such loans, to be used by the students during any academic year commencing not earlier than 10 months and not later than 22 months following that September 1. A need analysis system approved pursuant to paragraph (c)(2) of this section shall be approved for an indefinite period of time, but the Commissioner may request periodic confirmation that the system remains in compliance with the criteria set forth in that paragraph.

(f) Adjustments. The institution may, in an individual case, further adjust the expected family contribution calculated according to one of the need analysis systems approved pursuant to this section if the student financial aid officer of the institution has reason to believe that such expected family contribution does not realistically reflect the ability of the student and his parents to contribute towards the student's cost of education. Such adjustments shall be documented in writing, with an accompanying explanation, and made a part of the institution's records with respect to this part.

(20 U.S.C. 1087dd)

§ 144.15 Coordination of student financial aid programs and overaward.

(a) The institution shall appoint an official who shall have the responsibility of coordinating the program covered by this part with the institution's other Federal and non-Federal programs of student financial aid.

(b) Dependent students. (1) The institution shall not award a loan under this part to a dependent student in an amount which, when combined with awards made to such student under the Basic Educational Opportunity Grants Program, the Supplemental Educational Opportunity Grants Program, and the College Work-Study Program, would exceed the difference between the student's cost of education at the institution and his expected family contribution, as determined in accordance with a need analysis system or method of calculation approved by the Commissioner pursuant to § 144.14(b).

(2) The institution shall not award a loan under this part to a dependent student which, when combined with all of the resources made available to the student from Federal and non-Federal sources, would exceed the difference between the student's cost of education and his expected family contribution, as determined in accordance with a need analysis system published by an organization which has a need analysis system currently approved by the Commissioner pursuant to § 144.14(c) for use in determining the expected family contributions of independent students; *provided*, however, That in no event may the total amount of aid received from all Federal and non-Federal resources exceed the student's cost of education.

(c) Independent students. The institution shall not award a loan under this part to an independent student in an amount which, when combined with all of the resources made available to the student from Federal and non-Federal sources, would exceed the difference between the student's cost of education and his expected family contribution, as determined in accordance with one of the need analysis systems or methods of calculations approved by the Commissioner pursuant to § 144.14(c); *provided*, however, That in no event may the total amount of aid received from all Federal and non-Federal resources exceed the student's cost of education.

(d) Resources. For purposes of paragraphs (b)(2) and (c) of this section, the term "resources made available to the student from Federal and non-Federal sources" includes any waiver of tuition and fees, any scholarship or grant-in-aid including athletic scholarships, any fellowship or assistantship, any loan made under the Guaranteed Student Loan Program (Title IV–B of the Higher Education Act) except in cases in which paragraph (e) of this section applies, any long-term loan made by the institution other than under the Guaranteed Student Loan Program, and any expected net earnings from employment during periods for which the student receives a loan under this part. For purposes of this section, "net earnings" means gross earnings minus required withholdings and any costs incidental to obtaining such earnings.

(e)(1) Except as provided in paragraph (e)(2) of this section, loans made under the Guaranteed Student Loan Program shall not be considered to be a student resource and may be used to satisfy the expected family contribution of the borrower calculated in accordance with § 144.14. If the amount of such a loan exceeds the borrower's expected family contribution, only such excess shall be considered a student resource.

(2) Loans for which interest benefits are payable under section 428 of Title IV–B of the Higher Education Act (20 U.S.C. 1078) shall be considered a student resource and may not be used to satisfy a student's expected family contribution in cases in which the borrower has an adjusted family income of more than $15,000, as determined in accordance with applicable Guaranteed Student Loan Program Regulations (45 CFR Part 177), or in cases in which the amount of the loan would cause the total amount of the borrower's loans insured by the Commissioner, or by a State or nonprofit private institution having an agreement with the Commissioner under section 428(b) of the Higher Education Act (20 U.S.C. 1078(b)), to exceed $2,000 for that academic year.

(f) The institution's responsibility under paragraphs (b)(2) and (c) of this section shall extend only to those resources which the institution itself makes available to the student, or about which it knows or has reason to know, or can reasonably anticipate at the time that the proceeds of the loan made under this part are disbursed to the student. The amount of net earnings from any employment provided by the institution for any academic period covered by the loan under this part shall be deemed to have been known by the institution at the time of the disbursement of such loan. However, an institution will not be deemed to have violated the requirements of this section if the sum of all the resources made available to the student, including a loan under this part, exceeded that student's need by not more than $100.

(20 U.S.C. 1087dd)

PART 175—COLLEGE WORK-STUDY PROGRAM

2. Part 175 of Title 45 of the Code of Federal Regulations is amended by adding §§ 175.17 and 175.18, which read as follows:

§ 175.17 Approved need analysis systems.

(a) In order to comply with the requirements of § 175.5(c), an institution shall utilize a need analysis system or method of calculation approved by the Commissioner for that purpose pursuant to this section.

(b) Dependent students. (1) The Commissioner has approved the following systems for the purpose of § 175.5(c), with respect to dependent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190); and

(ii) The Income Tax System, if adjusted to reflect the number of the parents' dependent children who are attending institutions of higher education. For purposes of this section, the expected family contribution calculated according to the Income Tax System shall be an amount equal to the amount of Federal income tax paid by the parents of a student, plus 5 percent of such parents' net assets in excess of $10,000 and any amount the student is reasonably able to contribute.

(2) The Commissioner will approve any other need analysis system for the purpose of § 175.5(c), for use with respect to dependent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected parents' contribution figures for dependent students which: (*a*) Increase in reasonable smooth increments as the parents' financial strength, measured in real terms, increases; and (*b*) are equal for families of equal measured financial strength; and

(ii) The system must produce expected parents' contribution figures which, for at least 75 percent of a set of sample cases developed and made available by the Commissioner, deviate by less than $50 from the figures produced for such sample cases by decreasing the figures produced by the largest private system (excluding the Income Tax System) approved for use during the current fiscal year by the estimated percent increase in the Consumer Price Index between the December immediately preceding and the December immediately following the submission of the system for approval. In developing the set of sample cases to be made available for this purpose, the Commissioner shall select cases in which: (*a*) The parental income, net Federal and State income taxes, social security tax and business expenses, are equal in the prior year and the current year; (*b*) parental assets, net of related debt and retirement allowance, are equal in the prior year and the current year; and (*c*) other family and financial circumstance are identical in the prior year and the current year.

(c) Independent students. (1) The Commissioner has approved the following systems for the purpose of § 175.5(c), with respect to independent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190);

(ii) The system of need analysis published by the American College Testing Service; and

(iii) The system of need analysis published by the College Scholarship Service.

(2) The Commissioner will approve any other need analysis system for the purpose of § 175.5(c), for use with respect to independent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected family contribution figures for independent students which: (*a*) Increase in reasonably smooth increments as the family financial strength, measured in real terms, increases; and (*b*) are equal for families of equal measured financial strength; and

(ii) the system must produce expected family contribution figures which are comparable to those produced by one of the systems specified in paragraph (c)(1) of this section.

(d) Application procedures for system approval. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to paragraph (b)(2) of this section shall submit such system to the Commissioner prior to June 30 of each year. Such submissions shall consist of sufficient information to enable the Commissioner to determine that the system meets the criteria set forth in that subparagraph, including the expected family contribution figures produced by the system for the sample cases developed and made available by the Commissioner. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to paragraph (c)(2) of this section shall, prior to June 30 of any year, submit to the Commissioner sufficient information to enable him to determine that the system meets the criteria set forth in that subparagraph

on or before September 1 of each year, the Commissioner will publish in the FEDERAL REGISTER a list of all need analysis systems or methods of calculation which have been approved for use in the succeeding academic year.

(e) Duration of approval. Need analysis systems approved pursuant to paragraphs (b)(1) and (c)(1) of this section are approved without a specified expiration date. A need analysis system approved pursuant to paragraph (b)(2) of this section, and included on the list published by the Commissioner on or before September 1 of one year, may be used by an institution (1) preparing its application for funds under this part which is to be submitted on or before the published closing date next following that September 1; and (2) in determining the eligibility of students for employment under this part and in calculating the amount of such employment to be made available to a student during any academic year commencing not earlier than 10 months and not later than 22 months following that September 1. A need analysis system approved pursuant to paragraph (c)(2) of this section shall be approved for an indefinite period of time, but the Commissioner may request periodic confirmation that the system remains in compliance with the criteria set forth in that paragraph.

(f) *Adjustments.* The institution may, in an individual case, further adjust the expected family contribution calculated according to one of the need analysis systems approved pursuant to this section if the student financial aid officer of the institution has reason to believe that such expected family contribution does not realistically reflect the ability of the student and his parents to contribute towards the student's cost of education. Such adjustments shall be documented in writing, with an accompanying explanation, and made a part of the institution's records with respect to this part.

(42 U.S.C. 2754)

§ 175.18 Coordination of student financial aid programs and over-award.

(a) The institution shall appoint an official who shall have the responsibility of coordinating the program covered by this part with the institution's other Federal and non-Federal programs of student financial aid.

(b) Dependent students. (1) The institution shall not award assistance under this part to a dependent student in the amount which, when combined with awards made to such student under the Basic Educational Opportunity Grants Program, the Supplemental Educational Opportunity Grants Program, and the National Direct Student Loan Program, would exceed the difference between the student's cost of education at the institution and his expected family contribution as determined in accordance with a need analysis system or method of calculation approved by the Commissioner pursuant to § 175.17(b).

(2) The institution shall not award assistance under this part to a dependent student which, when combined with all of the resources made available to the student from Federal and non-Federal sources, would exceed the difference between the student's costs of education and his expected family contribution, as determined in accordance with a need analysis system published by an organization which has a need analysis system currently approved by the Commissioner pursuant to § 175.17(c) for use in determining the expected family contributions of independent students; *Provided*, however, That in no event may the total amount of aid received from all Federal and non-Federal resources exceed the student's cost of education.

(c) Independent students. The institution shall not award assistance under this part to an independent student in an amount which, when combined with all of the resources made available to the student from Federal and non-Federal sources, would exceed the difference between the student's cost of education and his expected family contribution, as determined in accordance with one of the need analysis systems or methods of calculations approved by the Commissioner pursuant to § 175.17(c); *provided*, however, That in no event may the total amount of aid received from all Federal and non-Federal resources exceed the student's cost of education.

(d) *Resources.* For purposes of paragraphs (b)(2) and (c) of this section, the term "resources made available to the student from Federal and non-Federal sources" includes any waiver of tuition and fees, any scholarship or grant-in-aid including athletic scholarships, any fellowships or assistantship, any loan made under the Guaranteed Student Loan Program (Title IV-B of the Higher Education Act) except in cases in which paragraph (e) of this section applies, any long-term loan made by the institution other than under the Guaranteed Student Loan Program, and any expected net earnings from employment during periods for which the student receives assistance under this part. For purposes of this section, "net earnings" means gross earnings minus required withholdings and any costs incidental to obtaining such earnings.

(e) (1) Except as provided in paragraph (e)(2) of this section, loans made under the Guaranteed Student Loan Program shall not be considered to be a student resource and may be used to satisfy the expected family contribution of the borrower calculated in accordance with § 175.17. If the amount of such a loan exceeds the borrower's expected family contribution, only such excess shall be considered a student resource.

(2) Loans for which interest benefits are payable under section 428 of Title IV-B of the Higher Education Act (20 U.S.C. 1078) shall be considered a student resource and may not be used to satisfy a student's expected family contribution in cases in which the borrower has an adjusted family income of more than $15,000, as determined in accordance with applicable Guaranteed Student Loan Program Regulations (45 CFR Part 177), or in cases in which the amount of the loan would cause the total amount of the borrower's loan insured by the Commissioner, or by a State or nonprofit private institution having an agreement with the Commissioner under section 428(b) of the Higher Education Act (20 U.S.C. 1078(b)), to exceed $2,000 for the academic year.

(f) The institution's responsibility under paragraphs (b)(2) and (c) of this section shall extend only to those resources which the institution itself makes available to the student, or about which it knows or has reason to know, or can reasonably anticipate at the time that the assistance under this part is disbursed to the student. The amount of net earnings from any employment provided by the institution for any academic period during which the student is receiving assistance under this part shall be deemed to have been known by the institution at the time of the disbursement of such assistance. However, an institution will not be deemed to have violated the requirements of this section if the sum of all the resources made available to the student, including assistance under this part, exceeded that student's need by not more than $100.

(42 U.S.C. 2754)

PART 176—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS PROGRAM

3. Sections 176.13 and 176.14 of Title 45 of the Code of Federal Regulations are revised to read as follows:

§ 176.13 Approved need analysis systems.

(a) In order to comply with the requirements of § 176.12, an institution shall utilize a need analysis system or method of calculation approved by the Commissioner for that purpose pursuant to this secton.

(b) Dependent students. (1) The Commission has approved the following systems for the purpose of § 176.12(a):

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190); and

(ii) The Income Tax System, if adjusted to reflect the number of the parents' dependent children who are attending institutions of higher education. For purposes of this section, the expected family contribution calculated according to the Income Tax System shall be an amount equal to the amount of Federal income tax paid by the parents of a student, plus 5 percent of such parents' net assets in excess of $10,000 and any amount the student is reasonably able to contribute.

(2) The Commissioner will approve any other need analysis system for the purpose § 176.12(a) which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected parents' contribution figures for dependent students which: (a) increase in reasonably

smooth increments as the parents' financial strength, measured in real terms, increases; and (b) are equal for families of equal measured financial strength; and

(ii) The system must produce expected parents' contribution figures which, for at least 75 percent of a set of sample cases developed and made available by the Commissioner, deviate by less than $50 from the figures produced for such sample cases by decreasing the figures produced by the largest private system (excluding the Income Tax System) approved for use during the current fiscal year by the estimated percent increase in the Consumer Price Index between the December immediately preceding and the December immediately following the submission of the system for approval. In developing the set of sample cases to be made available for this purpose, the Commissioner shall select cases in which: (a) the parental income, net of Federal and State income taxes, social security tax, and business expenses, are equal in the prior year and the current year; (b) parental assets, net of related debt and retirement allowance, are equal in the prior year and the current year; and (c) other family and financial circumstances are identical in the prior year and the current year.

(c) Independent students. (1) The Commissioner has approved the following systems for the purpose of § 176.12 (b) with respect to independent students:

(i) The method of calculating an expected family contribution used in the Basic Educational Opportunity Grants Program (45 CFR Part 190);

(ii) The system of need analysis published by the American College Testing Service; and

(iii) The system of need analysis published by the College Scholarship Service.

(2) The Commissioner will approve any other need analysis system for the purpose of § 176.12(b) for use with respect to independent students, which is submitted in accordance with the procedures set forth in paragraph (d) of this section and which meets the following criteria:

(i) The system must produce, as its standard output, expected family contribution figures for independent students which: (a) increase in reasonably smooth increments as the family financial strength, measured in real terms, increases; and (b) are equal for families of equal measured financial strength; and

(ii) The system must produce expected family contribution figures which are comparable to those produced by one of the systems specified in paragraph (c) (1) of this section.

(d) Application procedures for system approval. Any person or institution seeking to have a need analysis system approved by the Commisioner pursuant to paragraph (b)(2) of this section shall submit such system to the Commissioner prior to June 30 of each year. Such submission shall consist of sufficient information to enable the Commissioner to determine that the system meets the criteria set forth in that subparagraph, including the expected family contribution figures produced by the system for the sample cases developed and made available by the Commissioner. Any person or institution seeking to have a need analysis system approved by the Commissioner pursuant to paragraph (c)(2) of this section shall, prior to June 30 of any year, submit to the Commissioner sufficient information to enable him to determine that the system meets the criteria set forth in that subparagraph. On or before September 1 of each year, the Commissioner will publish in the FEDERAL REGISTER a list of all need analysis systems or methods of calculation which have been approved for use in the succeeding academic year.

(e) Duration of approval. Need analysis systems approved pursuant to paragraphs (b)(1) and (c)(1) of this section are approved without a specified expiration date. A need analysis system approved pursuant to paragraph (b)(2) of this section, and included on the list published by the Commissioner on or before September 1 of one year, may be used by an institution (1) in preparing its application for funds under this part which is to be submitted on or before the published closing date next following that September 1; and (2) in determining the eligibility of students for awards under this part, and in calculating the amount of such awards, to be used by the students during any academic year commencing not earlier than 10 months and not later than 22 months following that September 1. A need analysis system approved pursuant to paragraph (c)(2) of this section shall be approved for an indefinite period of time, but the Commissioner may request periodic confirmation that the system remains in compliance with the criteria set forth in that paragraph.

(f) Adjustments. The institution may, in an individual case, further adjust the expected family contribution calculated according to one of the need analysis systems approved pursuant to this section if the student financial aid officer of the institution has reason to believe that such expected family contribution does not realistically reflect the ability of the student and his parents to contribute towards the student's cost of education. Such adjustments shall be documented in writing, with an accompanying explanation, and made a part of the institution's records with respect to this part.

(20 U.S.C. 1070b–1 and 1070b–2)

§ 176.14 Coordination of student financial aid programs and over-award.

(a) The institution shall appoint an official who shall have the responsibility of coordinating the program covered by this part with the institution's other Federal and non-Federal programs of student financial aid.

(b) Dependent students. (1) The institution shall not award a Supplemental Grant to a dependent student in the amount which, when combined with awards made to such student under the Basic Educational Opportunity Grants Program, the College Work-Study Program, and the National Direct Student Loan Program, would exceed the difference between the student's cost of education at the institution and his expected family contribution, as determined in accordance with a need analysis system or method of calculation approved by the Commissioner pursuant to § 176.13(b).

(2) The institution shall not award a Supplemental Grant to a dependent student which, when combined with all of the resources made available to the student from Federal and non-Federal sources, would exceed the difference between the student's cost of education and his expected family contribution, as determined in accordance with a need analysis system published by an organization which has a need analysis system currently approved by the Commissioner pursuant to § 176.13(c) for use in determining the expected family contributions of independent students; *provided*, however, That in no event may the total amount of aid received from all Federal and non-Federal resources exceed the student's cost of education.

(c) Independent students. The institution shall not award a Supplemental Grant to an independent student in an amount which, when combined with all of the resources made available to the student from Federal and non-Federal sources, would exceed the difference between the student's cost of education and his expected family contribution, as determined in accordance with one of the need analysis systems or methods of calculations approved by the Commissioner pursuant to § 176.13(c); *provided*, however, That in no event may the total amount of aid received from all Federal and non-Federal resources exceed the student's cost of education.

(d) Resources. For purposes of paragraphs (b)(2) and (c) of this section, the term "resources made available to the student from Federal and non-Federal sources" includes any waiver of tuition and fees, any scholarship or grant-in-aid including athletic scholarships, any fellowships or assistantship, any loan made under the Guaranteed Student Loan Program (Title IV–B of the Higher Education Act) except in cases in which paragraph (e) of this section applies, any long-term loan made by the institution other than under the Guaranteed Student Loan Program, and any expected net earnings from employment during periods for which the student receives a grant. For purposes of this section, "net earnings" means gross earnings minus required withholdings and any costs incidental to obtaining such earnings.

(e)(1) Except as provided in paragraph (e)(2) of this section, loans made under the Guaranteed Student Loan Program shall not be considered to be a student resource and may be used to satisfy

the expected family contribution of the borrower calculated in accordance with § 176.13. If the amount of such a loan exceeds the borrower's expected family contribution, only such excess shall be considered a student resource.

(2) Loans for which interest benefits are payable under section 428 of Title IV–B of the Higher Education Act (20 U.S.C. 1078) shall be considered a student resource and may not be used to satisfy a student's expected family contribution in cases in which the borrower has an adjusted family income of more than $15,000, as determined in accordance with applicable Guaranteed Student Loan Program Regulations (45 CFR Part 177), or in cases in which the amount of the loan would cause the total amount of the borrower's loans insured by the Commissioner, or by a State or nonprofit private institution having an agreement with the Commissioner under section 428(b) of the Higher Education Act (20 U.S.C. 1078(b), to exceed $2,000 for that academic year.

(f) The institution's responsibility under paragraphs (b)(2) and (c) of this section shall extend only to those resources which the institution itself makes available to the student, or about which it knows or has reason to know, or can reasonably anticipate at the time that the Supplemental Grant is disbursed to the student. The amount of net earnings from any employment provided by the institution for any academic period covered by the grant award shall be deemed to have been known by the institution at the disbursement of such grant. However, an institution will not be deemed to have violated the requirements of this section if the sum of all the resources made available to the student, including a grant under this part, exceeded that student's need by not more than $100.

(20 U.S.C. 1070b–1 and 1070b–2)

[FR Doc.75–4401 Filed 2–18–75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 415]

[317–3]

INORGANIC CHEMICALS MANUFACTURING POINT SOURCE CATEGORY

Notice of Proposed Rulemaking

Notice is hereby given that the Environmental Protection Agency (EPA) is proposing to amend 40 CFR 415, Inorganic Chemicals Manufacturing Point Source Category. The portions of Part 415 which are affected by the proposed amendments are as follows: Subpart F—Chlorine and Sodium or Potassium Hydroxide Production Subcategory, §§ 415.61 and 415.63; Subpart G—Hydrochloric Acid Production Subcategory, §§ 415.71, 415.72, 415.73 and 415.75; Subpart J—Nitric Acid Production Subcategory, §§ 415.101, 415.102, 415.103 and 415.105; Subpart Q—Sodium Dichromate and Sodium Sulfate Production Subcategory, §§ 415.171, 415.173; Subpart R—Sodium Metal Production Subcategory, §§ 415.181, 415.183, and 415.185; Subpart S—Sodium Silicate Production Subcategory, §§ 415.191, 415.193, 415.195; Subpart U—Sulfuric Acid Production Subcategory, § 415.211, 415.212, 415.213, and 415.215.

40 CFR 415 was promulgated on March 12, 1974 pursuant to sections 301, 304 (b) and (c), 306(b) and 307(c) of the Federal Water Pollution Control Act, as amended; 33 USC 1251, 1311, 1314 (b) and (c), 1316(b) and 1317(c); 86 Stat. 816 et seq., Pub. L. 92–500 (The Act) (39 FR 9612).

Point sources in these categories were required to achieve no discharge of "process waste water pollutants". Process waste water is defined as "any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product" (40 CFR § 401.11(q)).

The Agency's intention in developing this definition was to ensure that the regulations do apply to all waste waters generated during the manufacturing process while at the same time excluding waste streams such as noncontact cooling water, separate sanitary wastes, boiler blowdown, effluent from supply water treatment systems, etc. In some cases these non-process streams will be subject to effluent limitations which the Agency is presently developing. In any event, all such streams will be regulated in the individual permit proceedings. In either case, however, the effluent limitations promulgated in 40 CFR 415 were not intended to apply to them.

Subsequent to the promulgation the Agency has been furnished additional information which indicates that, in the context of no discharge requirements contained in Subparts F, G, J, Q, R, S and U, the existing definition of process waste water may be overly broad since it may be construed to apply to waste streams other than those directly connected with the production effort.

Accordingly, the Agency is now proposing to add to these subparts a definition of "contaminated non-process waste water". The purpose of this definition is to distinguish between those pollutant bearing streams which are attributable to, and correlated with, production and those ancillary streams which are not.

Based on additional information received and continuing internal review, the Agency has identified four ancillary sources of pollution from plants in the seven affected subcategories which should be controlled by available technology to which a no-discharge standard will not always be appropriate. These streams are: (1) Rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment which are repaired within the shortest reasonable time after discovery (which may not exceed 24 hours); and (4) discharges from safety showers and related personal safety equipment.

Pollutants contained in such streams may be discharged, subject to the provision that all reasonable measures have been taken to prevent, reduce and control the accidental contact with raw materials, etc., and thereafter to mitigate the effects of such contact once it has occurred.

In addition, information supplied by the industry indicates that in good practice such wastes are typically neutralized prior to discharge. Therefore, the proposed amendments would impose a pH limitation on discharges of contaminated non-process waste water. Limitations on other pollutant parameters may be appropriate for particular subcategories. The Agency thus solicits comments from the public identifying other pollutants of concern in ancillary discharges in these subcategories and indicating the levels of reduction attainable by the best practicable control technology currently available, the best available technology economically achievable, and by technology available and demonstrated for use by new sources.

Additionally, in order to obtain the information necessary to establish more complete effluent limitations for these waste streams, the permit issuing authority may require an applicant for a permit to identify and quantify contaminated non-process waste water and may impose monitoring conditions which will provide data on the nature and volume of pollutants discharged.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460, Attention: Ms. Ruth Brown, A–107. Comments on all aspects of the proposed regulations, including the potential applicability of the amendment to other subcategories in this segment of the inorganic chemicals industry which are also subject to a no discharge standard, are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify, and if possible, provide any additional data which may be available and should indicate why such data are essential to the development of the regulations. In the event comments address the approach taken by the Agency in distinguishing between process waste water and contaminated non-process waste water EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of §§ 301, 304(b), and 306 of the Act.

A copy of all public comments received will be available for inspection and copying at the EPA Freedom of Information Center, Room 204, West Tower, Waterside Mall, 401 M. St., S.W., Washington, D.C. All of the materials made available during the initial rulemaking leading to promulgation of the regulations proposed to be amended will also continue to be maintained at this location for public review and copying. The EPA Information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received on or before March 21, 1975, will be considered.

In consideration of the foregoing, it is proposed that 40 CFR Part 415 be amended in the manner set forth below.

Dated: January 29, 1975.

RUSSELL E. TRAIN,
Administrator.

Part 415 is amended as follows:

Subpart F—Chlorine and Sodium or Potassium Hydroxide Production Subcategory

1. Section 415.61 is amended by adding a new paragraph (e) to read as follows:

§ 415.61 Specialized definitions.

* * * * *

(e) The term, "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment provided that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

2. Section 415.63 is amended by adding a new paragraph (c) to read as follows:

§ 415.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

* * * * *

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from point sources subject to the provisions of this subpart:

Effluent limitations	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

Subpart G—Hydrochloric Acid Production Subcategory

3. Section 415.71 is amended by adding a new paragraph (b) to read as follows:

§ 415.71 Specialized definitions.

* * * * *

(b) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment provided that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.72 [Amended]

4. Section 415.72 is amended by inserting "(a)" before the sentence beginning "In establishing the limitations set forth in this section, * * *" and by adding a new paragraph (b) to read as follows:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from point sources subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

§ 415.73 [Amended]

5. Section 415.73 is amended by inserting "(a)" before the sentence beginning "The following limitations establish * * *" and adding a new paragraph (b) to read as follows:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from point sources subject to the provisions of this subpart:

Effluent charactertistic	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

§ 415.75 [Amended]

6. Section 415.75 is amended by inserting "(a)" before the sentence beginning "The following standards of performance * * *" and by adding a new paragraph (b) to read as follows:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from point sources subject to the provisions of this subpart:

Effluent characteristics:	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

Subpart J—Nitric Acid Production Subcategory

7. Section 415.101 is amended by adding a new paragraph (b) to read as follows:

§ 415.101 Specialized definitions.

* * * * *

(b) The term, "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment provided that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.102 [Amended]

8. Section 415.102 is amended by inserting "(a)" before the sentence beginning "In establishing the limitations set forth in this section * * *" and by adding a new paragraph (b) to read as follows:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from point sources subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

§ 415.103 [Amended]

9. Section 415.103 is amended by inserting "(a)" before the sentence beginning "The following limitations * * *" and by adding a new paragraph (b) to read as follows:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from point sources subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

§ 415.105 [Amended]

10. Section 415.105 is amended by inserting "(a)" before "The following standards of performance * * *", and by adding a new paragraph (b) to read as follows:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from point sources subject to the provisions of this subpart:

Effluent characteristic:	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

Subpart Q—Sodium Dichromate and Sodium Sulfate Production Subcategory

11. Section 415.171 is amended by adding a new paragraph (e) to read as follows:

§ 415.171 Specialized definitions.

* * * * *

(e) The term, "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment provided that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.173 [Amended]

12. Section 415.173 is amended by inserting "(a)" before the sentence beginning "The following limitations * * *"; by redesignating paragraphs (a) and (b) to (a)(1) and (a)(2); and by adding a new paragraph (b) to read as follows:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from point sources subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

Subpart R—Sodium Metal Production Subcategory

13. Section 415.181 is amended by adding a new paragraph (c) to read as follows:

§ 415.181 Specialized definitions.

* * * * *

(c) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment provided that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.183 [Amended]

14. Section 415.183 is amended by inserting "(a)" before the sentence beginning "The following limitations * * *"; by redesignating paragraphs (a) and (b) to (a)(1) and (a)(2); and by adding a new paragraph (b) to read as follows:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from point sources subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

§ 415.185 [Amended]

15. Section 415.185 is amended by inserting "(a)" before the sentence beginning "The following standards of performance * * *"; by redesignating paragraphs (a) and (b) to (a)(1) and (a)(2); and by adding a new paragraph (b) to read as follows:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from point sources subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

Subpart S—Sodium Silicate Production Subcategory

16. Section 415.191 is amended by adding a new paragraph (c) to read as follows:

§ 415.191 Specialized definitions.

* * * * *

(c) The term, "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment provided that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.193 [Amended]

17. Section 415.193 is amended by inserting "(a)" before the sentence beginning "The following limitations * * *"; by redesignating subparagraphs (a) and (b) to (a) (1) and (2); and by adding a new paragraph (b) to read as follows:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from point sources subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

§ 415.195 [Amended]

18. Section 415.195 is amended by inserting "(a)" before the sentence beginning "The following standards of performance * * *"; by redesignating subparagraphs (a) and (b) to (a)(1) and (2); and by adding a new paragraph (b) to read as follows:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from point sources subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

Subpart U—Sulfuric Acid Production Subcategory

19. Section 415.211 is amended by adding a new paragraph (b) to read as follows:

§ 415.211 Specialized definitions.

* * * * *

(b) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment provided that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.212 [Amended]

20. Section 415.212 is amended by inserting "(a)" before the sentence beginning "In establishing the limitations set forth in this section, * * *"; by redesignating subparagraphs (a) and (b) to (a)(1) and (a)(2); and by adding a new paragraph (b) to read as follows:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from point sources subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

§ 415.213 [Amended]

21. Section 415.213 is amended by inserting "(a)" before the sentence beginning "The following limitations * * *"; by redesignating subparagraphs (a) and (b) to (a) (1) and (2); and by adding a new paragraph (b) to read as follows:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from

point sources subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

§ 415.215 [Amended]

22. Section 415.215 is amended by inserting "(a)" before the sentence beginning "The following standards of performance * * *"; by redesignating subparagraphs (a) and (b) to (a) (1) and (2); and by adding a new paragraph (b) to read as follows:

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged in contaminated non-process wastewater from point sources subject to the provisions of this subpart:

Effluent characteristic	*Effluent limitations*
pH	Within the range 6.0 to 9.0.

[FR Doc.75-4363 Filed 2-18-75;8:45 am]

[40 CFR Part 428]

[FRL 334-5]

TIRE AND SYNTHETIC SEGMENT OF THE RUBBER PROCESSING POINT SOURCE CATEGORY

Proposed Effluent Guidelines and Standards

Notice is hereby given pursuant to sections 301, 304(b) and (c), 306(b) and 307(c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314(b) and (c), 1316(b) and 1317 (c); 86 Stat. 816 et seq.; Pub. L. 92-500) (the Act), that the Environmental Protection Agency is considering the regulations set forth in tentative form below as amendments to the effluent limitations and guidelines for existing sources and standards of performance and pretreatment standards for new sources for the tire and synthetic segment of the rubber processing point source category.

The proposal will amend 40 CFR Part 428, Tire and Synthetic Segment of the Rubber Processing Point Source Category, by amending the Tire and Inner Tube Plants Subcategory (Subpart A), the Emulsion Crumb Rubber Subcategory (Subpart B), the Solution Crumb Rubber Subcategory (Subpart C), and the Latex Rubber Subcategory (Subpart D).

Subsequent to the promulgation of regulations under 40 CFR Part 428 several affected firms petitioned the Agency to reconsider the regulations as they would apply to tire and inner tube plants constructed before 1959 and to those plants manufacturing acrylonitrile—butadiene rubber. An appreciable amount of information and data was submitted to indicate that provision should be made in the regulations to clarify which process waste water streams should be regulated, and to distinguish between process and nonprocess waste water streams in tire and inner tube plants constructed before 1959. Although tire and inner tube plants constructed after 1959 were designed to segregate process waste water and nonprocess waste water, older plants were not. As discussed in the Development Document, the Agency recognized that in pre-1959 plants major process waste water streams should be isolated from the combined plant effluents. Although the Development Document describes the technical process of isolation of process waste water streams in older tire plants, the regulation, itself does not clearly define which process waste water streams are to be regulated and which discharges from the plants are to be considered nonprocess waste water. Therefore, the proposed amendments to Subpart A of the regulation define which operations within tire and inner tube plants produce process waste waters as well as which nonprocess waste waters are subject to regulation.

A provision is made to control the concentration of oil and grease in nonprocess waste water for tire and inner tube plants contructed prior to 1959. The maximum for any one day is 10 mg/l and the average of daily values for 30 consecutive days shall not exceed 5 mg/l. Moreover, such older plants constructed prior to 1959 shall employ the best practicable maintenance and housekeeping practices in order to minimize the discharge of oil and grease in nonprocess waste waters.

An additional amendment removes the manufacture of acrylonitrile—butadiene rubber from regulation under Subpart B—Emulsion Crumb Rubber Subcategory. Existing data, including data submitted by industry, do not support application of the emulsion crumb rubber subcategory regulations to acrylonitrile—butadiene manufacturing. The Agency intends to gather such additional data as will be necessary to determine what limitations should be applicable to acrylonitrile—butadiene rubber manufacturing.

In view of the foregoing and after careful review and evaluation of all information and data relevant to the discharge of waste waters from the Tire and Inner Tube Plants and Emulsion Crumb Rubber Subcategories, the Environmental Protection Agency proposes to amend 40 CFR Part 428 in the following manner:

(1) For tire and inner tube plants constructed before 1959, the term "process waste water" is defined to mean discharges from: soapstone solution applications; steam cleaning operations; air pollution control equipment; unroofed process oil unloading areas; mold cleaning operations; latex applications; and air conditioners receivers. Discharges from other areas of such plants shall not be classified as process waste water. Also provision is made in the regulations to minimize the discharge of oil and grease in nonprocess waste water.

(2) The manufacturing of acrylonitrile—butadiene rubber is excluded from regulation under the Emulsion Crumb Rubber Subcategory.

(3) The definition of oil and grease in Subparts A, B, C and D is deleted. This definition is no longer needed, because a method for the identification of oil and grease now appears in 40 CFR Part 136 (38 FR 28758, Tuesday, October 16, 1973).

It is not anticipated that these amendments will alter either the technology required for compliance as set forth in "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Tire and Synthetic Segment of the Rubber Processing Point Source Category" February 1974 or the economic impact as set forth in "Economic Analysis of Proposed Effluent Guidelines Rubber Processing Industry," September 1973.

All comments and documentation supporting the proposed amendments of 40 CFR Part 428 will be maintained for inspection and copying during the comment period at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, S.W., Washington, D.C. Copies of the Development Document and the economic report will also be available for inspection at EPA regional offices and at State water pollution control agency offices. Copies of the Development Document may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis report are available for purchase through the National Technical Information Service, Springfield, Virginia 22151.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Freedom of Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Ms. Ruth Brown, A-107. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data are essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing an effluent limitation guidelines or standard of performance, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of §§ 301, 304(b), 306 and 307 of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Freedom of Information Center, Room 204, West Tower, Waterside Mall, 401 M Street, S.W., Washington, D.C. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying. All comments received on or before March 21, 1975, will be considered.

Dated: February 11, 1975.

JOHN QUARLES,
Acting Administrator.

Part 428 is proposed to be amended as follows:

Subpart A—Tire and Inner Tube Plants Subcategory

1. Section 428.10 is revised to read as follows:

§ 428.10 Applicability; description of the tire and inner tube plants subcategory.

The provisions of this subpart are applicable to discharges of process wastewater pollutants resulting from the production of pneumatic tires and inner tubes in tire and inner tube plants.

2. Section 428.11 is amended by revising paragraph (c) and adding new paragraphs (d) and (e), as follows:

§ 428.11 [Amended]

* * * * *

(c) The term "process waste water" shall mean, in the case of tire and inner tube plants constructed before 1959, discharges from the following: soapstone solution applications; steam cleaning operations; air pollution control equipment; unroofed process oil unloading areas; mold cleaning operations; latex applications; and air compressor receivers. Discharges from other areas of such plants shall not be classified as process waste water for the purposes of this section.

(d) Except as provided in paragraphs (c) and (e) of this section, the term "process waste water" shall have the meaning set forth in § 401.11(q) of this chapter.

(e) Water used only for tread cooling shall be classified as nonprocess waste water."

3. Section 428.12 is amended by designating the second paragraph as paragraph (a) and adding a new paragraph (b) as follows:

§ 428.12 [Amended]

* * * * *

(b) All plants constructed before 1959 shall employ the best practicable maintenance and housekeeping practices in order to minimize the discharge of oil and grease in nonprocess waste waters. The concentration of oil and grease in discharges of nonprocess waste water shall meet the following limitations:

(1) The average of daily values for 30 consecutive days shall not exceed 5 mg/l.

(2) The maximum for any one day shall not exceed 10 mg/l.

4. Section 428.13 is amended by designating the second paragraph as paragraph (a) and adding a new paragraph (b), as follows:

§ 428.13 [Amended]

* * * * *

(b) All plants constructed before 1959 shall employ the best available maintenance and housekeeping practices in order to minimize the discharge of oil and grease in nonprocess waste waters. The concentration of oil and grease in discharges of nonprocess waste waters shall meet the following limitations:

(1) The average of daily values for 30 consecutive days shall not exceed 5 mg/l.

(2) The maximum for any one day shall not exceed 10 mg/l.

Subpart B—Emulsion Crumb Rubber Subcategory

§ 428.21 [Amended]

5. Subpart B is amended by deleting paragraph (b) of § 428.21.

Subpart C—Solution Crumb Rubber Subcategory

§ 428.31 [Amended]

6. Subpart C is amended by deleting paragraph (b) of § 428.31.

Subpart D—Latex Rubber Subcategory

§ 428.41 [Amended]

7. Subpart D is amended by deleting paragraph (b) of § 428.41.

Subpart B—Emulsion Crumb Rubber Subcategory

8. It is proposed to revise § 428.20 to read as follows:

§ 428.20 Applicability; description of the emulsion crumb rubber subcategory.

The provisions of this subpart are applicable to discharges of pollutants resulting from the manufacture of emulsion crumb rubber, other than acrylonitrilebutadiene rubber.

[FR Doc.75-4359 Filed 2-18-75;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Org. Order 45-1, Amdt. 1, Transmittal 219]

ECONOMIC DEVELOPMENT ADMINISTRATION

Organization and Functions

This order, effective January 27, 1975, amends the material appearing at 40 FR 5549 of February 6, 1975.

Department Organization Order 45-1 dated December 24, 1974, is hereby amended as follows:

1. SECTION 1. *Purpose.* Paragraph .02 is amended to read:

.02 This revision modifies the procedures for approval of public works projects under Sections 101 and 201 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121) (the 'Act'), except that procedures for projects which require special action remain unchanged.

2. SEC. 11. *Economic Development Regional Offices.* In paragraph .02, delete subparagraph c., reletter the present subparagraph d. as c., and insert the following new subparagraph d.:

d. Forward appropriate processed public works projects documents to EDA headquarters with recommendations to the Assistant Secretary for approval or denial. On projects which require special action Washington staff offices will review the project file and recommend approval or disapproval to the Assistant Secretary.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

JANUARY 27, 1975.

[FR Doc.75-4399 Filed 2-18-75;8:45 am]

Office of the Secretary

CTAB PANEL ON SULFUR OXIDE CONTROL TECHNOLOGY

Meeting Cancellation

This is to announce that the planned meeting of the CTAB Panel on Sulfur Oxide Control Technology which was scheduled, on a contingency basis, for February 18, 19 and 20, 1975 in the Main Commerce Building, Washington, D.C. will not be held. The meeting was announced on page 3025 of the January 17, 1975 issue of the FEDERAL REGISTER.

Dated: February 13, 1975.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

[FR Doc.75-4724 Filed 2-18-75;10:59 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alchohol, Drug Abuse, and Mental Health Administration

INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR ALCOHOL ABUSE AND ALCOHOLISM

Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776), the Alcohol, Drug Abuse, and Mental Health Administration announces the establishment by the Secretary, Department of Health, Education, and Welfare, on February 4, 1975, of the following advisory committee:

Designation. Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism.

Purpose. The Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism shall evaluate the adequacy and technical soundness of all Federal programs and activities which relate to alcohol abuse and alcoholism and provide for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and seek to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.

This charter is effective through February 4, 1977.

Dated: February 12, 1975.

JAMES D. ISBISTER,
Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.75-4395 Filed 2-18-75;8:45 am]

NATIONAL ADVISORY MENTAL HEALTH COUNCIL AND BOARD OF SCIENTIFIC COUNSELORS, NIMH

Meetings

The Acting Administrator, Alcohol Drug Abuse, and Mental Health Administration, announces the meeting dates and other required information for the following National Advisory bodies scheduled to assemble the month of March 1975:

NATIONAL ADVISORY MENTAL HEALTH COUNCIL

March 17-19, 9:30 a.m.
Conference Room 14-105, Parklawn Bldg., Rockville, Maryland
Open—March 17; Closed—Otherwise
Contact Mrs. Zelia Diggs, Parklawn Bldg., Rm. 17C-26
5600 Fishers Lane, Rockville, Md. 20852, 301-443-4333.

Purpose. The National Advisory Mental Health Council advises the Secretary, Department of Health, Education, and Welfare, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.

Agenda. March 17 will be devoted to discussion of NIMH policy issues. These will include current administrative, legislative, and program developments. On March 18-19, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to provisions set forth in Sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code, and Section 10(d) of Public Law 92-463.

BOARD OF SCIENTIFIC COUNSELORS, NIMH

March 28-29, 9:30 a.m.
Conference Rm. 1B-07, Bldg. 36, National Institutes of Health, Bethesda, Maryland
Open—March 28, 9:30-10 a.m., Closed—Otherwise
Open—March 29, 9 a.m. to adjournment
Contact Dr. John C. Eberhart, Bldg. 36, Rm. 1A-05, NIH [1]
Bethesda, Maryland 20014, 301-496-3501.

Purpose. The Board of Scientific Counselors provides expert advice to the Director, NIMH, on the mental health intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.

Agenda. The Board will meet in Building 36, Room 1B-07, Bethesda, Maryland, for approximately 30 minutes for a report by the Director and Deputy Director of Intramural Research, NIMH, on recent administrative developments. The remainder of the first day's session will be devoted to the review of intramural research projects on depression and the evaluation of individual scientific programs, and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to provisions set forth in Section 552(b)(6), Title 5, U.S. Code, and Section 10(d) of Public Law 92-463. The second day will be devoted to a discussion of the role of the Board of Scientific Counselors in the review and evaluation

[1] Substantive information may be obtained from the contact persons listed above.

of the Intramural Research Program, and will be open to the public.

The NIMH Information Officer who will furnish summaries of the meetings and rosters of the committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Technical Information, National Institute of Mental Health, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone: Area Code 301-443-3600.

Dated: February 12, 1975.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.75-4396 Filed 2-18-75;8:45 am]

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; 5 U.S.C. App. I), the Food and Drug Administration announces the following public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act:

Committee name	Date, time, place	Type of meeting and contact person
1. Board of Tea Experts.	March 3, 10 a.m., Room 700, 850 3d Ave., Brooklyn, N.Y.	Open—Robert H. Dick, Food and Drug Administration, 850 3d Ave., Brooklyn, N.Y. 11232, 212-965-5739.

Purpose. Advises the Secretary regarding establishment of uniform standards of purity, quality, and fitness for consumption of all kinds of teas imported into the United States and makes appropriate recommendations with respect thereto.

Agenda. Comments and presentations by interested persons; selection of tea standards. Interested persons may present relevant information or views orally or in writing to the Board for its consideration.

Committee name	Date, time, place	Type of meeting and contact person
2. Neurologic Drugs Advisory Committee.	March 3 and 4, 9:30 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—Stephen Groft, (HFD-120), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3800.

Purpose. Reviews and evaluates available data concerning the safety and effectiveness of presently marketed and new prescription drug products for marketing for the treatment of neurologic diseases.

Agenda. Discussion of conflict of interest and the advisory committee member; use of antiemetics in Reye's Syndrome; decisionmaking criteria and processes; adequate and well controlled studies; possible future studies for marketed drugs; and discussion of NDA 17-615 (Elantrine, Lakeside Laboratories).

Committee name	Date, time, place	Type of meeting and contact person
3. Panel on review of sedative, tranquilizer, and sleep aid drugs.	March 3 and 4, 9 a.m., Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open March 3, 9 a.m. to 10 a.m., closed March 3 after 10 a.m., closed March 4, Michael Kennedy (HFD-109), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available information concerning safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing sedative, tranquilizer, and sleep aid drugs.

Agenda. Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter drug products under investigation.

Committee name	Date, time, place	Type of meeting and contact person
4. Panel on review of cold, cough, allergy, bronchodilator and antiasthmatic drugs.	March 5 and 6, 9 a.m., Conference Room H, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Closed March 5, 9 a.m. to 3:30 p.m., open March 5 after 3:30 p.m., closed March 6, Thomas D. DeCillis (HFD-109), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data on safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing cold, cough, allergy, bronchodilator, and antiasthmatic drug products.

Agenda. Closed session: Continued deliberation of the safety and efficacy of ingredients and combination guidelines of the panel. Open session: Comments and presentations by interested persons.

Committee name	Date, time, place	Type of meeting and contact person
5. Panel on review of general and plastic surgery devices.	March 7, 9:30 a.m., Room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open March 7, 9:30 a.m. to 10:30 a.m., closed after 10:30 a.m. Mark F. Parrish, Ph. D. (HFK-400), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3550.

Purpose. Reviews and evaluates available data concerning safety, effectiveness, and reliability of general and plastic surgery devices currently in use.

Agenda. Open session: Interested parties are encouraged to present information pertinent to the classification of diagnostic, prosthetic, and surgical devices (exclusive of instruments) listed in this announcement. Those desiring to make formal presentations should notify Mark Parrish, Ph. D., Executive Secretary, in writing by March 6, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments. The devices to be classified at this meeting are as follows: *Diagnostic devices:* arterial pressure manometers; biliary-pancreatoscopes; cameras—accessories, still, cine, television, endoscopic, microsurgical, surgical; chairs—accessories, electrical, hydraulic, mechanical, pneumatic; colonoscopes; endoscopes—accessories, fiberoptic, direct vision, mirror, prism, rigid, flexible; esophagoscopes; foreign body locators; gastroscopes; illuminating devices—accessories, flashlights, headlamps, instrument lights, transilluminators; laparoscopes; laryngoscopes; locators—electrical, magnetic, stimulator; manometers—invasive, noninvasive, manual, powered, aneroid, electronic, fluid, hydraulic, ultra-sound; measuring devices; mediastinoscopes; mirrors; monitors and analyzers and accessories—intermittent, continuous, invasive, noninvasive, on-line sensors (surface contact, pressure transducer, ultrasonic, electro-magnetic, chemical, pH electrode), signal conditioners (detectors, amplifiers, filters, signal transformation circuits), display devices (dial indicators, digital displays, cathode-ray tubes, signal lights, audible alarms, hard copy (strip chart, x-y recorders, photograph, microfilm, computer printout), logic module (electronic, digital computers, controllers); peritoneoscopes; proctoscopes; specula—accessories, illuminated, nonilluminated; sphygmoman-ometers; stethoscopes—direct, electronic-amplified; stimulators—muscle, nerve; tables—accessories, electrical, hydraulic, mechanical, pneumatic; thermometers-electronic, fluid column, liquid crystals; tongue blades. *Prosthetic devices:* external prostheses—adhesives, asthetic restoration materials, biological prostheses, braces (back, lower extremity, neck upper extremity), canes and crutches, facial fracture appliance, splints (extremities, nasal, postoperative-hand); internal prostheses—arterial graft, chin, eye, larynx, mammary, maxillofacial, otoplastry, penile, rhinoplastry, tendon, testicular; prosthesis kit and accessories; mesh—metallic, polymeric, surgical; materials—biological, fabrics, metallic, polymeric. *Surgical devices (exclusive of instruments):* air handling apparatus—bench type and accessories, enclosures and accessories, room (controls, cooling apparatus, distributors, ducts, filters, humidity control apparatus); apparel—aprons, caps, drapes and drape sets,

dresses, exhaust apparatus, gown (isolation, patient, surgical), helmets, hoods, masks, materials (conductive, nonconductive, woven, nonwoven), shoes, shoe covers, suits; applicators, bags—hemostatic, rectal, stomal; brushes—derm abrasion, biopsy, scrub, buckets; bucket frame with casters ("kick"); catheters—accessories (adaptors, catheter—dilators, connectors, catheter needles), gastrointestinal and general (biliary, cholangiography, eustachian, irrigation, peritoneal, rectal, ventricular), urinary (balloon types, continuous irrigation, transformer, surface materials (conducmultiple lumen, nephrostomy, pediatric, urethral, ureteral), vascular (balloon types, cardiovascular); chairs; cryosurgical apparatus—accessories, applicators, cryophthalmic units, cryosurgical probes, cryosurgical units, refrigerants, spray containers; electrical safety apparatus—conductivity tester, connectors and outlets (explosion proof, nonexplosion proof), ground fault indicators, isolation tive flooring); electrosurgical cutting and coagulation devices—accessories (cables, clamps and clips, cord testers, electrodes, electrode gels and creams, epilation needles, foot switches), generators (electron tube, solid state), patient indifferent cords, patient indifferent plates and ground plates, replacement spark gap assembly, stands and brackets. Closed session: Classification of diagnostic, prosthetic and surgical devices (exclusive of instruments).

Committee name	Date, time, place	Type of meeting and contact person
6. Panel on review of allergenic extracts.	March 7 and 8, 9 a.m., Room 121, Bldg. 29, National Institutes of Health, 8800 Rockville Pike, Bethesda, Md.	Open March 7, 9 a.m. to 10 a.m., closed March 7 after 10 a.m., closed March 8. Clay Sisk (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-496-2883.

Purpose. Reviews and evaluates available data concerning the safety, effectiveness, and adequacy of labeling of currently marketed biological products or materials, either singly or in combination, that are administered to man for the diagnosis, prevention, or treatment of allergies and allergic diseases.

Agenda. Open session: Previous minutes, communications received, and comments and presentations by interested persons. Closed session: Continuing review of allergenic extracts under investigation.

Committee name	Date, time, place	Type of meeting and contact person
7. Panel on review of hemorrhoidal drugs.	March 9 and 10, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Closed March 9, open March 10, 9 a.m. to 10 a.m., closed March 10 after 10 a.m. Thomas D. DeCillis (HFD-109), 5600 Fishers Lane Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data on safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing hemorrhoidal drug products.

Agenda. Closed session: Continuing review of over-the-counter hemorrhoidal drug products under investigation. Open session: Comments and presentations by interested persons.

Committee name	Date, time, place	Type of meeting and contact person
8. Clinical Chemistry Subcommittee of the Diagnostic Products Advisory Committee.	March 10 and 11, 9 a.m., Room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open March 10, 9 a.m. to 10 a.m., closed March 10 after 10 a.m., closed March 11, Eloise Eavenson, Ph. D. (HFK-200), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4590.

Purpose. Reviews and evaluates information pertaining to performance standards for selected diagnostic products, evaluates and recommends appropriate reference methodologies and standards of precision and accuracy for measuring such products and recommends priorities on presently marketed products for standard setting by the Food and Drug Administration.

Agenda. Open session: Interested parties are encouraged to present information pertinent to the development of product class standards and classification of clinical chemistry products listed in this announcement. Those desiring to make formal presentations should notify Dr. Eloise Eavenson in writing by March 1, 1975, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments. The diagnostic products to be reviewed for classification at the closed session meeting are in vitro diagnostic products used for the determination of glucose, calcium, sodium, potassium, lithium, magnesium, iron, lead chloride, phosphate, and bicarbonate. Closed Session: Review product inventory for the tentative classification of in vitro diagnostic products used for the determination of glucose, calcium, sodium, potassium, lithium, magnesium, iron, lead, chloride, phosphate and bicarbonate; evaluation of comments on the Proposed Glucose Product Class Standard; and evaluation of revised proposal for a draft of the Calibrator Product Class Standard.

Committee name	Date, time, place	Type of meeting and contact person
9. Panel on review of bacterial vaccines and bacterial antigens.	March 10 and 11, 9 a.m., Room 121, Bldg. 29, National Institutes of Health, 8800 Rockville Pike, Bethesda, Md.	Open March 10, 9 a.m. to 10 a.m., closed March 10 after 10 a.m., closed March 11. Jack Gerzog (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-496-1676.

Purpose. Advises the Commissioner of Food and Drugs on the safety and effectiveness of bacterial vaccines and bacterial antigens with no U.S. standards of potency.

Agenda. Open session: Previous minutes, communications received, and comments and presentations by interested persons. Closed session: Continuing review of bacterial vaccines and bacterial antigens under investigation.

Committee name	Date, time, place	Type of meeting and contact person
10. Panel on review of ear, nose, and throat devices.	March 10 and 11, 9:30 a.m., Room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open March 10, 9:30 a.m. to 12:30 p.m., closed March 10 after 12:30 p.m., closed March 11. Richard A. Hawkins, Ph. D. (HFK-400), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3550.

Purpose. Reviews and evaluates available data concerning safety, effectiveness, and reliability of ear, nose, and throat devices currently in use.

Agenda. Open session: Interested parties are encouraged to present information pertinent to the classification of ear, nose, and throat devices listed in this announcement. Submission of data is also invited on the tentative classification findings which may be obtained from Richard Hawkins, Ph. D., Executive Secretary. Those desiring to make formal presentations should notify Dr. Hawkins in writing by March 3, 1975, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments. The devices to be classified at this meeting are as follows: hearing aids; esophageal prosthesis; esophageal tubes; gelfoam; silastic implant material; tantalum prosthesis wire; teflon implant material; atticus punch; aural magnifiers; ear cannulae; ear curette; ear drapes; ear excavator; ear hook microsurgical; ear knife; ear pick microsurgical; ear rasp; ear scissor; ear snare; ear spoon; ear suction tubes; ear-lobe perforator; electric ear drills; maleus nipper; mastoid chisel; mastoid gouge; mastoid rongeur; mastoid searcher; measuring rods/gauges; middle-ear chisel; myringotomy knife; myrigotomy tube inserter; ossicle holding clamp; otoscopes AC powered; otoscopes battery powered; sacculotomy tack inserter; temporal bone holders; vein press; wire loop; directoscopes; intracordal injection sets; laryngeal knife; larygean saw; laryngeal trocar; laryngectomy tubes; laryngoscopes, AC powered; laryngoscopes, battery powered; laryngotoboscopes; life saving tubes; tracheostomy tubes; burrs; elevators ENT; endoscope; AC powered; endoscope, battery powered; fiberilluminators ENT; forceps ENT; head mirrors; headlights; mirrors ENT; mobilizers ENT; pneumatic drills; pneumatic saws; probes ENE; retractors ENT; rules and microrules; specula ENT; speculum holders ENT; surgical head supports; surgical microscopes; antroscopes AC powered; antrum perforator; antrum punch; epistaxis balloon; ethmoid curette; ethmoid punch; frontal-sinus rasp; nasal chisel; nasal curette; nasal dilator; nasal gouge; nasal knife; nasal knife; nasal punch; nasal rasp; nasal ronguer; nasal saw; nasal scissors; nasal snare; nasographs; sinus cannules; sinus irrigator; sinus trephine; sinus trocar; adenoid curette; adenoid punch; adenotomes; bite block; eustachian bougie; eustachian catheter; eustachian filliform sets; laryngeal telescope; mouth gag; nasopharygoscope; oral screw; salpingeal curette; tongue depressors; tonsil dissector; tonsil guillotines; tonsil knife; tonsil punch; tonsil screw; tonsil snare; tonsil suction tube; tonsil suturing hooks; tonsil suturing instruments special; tonsil suturing needles; tonsillectome; bronchial cannulae; bronchoscopes AC powered; bronchoscopes battery powered; esophageal bougie; esophageal dilator; esophageal probang; esophagoscopes, AC powered; esophagoscopes, battery powered; mediastinascopes; tracheal bistoury; tracheal dilator; tracheal hook; tracheal trocar; tracheal tube cleaning brushes. Closed session: Classification of devices listed above.

Committee name	Date, time, place	Type of meeting and contact person
11. Panel on review of cardiovascular devices.	March 11, 9:30 a.m., Room 4173, HEW-N, 330 Independence Ave. SW., Washington, D.C.	Open 9:30 a.m. to 10:30 a.m., closed after 10:30 a.m. Glenn A. Rahmoeller (HFK-400), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-2376.

Purpose. Reviews and evaluates available data concerning safety, effectiveness, and reliability of cardiovascular devices currently in use.

Agenda. Open session: During the open session there will be a presentation concerning a standards priority system for developing cardiovascular device standards. There will also be time for questions and comments from the public. Closed Session: During the closed session the panel will: (1) review recommendations made by its subcommittees concerning electrical safety standards and product development protocol guidelines for prosthetic heart valves, (2) review preliminary results of FDA research contracts related to this committee's responsibilities, and (3) discuss some compliance activities.

Committee name	Date, time, place	Type of meeting and contact person
12. Panel on review of topical analgesics.	March 13 and 14, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open March 13, 9 a.m. to 10 a.m., closed March 13 after 10 a.m., closed March 14. Lee Geismar (HFD-100), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription drug products for human use containing topical analgesics.

Agenda. Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter topical analgesics under investigation.

Committee name	Date, time, place	Type of meeting and contact person
13. Panel on review of contraceptives and other vaginal drug products.	March 14 and 15, 9 a.m., Conference room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open March 14, 9 a.m., to 10 a.m., closed March 14 after 10 a.m., closed March 15. Armond M. Welch (HFD-100), 5600 Fishers Lane, Rockville, Md. 20852. 301-443-4960.

Purpose. Reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription drug products containing contraceptives and other vaginal drug products.

Agenda. Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter drug products containing contraceptives and other vaginal drug products under investigation.

Committee name	Date, time, place	Type of meeting and contact person
14. FDA/NIDA Drug Abuse Research Advisory Committee.	March 17 and 18, 9 a.m., Murphy Hall, Room 2121, 405 Hilgard Ave., University of California at Los Angeles, Los Angeles, Calif.	Closed March 17, 9 a.m. to 3 p.m., open March 17 after 3 p.m., open March 18. John A. Seigliano, Ph. D. (HFD-120), 5630 Fishers Lane, Rockville, Md. 20852, 301-443-3701.

Purpose. Advises FDA on action to be taken on Notices of Claimed Investigational New Drugs for substances with abuse potential; advises NIDA on supplies of substances for clinical studies, quantities of substances for animal and in vitro studies beyond the maximum amount available by NIDA staff action, and requests for any amount of substances that involve protocols containing unique problems.

Agenda. Closed session: Review of IND applications; progress reports and drug requests for preclinical studies. Open session: Minutes of previous meeting; presentations and discussions on "Marihuana: One Species or Varieties?"; Student Drug Use Surveys, San Mateo County, California; the Freedom of Information Act; marihuana literature: lectures and discussions on "Chromosomal Studies in Marihuana Smokers"; Radioimmune Assay of THC and Related Molecules; the effect of cannabis on intraocular pressure; pulmonary function in moderate and heavy marihuana smokers; laboratory and drug treatment. Tour of facilities with demonstrations and discussion.

Committee name	Date, time, place	Type of meeting and contact person
15. Panel on review of internal analgesic including antirheumatic drugs.	March 17, 18, and 19, 9 a.m., Conference Room J, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open March 17, 9 a.m., to 10 a.m., closed March 17 after 10 a.m., closed March 18 and March 19. Lee Geismar (HFD-100), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of currently marketed nonprescription drug products for human use containing internal analgesic agents.

Agenda. Open session: Comments and presentations by interested persons. Closed session: Continuing review of nonprescription internal analgesic drug products under investigation.

Committee name	Date, time, place	Type of meeting and contact person
16. Panel on review of physical medicine (physiatry) devices.	March 18, 8 a.m., Room 6821, FB-8, 200 C St. SW., Washington, D.C.	Open March 18, 8 a.m. to 9 a.m., closed after 9 a.m. Robert C. Livingston, Ph. D. (HFK-400), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-2376.

Purpose. Reviews and evaluates available data concerning safety, effectiveness, and reliability of physical medicine (physiatry) devices currently in use.

Agenda. Open session: George Smith, Manager of Medical Devices, Pharmaceutical Manufacturers Association, will speak on performance standards and their content. Interested parties are encouraged to present information pertinent to the classification of physical medicine (physiatry) devices listed in this announcement. Submission of data is also invited on the tentative classification findings which may be obtained from Robert C. Livingston, Ph. D., Executive Secretary. Those desiring to make formal presentations should notify Dr. Livingston in writing by March 14, 1975, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments. The devices to be classified at this meeting are as follows: abdominal board; ankle, leg exerciser; arm, wrist and shoulder exerciser; balanced board; electric walking exerciser; exercise and workout bench; exerciser skates; finger exerciser; foot massager; hydraulic assist leg exerciser; knee exerciser with metal upholstered table; bicycle ergometer; bicycle exerciser; lower limb isokinetic exerciser and trainer; manual gravity walking exerciser; massaging apparatus; multipurpose exercise kit; multipurpose resistance exerciser unit; nylon covered polyfoam exercise mat; parallel bars; passive motion exerciser machine; rowing machine, hydraulic; rowing machine, mechanical; striking bag platform; therapeutic exercise device; vestibular board; vibrating massage belt; wood frame mirror; wooden exercise stairs; wooden top/metal platform exercise mat; electrical stimulator; infrared heating unit; microwave diathermy; pulsed diathermy; shortwave diathermy; ultrasonic diathermy; ultrasound and muscle stimulator machine; ultraviolet lamp; adjustable highchair; adjustable stool; adjustable suspension seat; arm bath; bath arm rest; mechanical patient transfer lift; mobile sitz bath; non-disposable sitz-bath bidet; paraffin bath; pool equipment; portable vibrating bath; portable whirlpool bath; sitz bath; tank top seat; thermo-jet foot bath; underwater treatment tank; water purification system; whirlpool bath; whirlpool therapy unit; whole body bath; wheelchairs; wheel chair attachments; walker, wheeled, adjustable, with seat, open end, folding; walker, wheeled, adjustable, with seat, open end, nonfolding; walker, wheeled, adjustable, with seat, closed end, folding; walker, wheeled, adjustable, with seat, closed end, nonfolding; walker, wheeled, multi-purpose, with runner; walker, wheeled, attachments: saddle seat, walker handbrakes, forearm rests, balance ring, rib belt, underarm supports, suspension frame, swivel locks on casters, pressure caster brakes, step-on caster brakes, 3-position caster brakes; walker, nonswivel wheels, triangular frame (rollator); walker, pickup, adjustable (walkerette, walking aid); walker, pickup, non-adjustable (walkerette, walking aid); walker, pickup, attachments: chair seat, sling seat, wheels, runners, underarm supports, forearm rests, basket, utility pouch; walker, pickup, reciprocal, adjustable; walker, pickup, for stairs, adjustable; hemi-walker; scoot-about. Closed session: The panel will classify devices listed above. A date will be set for the next meeting.

Committee name	Date, time, place	Type of meeting and contact person
17. Panel on review of antimicrobial agents.	March 21, 22, and 23, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open March 21, 9 a.m. to 10 a.m., closed March 21 after 10 a.m., closed March 22 and March 23. Armond M. Welch (HFD-109), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data concerning the safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing antimicrobial agents.

Agenda. Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter antimicrobial agents under investigation.

Committee name	Date, time, place	Type of meeting and contact person
18. Panel on review of miscellaneous internal drug products.	March 24 and 25, 9 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open March 24, 9 a.m. to 10 a.m., closed March 24 after 10 a.m., closed March 25. Armond M. Welch (HFD-109), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data on the safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing miscellaneous internal drug products.

Agenda. Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter miscellaneous internal drug products under investigation.

Committee name	Date, time, place	Type of meeting and contact person
19. Respiratory and Anesthetic Drugs Advisory Committee.	March 24, 9 a.m., Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open 9 a.m. to 11 a.m., closed after 11 a.m.; Gerald M. Rachanow (HFD-160), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3500.

Purpose. Advises the Commissioner of Food and Drugs regarding the safety and effectiveness of drugs employed in anesthesiology.

Agenda. Open session: Contraindications for halogenated anesthetic drugs and discussion of the presence of methyl methacrylate monomer in the operating room. Closed session: Discussion of IND 5836 (Wyeth Laboratories, Inc.), and discussion of IND 10,470 (Janssen R&D, Inc.).

Committee name	Date, time, place	Type of meeting and contact person
20. Panel on review of antiperspirant drug products.	March 24 and 25, 9 a.m., Conference Room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open March 24, 9 a.m. to 10 a.m., closed March 24 after 10 a.m., closed March 25. Lee Geismar (HFD-109), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available data concerning the safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing antiperspirant drug products.

Agenda. Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter antiperspirant drug products under investigation.

Committee name	Date, time, place	Type of meeting and contact person
21. Hematology Subcommittee of the Diagnostic Products Advisory Committee.	March 24 and 25, 9 a.m., Room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open March 24, 9 a.m. to 10 a.m., closed March 24 after 10 a.m., closed March 25. Eloise Eavenson, Ph. D., (HFK-200), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4590.

Purpose. Reviews and evaluates information pertaining to performance standards for selected diagnostic products, evaluates and recommends appropriate reference methodologies and standards of precision and accuracy for measuring such products and recommends priorities on presently marketed products for standard setting by the Food and Drug Administration.

Agenda. Open session: Interested parties are encouraged to present information pertinent to the development of product class standards and classificaion of in virto diagnostic products used in the hematology laboratory. Those desiring to make formal presentations should notify Dr. Eloise Eavenson in writing by March 15, 1975, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments. Closed Session: Discussion of classification approaches; review of information received in response to the Call for Information and Data for Hemoglobin Products; and review of proposal for a draft of a hemoglobin product class standard.

Committee name	Date, time, place	Type of meeting and contact person
22. Ad Hoc Committee on Reserpine and Breast Cancer.	March 24 and 25, 9 a.m., Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—John Jennings, M.D. (HFM-1), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4134.

Purpose. Reviews and evaluates available information on reserpine and advises the Secretary, Assistant Secretary for Health, and the Commissioner of Food and Drugs regarding possible carcinogenic properties, the risk of cancer of the breast and other cancer associated with the use of reserpine, considering such factors as dose, duration of treatment, age, predisposition, other drug treatment, and other diseases; further studies required to determine the possible association between reserpine and cancer.

Agenda. Charge to committee; consideration of published reports linking reserpine with increased risk of breast cancer; discussion of reserpine programs ongoing and proposed research: National Heart and Lung Institute, National Cancer Institute; National Institute of Mental Health, National Center for Health Statistics; discussion of report of the Joint Cardiovascular Renal Advisory Committee and Biometric and Epidemiological Methodology Advisory Committee on the association of reserpine and breast cancer; consideration of further research needs; and public discussions.

Committee name	Date, time, place	Type of meeting and contact person
23. National Advisory Food and Drug Committee.	March 27 and 28, 9 a.m., Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—William V. Whitehorn, M.D. (HFG-1), 5600 Fishers Lane, Rockville, Md. 20852 301-443-1547.

Purpose. Reviews and evaluates agency programs and provides advice and guidance to the Secretary, Assistant Secretary for Health, and the Commissioner of Food and Drugs on policy matters of national significance as they relate to FDA's statutory mission in the areas of foods, drugs, cosmetics, medical devices, biological products, and electronic products. Reviews and makes recommendations on applications for grants-in-aid for research projects relevant to the mission of FDA as required by law.

Agenda. Charge to committee; state of the agency reports: congressional investigations, ongoing programs, Freedom of Information regulations, procedural regulations, petitions, legislation, major policy problems, and discussion of deleterious substances in foods; discussion of guidelines for research grant requests; review of research grants applications; and other committee staff items.

Committee name	Date, time, place	Type of meeting and contact person
24. Subcommittee on the Radioactive Pharmaceuticals Advisory Committee.	March 27 and 28, 9 a.m., Conference Room J, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—C. H. Maxwell, M.D. (HFD-150), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4290.

Purpose. Reviews and evaluates available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for use in the practice of nuclear medicine.

Agenda. Guidelines for clinical evaluations of radioactive pharmaceutical drugs.

Committee name	Date, time, place	Type of meeting and contact person
25. Gastrointestinal Drugs Advisory Committee.	March 31 and April 1, 10 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Closed March 31, 10 a.m., to 2 p.m., open March 31 after 2 p.m., closed April 1, 10 a.m., to 11 a.m., open April 1 after 11 a.m., Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4740.

Purpose. Reviews and evaluates available data concerning the safety and effectiveness of presently marketed and new prescription drug products proposed for marketing for the treatment of gastrointestinal diseases.

Agenda. Closed session: Discussion of IND 6279 (Diphenoxinatropine, McNeil) and IND 8062 (Kinevac (Sincalide), Squibb). Open session: Discussion of IND 2906 (Biogastrone (Carbenoxolone), Biorex), NDA 7-073 (Azulfidine (Salicylazosulfapyridine) Pharmacia Labs), and NDA 17-657 (Cephulac (Lactulose), Merrell National).

Committee name	Date, time, place	Type of meeting and contact person
26. Panel on review of general hospital and personal use devices.	March 31 and April 1, 9 a.m., Room 1813, FB-8, 200 C St. SW., Washington, D.C.	Open March 31, 9 a.m. to 10 a.m., closed March 31 after 10 a.m., closed April 1. William C. Dierksheide, Ph. D. (HFK-400), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3570.

Purpose. Reviews and evaluates available data concerning safety, effectiveness, and reliability of general hospital and personal use devices currently in use.

Agenda. Open session: Interested parties are encouraged to present information pertinent to the classification of general hospital and personal use devices listed in this announcement. Those desiring to make formal presentations should notify William C. Dierksheide, Ph. D., Executive Secretary, in writing by May 18, 1975, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments. The devices to be classified at this meeting are as follows: chair, blood drawing and other; evacuated blood collection tubes; lancet, blood; manometer, spinal, venous pressure; needles, all; specimen collector, plastic bowl; stopcocks and adapters; syringes, piston (plastic and glass); cape, examination; drapes, modesty; glove, patient examination; gown, examination; tongue depressor; cuff inflators; manometer, aneroid (blood pressure); manometer, mercury (blood pressure); stethoscope, mechanical; stethoscope, ultrasonic; stethoscope, electronic; apnea monitors, nursery; alarm, oxygen depletion; blood pressure monitors—doppler, neonatal; blood pressure monitors—invasive transducer, neonatal; cardiac monitors—battery powered, neonatal; infusion line monitor; oxygen analyzers—invasive, neonatal; oxygen analyzers—noninvasive, neonatal; thermometers, electric; thermometers, general; kick bucket; operating lamps; operating tables; stool, foot; stool, hydraulic; dispenser, brush; grapes; glove, surgical; linen, surgical drop; powdering unit, glove; suit, scrub; wrappers, linen; drying unit, glove; ace bandages, abdominal binders; elastic stockings; perineal binders; scrotal supports; heart-lung resuscitator; jars, dressing; lavage, jet; mask, oxygen; oxygen regulators, reduction; oxygen regulators, flow meters; oxygen regulators, mixing; respirators, pressure, neonatal; respirators, volume, neonatal; respiratory, cardiac; resuscitators, manual; scales; scissors, general; skin closure, staple; skin closure, adhesive strip; skin closure, liquid adhesive; stand, mayo; suction tip; tubing; litters; mouth gags; oropharyngeal airways; padded boards; portable oxygen equipment; sheet, sterile, burn; spine boards; splint, inflatable; splint, padded wooden; stretchers, hand carried; stretchers, wheeled; traction splint, hinged half-ring, lower extremity; transport incubator, neonatal. A panel discussion will be held on medical device problems and their effect on patient care. Closed session: classification of devices listed above.

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant

information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus necessarily participate with the Commissioner in exercising his law enforcement responsibilities.

The Freedom of Information Act recognized that the premature disclosure of regulatory plans, or indeed internal discussions of alternative regulatory approaches to a specific problem, could have adverse effects upon both public and private interests. Congress recognizes that such plans, even when finalized, may not be made fully available in advance of the effective date without damage to such interests, and therefore provided for this type of discussion to remain confidential. Thus, law enforcement activities have long been recognized as a legitimate subject for confidential consideration.

These committees often must consider trade secrets and other confidential information submitted by particular manufacturers which the Food and Drug Administration by law may not disclose, and which Congress has included within the exemptions from the Freedom of Information Act. Such information includes safety and effectiveness information, product formulation, and manufacturing methods and procedures, all of which are of substantial competitive importance.

In addition, to operate most effectively, the evaluation of specific drug or device products requires that members of committees considering such regulatory matters be free to engage in full and frank discussion. Members of committees have frequently agreed to serve and to provide their most candid advice on the understanding that the discussion would be private in nature. Many experts would be unwilling to engage in candid public discussion advocating regulatory action against a specific product. If the committees were not to engage in the deliberative portions of their work on a confidential basis, the consequent loss of frank and full discussion among committee members would severely hamper the value of these committees.

The Food and Drug Administration is relying heavily on the use of outside experts to assist in regulatory decisions. The Agency's regulatory actions uniquely affect the health and safety of every citizen, and it is imperative that the best advice be made available to it on a continuing basis in order that it may most effectively carry out its mission.

A determination to close part of an advisory committee meeting does not mean that the public should not have ready access to these advisory committees considering regulatory issues. A determination to close the meeting is subject to the following conditions: First, any interested person may submit written data or information to any committee, for its consideration. This information will be accepted and will be considered by the committee. Second, a portion of every committee meeting will be open to the public, so that interested persons may present any relevant information or views orally to the committee. The period for open discussion will be designated in any announcement of a committee meeting. Third, only the deliberative portion of a committee meeting, and the portion dealing with trade secret and confidential information, will be closed to the public. The portion of any meeting during which nonconfidential information is made available to the committee will be open for public participation. Fourth, after the committee makes its recommendations and the Commissioner either accepts or rejects them, the public and the individuals affected by the regulatory decision involved will have an opportunity to express their views on the decision. If the decision results in promulgation of a regulation, for example, the proposed regulation will be published for public comment. Closing a committee meeting for deliberations on regulatory matters will therefore in no way preclude public access to the committee itself or full public comment with respect to the decisions made based upon the committee's recommendation.

The Commissioner has been delegated the authority under section 10(d) of the Federal Advisory Committee Act to issue a determination in writing, containing the reasons therefor, that any advisory committee meeting is concerned with matters listed in 5 U.S.C. 552(b), which contains the exemptions from the public disclosure requirements of the Freedom of Information Act. Pursuant to this authority, the Commissioner hereby determines, for the reasons set out above, that the portions of the advisory committee meetings designated in this notice as closed to the public involve discussion of existing documents falling within one of the exemptions set forth in 5 U.S.C. 552(b), or matters that, if in writing, would fall within 5 U.S.C. 552(b), and that it is essential to close such portions of such meetings to protect the free exchange of internal views and to avoid undue interference with Agency and committee operations. This determination shall apply only to the designated portions of such meetings which relate to trade secrets and confidential information or to committee deliberations.

Dated: February 11, 1975.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.75-4282 Filed 2-18-75;8:45 am]

ADVISORY COMMITTEES

Notice of Meetings

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the following public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act:

Committee name	Date, time, place	Type of meeting and contact person
1. Panel on Review of Oral Cavity Drug Products.	March 4 and 5, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open March 4, 9 a.m. to 10 a.m., closed March 4, after 10 a.m., closed March 5, John T. McElroy, (HFD-109), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960.

Purpose. Reviews and evaluates available information concerning the safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing oral cavity drug products.

Agenda. Open session: Comments and presentations by interested persons. Closed session: Continuing review of over-the-counter drug products under investigation.

Committee name	Date, time, place	Type of meeting and contact person
2. Panel Chairmen for Bureau of Medical Devices and Diagnostic Products.	March 5, 9 a.m., Room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open—Robert S. Kennedy, Ph.D., (HFK-400), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-2376.

Agenda. Mr. Rodney Munsey of the Pharmaceutical Manufacturers Association will present industry's views on the classification process. The panel chairmen will be briefed by FDA staff on FDA policy regarding release of information following panel meetings; on panel members' terms of service and the mechanisms employed to assure overlapping terms of service among panel members; on potential forms of publication of the panels' recommendations; and on the use of the review panels for Product Development Protocols. Interested persons are invited to attend.

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus necessarily participate with the Commissioner in exercising his law enforcement responsibilities.

The Freedom of Information Act recognized that the premature disclosure of regulatory plans, or indeed internal discussions of alternative regulatory approaches to a specific problem, could have adverse effects upon both public and private interests. Congress recognized that such plans, even when finalized, may not be made fully available in advance of the effective date without damage to such interests, and therefore provided for this type of discussion to remain confidential. Thus, law enforcement activities have long been recognized as a legitimate subject for confidential consideration.

These committees often must consider trade secrets and other confidential information submitted by particular manufacturers which the Food and Drug Administration by law may not disclose, and which Congress has included within the exemptions from the Freedom of Information Act. Such information includes safety and effectiveness information, product formulation, and manufacturing methods and procedures, all of which are of substantial competitive importance.

In addition, to operate most effectively, the evaluation of specific drug or device products requires that members of committees considering such regulatory matters be free to engage in full and frank discussion. Members of committees have frequently agreed to serve and to provide their most candid advice on the understanding that the discussion would be private in nature. Many experts would be unwilling to engage in candid public discussion advocating regulatory action against a specific product. If the committees were not to engage in the deliberative portions of their work on a confidential basis, the consequent loss of frank and full discussion among committee members would severely hamper the value of these committees.

The Food and Drug Administration is relying heavily on the use of outside experts to assist in regulatory decisions. The Agency's regulatory actions uniquely affect the health and safety of every citizen, and it is imperative that the best advice be made available to it on a continuing basis in order that it may most effectively carry out its mission.

A determination to close part of an advisory committee meeting does not mean that the public should not have ready access to these advisory committees considering regulatory issues. A determination to close the meeting is subject to the following conditions: First, any interested person may submit written data or information to any committee, for its consideration. This information will be accepted and will be considered by the committee. Second, a portion of every committee meeting will be open to the public, so that interested persons may present any relevant information or views orally to the committee. The period for open discussion will be designated in any announcement of a committee meeting. Third, only the deliberative portion of a committee meeting, and the portion dealing with trade secret and confidential information, will be closed to the public. The portion of any meeting during which nonconfidential information is made available to the committee will be open for public participation. Fourth, after the committee makes its recommendations and the Commissioner either accepts or rejects them, the public and the individuals affected by the regulatory decision involved will have an opportunity to express their views on the decision. If the decision results in promulgation of a regulation, for example, the proposed regulation will be published for public comment. Closing a committee meeting for deliberations on regulatory matters will therefore in no way preclude public access to the committee itself or full public comment with respect to the decisions made based upon the committee's recommendation.

The Commissioner has been delegated the authority under section 10(d) of the Federal Advisory Committee Act to issue a determination in writing, containing the reasons therefor, that any advisory committee meeting is concerned with matters listed in 5 U.S.C. 552(b), which contains the exemptions from the public disclosure requirements of the Freedom of Information Act. Pursuant to this authority, the Commissioner hereby determines, for the reasons set out above, that the portions of the advisory committee meetings designated in this notice as closed to the public involve discussion of existing documents falling within one of the exemptions set forth in 5 U.S.C. 552(b), or matters that, if in writing, would fall within 5 U.S.C. 552 (b), and that it is essential to close such portions of such meetings to protect the free exchange of internal views and to avoid undue interference with Agency and committee operations. This determination shall apply only to the designated portions of such meetings which relate to trade secrets and confidential information or to committee deliberations.

Dated: February 13, 1975.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.75-4389 Filed 2-18-75;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting

Notice is hereby given, pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), that the next meeting of the National Advisory Council on Indian Education will be held February 28, 1975 at 7:30 PM to 10:00 PM at 425 13th Street, NW, Washington, D.C. and on March 1-9, 1975 from 8:00 AM to 6:30 PM every day at Tempo B, Wing 8, 2nd Floor, 2nd and Q Streets, SW, Washington, D.C.

The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act (P.L. 92-318, Title IV, 20 U.S.C. 1221g). The Council, among other things, is directed to:

(1) advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including sections 241aa to 241ff and 887c of this title and with respect to adequate funding thereof;

(2) review applications for assistance under sections 241aa to 241ff, 887c, and 1211a of this title, and make recommendations to the Commissioner with respect to their approval;

(3) evaluate program and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under section 241bb(b) of this title; and

(6) to submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include statement of the National Council's recommendations to the Commissioner with respect to the funding of any such programs.

The first evening of the meeting will be open to the public beginning at 7:30 p.m. to 10 p.m. This meeting will be held at the National Advisory Council on Indian Education office at 425 13th Street, NW., Washington, D.C.

February 28, 1975, 7:30 p.m. to 10 p.m. the proposed agenda includes:

(1) Review of Title IV rules, regulations, and guidelines.

(2) Orientation of Proposal reading procedure.

The March 1-9, 1975, meeting of the National Advisory Council on Indian Education shall be closed to the public, since the Council members will be reviewing proposals that must be held in confidence, under the authority of the Federal Advisory Committee Act (Pub. L. 92-463) and under the exemptions contained in the Freedom of Information Act, 5 U.S.C. Section 552(b)(4) and (6), (Pub. L. 90-23), 45 CFR § 5.71(a) and § 5.71(b).

March 1-9, 1975.

The proposed agenda includes:

(1) Review of Title IV proposals submitted under Parts B-C and Part A non-LEAs.

(2) Make recommendations to the Commissioner with respect to their approval.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th Street, NW., Room 326, Washington, D.C. 20004.

Signed at Washington, D.C. on February 4, 1975.

DORRANCE D. STEELE,
Acting Executive Director.

[FR Doc.75-4469 Filed 2-18-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

COLORADO-UTE ELECTRIC ASSOCIATION, INC.

Draft Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a loan application from Colorado-Ute Electric Association, Inc., P.O. Box 1149, Montrose, Colorado 81401. The statement covers approximately 98 miles of new 230 kV transmission line from Boone, Pueblo County, Colorado, to Lamar, Prowers County, Colorado; approximately 2.5 mile section of 115 kV tie lines in Pueblo County, Colorado, between the proposed Boone Substation and the existing Midway-LaJunta 115 kV line; approximately 13 miles of new 115 kV transmission line in Prowers County, Colorado, from Lamar, Colorado, to South Lamar, Colorado; a new 100 MVA, 230-115 kV substation at Boone; a new 100 MVA, 230-115 kV substation at Lamar and a new 115 kV switching bay in the existing South Lamar Substation.

Additional information may be secured on request, submitted to Mr. David H. Askegaard, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Statement have been sent to various Federal, State and local agencies, as outlined in the Council on Environmental Quality Guidelines. The Draft Environmental Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, SW, Washington, D.C., Room 4310, or at the borrower address indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Askegaard at the address given above. Comments must be received on or before April 21, 1975.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 12th day of February 1975.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.75-4454 Filed 2-18-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

[CGD 75 037]

Coast Guard

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from December 23, 1974 to January 3, 1975 (List No. 1-75). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46 (b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

BUOYANT VESTS, KAPOK, OR FIBROUS GLASS

Approval No. 160.047/429/0, adult Model AK–1, standard kapok buoyant vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.047 and UL/MD report file No. MQ 143, Type II PFD, manufactured by Noble Products Company, 306 West Street, Caldwell, Ohio 43724, effective December 31, 1974. (It supersedes Approval No. 160.047/429/0 dated November 2, 1972 to show PFD type.)

Approval No. 160.047/430/0, child medium, Model CKM–1, standard kapok buoyant vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.047 and UL/MD report file No. MQ 143, Type II PFD, manufactured by Noble Products Company, 306 West Street, Caldwell, Ohio 43724, effective December 31, 1974. (It supersedes Approval No. 160.047/430/0 dated November 2, 1972 to show PFD type.)

Approval No. 160.047/431/0, child small, Model CKS–1, standard kapok buoyant vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.047 and UL/MD report file No. MQ 143, Type II PFD, manufactured by Noble Products Company, 306 West Street, Caldwell, Ohio 43724, effective December 31, 1974. (It supersedes Approval No. 160.047/431/0 dated November 2, 1972 to show PFD type.)

Approval No. 160.047/632/0, adult, Model AK–1, standard kapok buoyant vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.047 and UL/MD report file No. MQ 158, Type II PFD, manufactured by Swan Products Company, Inc., 25 Brighton Street, Passaic, New Jersey 07055, effective December 30, 1974. (It supersedes Approval No. 160.047/632/0 dated November 2, 1972 to show change of address of manufacturer.)

Approval No. 160.047/633/0, child medium, Model CKM–1, standard kapok buoyant vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.047 and UL/MD report file No. MQ 158, Type II PFD, manufactured by Swan Products Company, Inc., 25 Brighton Street, Passaic, New Jersey 07055, effective December 30, 1974. (It supersedes Approval No. 160.047/633/0 dated November 2, 1972 to show change of address of manufacturer.)

Approval No. 160.047/634/0, child small, Model CKS–1, standard kopak buoyant vest, manufactured in accordance with U.S.C.G. Specification Subpart 160.047 and UL/MD report file No. MQ 158, Type II PFD, manufactured by Swan Products Company, Inc., 25 Brighton Street, Passaic, New Jersey 07055, effective December 30, 1974. (It supersedes Approval No. 160.047/634/0 dated November 2, 1972 to show change of address of manufacturer.)

BUOYANT CUSHIONS, KAPOK, OR FIBROUS GLASS

Approval No. 160.048/231/0, group approval for rectangular and trapezoidal kapok buoyant cushions, U.S.C.G. Specification Subpart 160.048 and UL report file No. MQ 99, Type IV PFD, manufactured by Swan Products Company, Inc., 25 Brighton Street, Passaic, New Jersey 07055, effective December 30, 1974. (It supersedes Approval No. 160.048/231/0 dated November 1, 1971 to show change of address of manufacturer.)

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

Approval No. 160.050/23/0, 30-inch unicellular plastic ring life buoy, U.S.C.G. Specification Subpart 160.050, Type IV PFD, buoy bodies made by B. F. Goodrich Sponge Products Division of the B. F. Goodrich Company, Shelton, Connecticut, rigging and materials as per B. F. Goodrich Sponge Products Division dwg. 12988, revision 3 dated January 13, 1960, manufactured by Gladding Corporation, Flotation Division, Box 8277, Station A, Greenville, South Carolina 29604, formerly Style-Crafters, Inc., effective December 30, 1974. (It is an extension of Approval No. 160.050/23/0 dated February 18, 1970 and change of name of manufacturer.)

Approval No. 160.050/24/0, 24-inch unicellular plastic ring life buoy, U.S.C.G. Specification Subpart 160.050, Type IV PFD, buoy bodies made by B. F. Goodrich Sponge Products Division of the B. F. Goodrich Company, Shelton, Connecticut, rigging and materials as per B. F. Goodrich Sponge Products Division dwg. 12988, revision 3 dated January 13, 1960, manufactured by Gladding Corporation, Flotation Division, Box 8277, Station A, Greenville, South Carolina 29604, formerly Style-Crafters, Inc., effective December 30, 1974. (It is an extension of Approval No. 160.050/24/0 dated February 18, 1970 and change of name of manufacturer.)

Approval No. 160.050/25/0, 20-inch unicellular plastic ring life buoy, U.S.C.G. Specification Subpart 160.050, Type IV PFD, buoy bodies made by B. F. Goodrich Sponge Products Division of the B. F. Goodrich Company, Shelton, Connecticut, rigging and materials as per B. F. Goodrich Sponge Products Division dwg. 12988, revision 3 dated January 13, 1960, manufactured by Gladding Corporation, Flotation Division, Box 8277, Station A, Greenville, South Carolina 29604, effective December 30, 1974. (It is an extension of Approval No. 160.050/25/0 dated February 18, 1970 and change of name of manufacturer.)

INFLATABLE LIFE RAFTS

Approval No. 160.051/50/0, inflatable life raft, 6-person capacity, identified by general arrangement dwg. RFD–US–1072, revision No. 4 dated December 2, 1974, and Specification RFD–US–100, revision No. 3 dated December 9, 1974, satisfies temperature-exposure inflation quirements of 46 CFR 160.051–5(e)(11) as revised in FEDERAL REGISTER of March 13, 1974, manufactured by B. F. Goodrich, Engineered Systems Company, Union, West Virginia 24983, effective December 23, 1974.

Approval No. 160.051/51/0, inflatable life raft, 15-person capacity, identified by general arrangement dwg. RFD–US–1079, revision No. 4 dated December 2, 1974, and Specification RFD–US–100 revision No. 3 dated December 9, 1974, satisfies temperature-exposure inflation requirements of 46 CFR 160.051–5(e)(11) as revised in FEDERAL REGISTER of March 13, 1974, manufactured by B. F. Goodrich, Engineered Systems Company, Union, West Virginia 24983, effective December 23, 1974.

Approval No. 160.051/52/0, inflatable life raft, 20-person capacity, identified by general arrangement dwg. RFD–US–1000, revision 8 dated May 1, 1974, and Specification RFD–US–100, revision No. 3 dated December 9, 1974, statisfies temperature-exposure inflations requirements of 46 CFR 160.051–5(e)(11) as revised in FEDERAL REGISTER of March 13, 1974, manufactured by B. F. Goodrich, Engineered Systems Company, Union, West Virginia 24983, effective December 23, 1974.

WORK VESTS, UNICELLULAR PLASTIC FOAM

Approval No. 160.053/3/0, unicellular plastic foam work vest as per Military Specification MIL–L–17653A and U.S.C.G. Specification Subpart 160.053, Type V PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29604, formerly Style-Crafters, Inc., effective December 30, 1974. (It is an extension of Approval No. 160.053/3/0 dated February 18, 1970 and change of name of manufacturer.)

SIGNALS, DISTRESS, FLOATING ORANGE SMOKE (15 MINUTES), FOR MERCHANT VESSELS

Approval No. 160.057/3/0, floating orange smoke 15-minute distress signal, manufactured by Kilgore Corporation, general arrangement dwg. No. C A 49, Sheet 1 dated June 27, 1968, Sheet 2, Rev. A dated September 29, 1969, dwg. No. B–50 dated October 12, 1968 and U.S.C.G. letter dated January 30, 1970, manufactured by Kilgore Corporation, Toone, Tennessee 38381, effective December 30, 1974. (It is an extension of Approval No. 160.057/3/0 dated February 2, 1970.)

DESALTER KITS, SEA WATER, FOR MERCHANT VESSELS

Approval No. 160.058/1/0, desalter kits, sea water, Type BM–6318, U.S.C.G. Specification 160.058, manufactured by Ionac Chemical Company, Birmingham, New Jersey 08011, effective December 30, 1974. (It is an extension of Approval No. 160.058/1/0 dated February 17, 1970.)

MARINE BUOYANT DEVICE

Approval No. 160.064/118/1, adult small, Model No. 3965, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 38, factory location: Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, effective December 30, 1974. (It supersedes Approval No. 160.064/118/1 dated April 10,

1974 to show change in model and address of company.)

Approval No. 160.064/119/1, adult medium, Model No. 3960, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 38, factory location: Ero Industries, Inc., 308 S. William Street, Hazelhurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, effective December 30, 1974. (It supersedes Approval No. 160.064/119/1 dated April 10, 1974 to show change in model and address of company.)

Approval No. 160.064/120/1, adult large, Model No. 3955, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 38, factory location: Ero Industries, Inc., 308 S. William Street, Hazelhurst, Georgia 31539, Type III PFD, manufatured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, effective December 30, 1974. (It supersedes Approval No. 160.064/120/1 dated April 10, 1974 to show change in model and address of company.)

Approval No. 160.064/121/1, adult small, Model No. 63262 SML, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 48, Type III PFD, manufactured by Ero Industries, Inc., 308 S. William Street, Hazelhurst, Georgia 31539, for Sears, Roebuck and Company, 925 S. Homan Avenue, Chicago, Illinois 60607, effective December 31, 1974. (It supersedes Approval No. 160.064/121/1 dated April 19, 1974 to show change in model No.)

Approval No. 160.064/122/1, adult medium, Model No. 63262 Med, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 48, Type III PFD, manufactured by Ero Industries, Inc., 308 S. William Street, Hazelhurst, Georgia 31539, for Sears, Roebuck and Company, 925 S. Homan Avenue, Chicago, Illinois 60607, effective December 31, 1974. (It supersedes Approval No. 160.064/122/1 dated April 19, 1974 to show change in model No.)

Approval No. 160.064/123/1, adult large, Model No. 63262 LGE, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 48, Type III PFD, manufactured by Ero Industries, Inc., 308 S. William Street, Hazelhurst, Georgia 31539, for Sears, Roebuck and Company, 925 S. Homan Avenue, Chicago, Illinois 60607, effective December 31, 1974. (It supersedes Approval No. 160.064/123/1 dated April 19, 1974 to show change in model No.)

Approval No. 160.064/189/1, adult X-small, Model No. 3970, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 38, factory location: Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, effective December 30, 1974. (It supersedes Approval No. 160.064/189/1 dated April 10, 1974 to show change in model and address of company.)

Approval No. 160.064/190/1, adult X-small, Model No. 63262 XSML, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 48, Type III PFD, manufactured by Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, for Sears, Roebuck and Company, 925 S. Homan Avenue, Chicago, Illinois 60607, effective December 31, 1974. (It supersedes Approval No. 160.064/190/1 dated April 19, 1974 to show change in model No.)

Approval No. 160.064/225/0, child medium, cloth covered unicellular plastic foam "Yachtsmans Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, formerly Ero Manufacturing Company, effective December 30, 1974. (It supersedes Approval No. 160.064/225/0 dated August 1, 1972 to show change of name and address of company.)

Approval No. 160.064/274/0, adult X-small, Model Yachtsmans II, cloth covered unicellular plastic foam "Yachting Jacket", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, formerly Ero Manufacturing Company, effective December 30, 1974. (It supersedes Approval No. 160.064/274/0 dated August 1, 1972 to show change of name and address of company.)

Approval No. 160.064/275/2, adult small, Model No. 3950, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, effective December 30, 1974. (It supersedes Approval No. 160.064/275/2 dated October 3, 1974 to show change of address of company.)

Approval No. 160.064/276/2, adult medium, Model No. 3945, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, effective December 30, 1974. (It supersedes Approval No. 160.064/276/2 dated October 3, 1974 to show change of address of company.)

Approval No. 160.064/277/2, adult large, Model No. 3940, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, effective December 30, 1974. (It supersedes Approval No. 160.064/277/2 dated October 3, 1974 to show change of address of company.)

Approval No. 160.064/278/2, adult small, Model No. 63272 Small, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 48, Type III PFD, manufactured by Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, for Sears, Roebuck and Company, 925 S. Homan Avenue, Chicago, Illinois 60607, effective December 31, 1974. (It supersedes Approval No. 160.064/278/1 dated October 3, 1974 to show change in model No.)

Approval No. 160.064/279/2, adult medium, Model No. 63272 MED, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 48, Type III PFD, manufactured by Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, for Sears, Roebuck and Company, 925 S. Homan Avenue, Chicago, Illinois 60607, effective December 31, 1974. (It supersedes Approval No. 160.064/279/1 dated October 3, 1974 to show change in model No.)

Approval No. 160.064/280/2, adult large, Model No. 63272 LGE, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 48, Type III PFD, manufactured by Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, for Sears, Roebuck and Company, 925 S. Homan Avenue, Chicago, Illinois 60607, effective December 31, 1974. (It supersedes Approval No. 160.064/280/1 dated October 3, 1974 to show change in model No.)

Approval No. 160.064/404/1, child medium, Model No. 3980, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539,

Type III PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, effective December 30, 1974. (It supersedes Approval No. 160.064/404/1 dated April 10, 1974 to show change of address of company and model.)

Approval No. 160.064/405/1, adult X-large Model No. 3975, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, effective December 30, 1974. (It supersedes Approval No. 160.064/405/1 dated April 10, 1974 to show change of model and address of company.)

Approval No. 160.064/406/1, child medium, Cat. No. 63261, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, Type III PFD, manufactured by Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, for Sears, Roebuck and Company, 925 S. Homan Avenue, Chicago, Illinois 60607, effective December 31, 1974. (It supersedes Approval No. 160.064/406/1 dated April 19, 1974 to show change in model No.)

Approval No. 160.064/407/1, adult X-large, Cat. No. 63263, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, Type III PFD, manufactured by Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, for Sears, Roebuck and Company, 925 S. Homan Avenue, Chicago, Illinois 60607, effective December 31, 1974. (It supersedes Approval No. 160.064/407/1 dated April 19, 1974 to show change in model No.)

Approval No. 160.064/623/0, adult, Model No. 4156-6, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, Type II PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, effective December 30, 1974. (It supersedes Approval No. 160.064/623/0 dated April 23, 1974 to show change in model No.)

Approval No. 160.064/624/0, child medium, Model No. 4160-1, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, Type II PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, effective December 30, 1974. (It supersedes Approval No. 160.064/624/0 dated April 23, 1974 to show change in model No.)

Approval No. 160.064/625/0, child small, Model No. 4165-6, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: Ero Industries, Inc., 308 S. William Street, Hazlehurst, Georgia 31539, Type II PFD, manufactured by Ero Industries, Inc. 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, effective December 30, 1974. (It supersedes Approval No. 160.064/625/0 dated April 23, 1974 to show change in model No.)

Approval No. 160.064/732/0, child small, Model No. 8216, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type II PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121, effective December 30, 1974.

Approval No. 160.064/733/0, child medium, Model No. 8217, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type II PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121, effective December 30, 1974.

Approval No. 160.064/734/0, adult, Model No. 8218, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type II PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121, effective December 30, 1974.

Approval No. 160.064/749/0, adult, Model No. 63224, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 48, Type II PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, for Sears, Roebuck and Company, 925 South Homan Avenue, Chicago, Illinois 60607, effective December 30, 1974.

Approval No. 160.064/778/0, child small, Model No. 3935, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: 308 S. William Street, Hazlehurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, effective December 30, 1974.

Approval No. 160.064/779/0, adult, Model No. 63255, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 48, Type III PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, for Sears, Roebuck and Company, 925 South Homan Avenue, Chicago, Illinois 60607, effective December 30, 1974.

Approval No. 160.064/785/0, child small, Model No. 63261, cloth covered unicellular plastic foam, "Helmsman", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 48, Type III PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, for Sears, Roebuck and Company, 925 South Homan Avenue, Chicago, Illinois 60607, effective December 30, 1974.

Approval No. 160.064/786/0, adult, Model No. IM-S, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29609, effective December 30, 1974.

Approval No. 160.064/787/0, adult, Model No. IM-A, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29609, effective December 30, 1974.

Approval No. 160.064/788/0, adult, Model No. IM—A, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.64 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29609, effective December 30, 1974.

Approval No. 160.064/789/0, adult, Model No. IM-XL, cloth covered unicellur plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29609, effective December 30, 1974.

Approval No. 160.064/790/0, adult, Model No. IM-XXL, cloth covered unicellular plastic foam "Bouyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29609, effective December 30, 1974.

Approval No. 160.064/799/0, adult, Model No. AV-2, cloth covered unicellular plastic foam "Bouyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 18, Type III PFD, manufactured by Cypress Gardens Skis, Inc., Hoover Road, P.O. Box 8, Cypress Gardens, Florida 33880, effective December 30, 1974.

Appproval No. 160.064/800/0 adult, Model AV–2, cloth covered unicellular plastic foam "Bouyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 18, Type III PFD, manufactured by Cypress Gardens Skis, Inc., Hoover Road, P.O. Box 8, Cypress Gardens, Florida 33880, effective December 30, 1974.

Approval No. 160.064/801/0, adult, Model No. AV–2, cloth covered unicellular plastic foam "Bouyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 18, Type III PFD, manufactured by Cypress Gardens Skis, Inc., Hoover Road, P.O. Box 8, Cypress Gardens, Florida 33880, effective December 30, 1974.

Approval No. 160.064/811/0, adult, Model No. CU–S, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29609, effective December 30, 1974.

Approval No. 160.064/812/0, adult, Model No. CU–M, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29609, effective December 30, 1974.

Approval No. 160.064/813/0, adult, Model No. CU–L, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29609, effective December 30, 1974.

Approval No. 160.064/814/0, adult, Model No. CU–XL, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29609, effective December 30, 1974.

Approval No. 160.064/815/0, adult, Model No. CU–XXL, cloth covered unicelluar plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 30, Type III PFD, manufactured by Gladding Corporation, Flotation Division, P.O. Box 8277, Station A, Greenville, South Carolina 29609, effective December 30, 1974.

Approval No. 160.064/817/0, adult, Model No. 2A, vinyl dipped unicellular plastic foam "Boating and Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 203, Type III PFD, manufactured by Taylortec, Inc., 249 Hickory Avenue, Metaire, Louisiana 70003, effective January 3, 1975.

Approval No. 160.064/818/0, child medium, Model No. 2M, vinyl dipped unicellular plastic foam "Boating and Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 203, Type III PFD, manufactured by Taylortec, Inc., 249 Hickory Avenue, Metaire, Louisiana 70003, effective January 3, 1975.

Approval No. 160.064/819/0, child small, Model No. 2C, vinyl dipped unicellular plastic foam "Boating and Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 203, Type III PFD, manufactured by Taylortec, Inc., 249 Hickory Avenue, Metaire, Louisiana 70003, effective January 3, 1975.

Approval No. 160.064/823/0, child small, Model No. 7321, cloth covered unicellular plastic foam "Child's Boating Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective December 30, 1974.

Approval No. 160.064/824/0, child small, Model No. 7322, cloth covered unicellular plastic foam "Child's Boating Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 189, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121, for Medalist Industries, Inc., 11525 Sorrento Valley Road, San Diego, California 92121, effective December 30, 1974.

Approval No. 160.064/825/0, adult, Model No. 3500, cloth covered unicellular plastic foam "Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: 308 S. William Street, Hazlehurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1934 N. Washtenaw Avenue, Chicago, Illinois 60647, effective December 30, 1974.

Dated: February 11, 1975.

D. H. CLIFTON,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.75-4461 Filed 2-18-75;8:45 am]

[CGD 75 038]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from December 14, 1971 to January 16, 1975 (List No. 2–75). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

SIGNALS, DISTRESS, COMBINATION FLARE AND SMOKE HAND, FOR MERCHANT VESSELS

The Smith & Wesson Pyrotechnics, Inc., P.O. Box 247, Jefferson, Ohio 44047, Approval No. 160.023/3/0 expired and was terminated effective January 12, 1975.

GAUGING DEVICES, LIQUID LEVEL, LIQUEFIED COMPRESSED GAS

The Metal Goods Manufacturing Company, 309 West Hensley Boulevard, Bartlesville, Oklahoma 74003, Approval Nos. 162.019/2/5, 162.019/7/2 and 162.019/26/3 were terminated effective January 16, 1975 due to no Q specification.

The GPE Controls, Inc., 6511 Oakton Street, Morton Grove, Illinois 60053, Approval Nos. 162.019/27/1 and 162.019/34/0 expired and were terminated effective January 9, 1974.

The Bastian-Blessing, Division of Astro Controls, Inc., 4201 West Peterson Avenue, Chicago, Illinois 60646, Approval Nos. 162.019/28/0, 162.019/29/0, 162.019/30/0 and 162.019/31/0 expired and were terminated effective August 12, 1974.

The Midland Manufacturing Corporation, 7733 Gross Point Road, Skokie, Illinois 60076, Approval Nos. 162.019/35/0 and 162.019/37/0 were terminated effective January 16, 1975 due to no Q specification.

The Midland Manufacturing Corporation, 7733 Gross Point Road, Skokie, Illinois 60076, Approval No. 162.019/36/0 expired and was terminated effective November 13, 1973.

The GPE Control, Inc., 6511 Oakton Street, Morton Grove, Illinois 60053, Approval No. 162.019/38/0 was terminated effective January 16, 1975 due to no Q specification.

APPLIANCES, LIQUEFIED PETROLEUM GAS CONSUMING

The Welbilt Corporation, Garland Division, Welbilt Square, Maspeth, New York 11378, Approval Nos. 162.020/101/1, 162.020/102/1, 162.020/103/1, 162.020/104/1, 162.020/115/0, 162.020/116/0, 162.020/117/0, 162.020/118/0, 162.020/119/0, 162.020/120/0, 162.020/121/0, 162.020/122/0, 162.020/123/1, 162.020/124/0, 162.020/125/0, 162.020/126/0, 162.020/127/0, 162.020/128/0, 162.020/129/0, 162.020/130/0 and 162.020/131/0 were terminated effective January 16, 1975 due to no Q specification.

The Anetsberger Brothers, Inc., Northbrook, Illinois 60062, Approval No. 162.020/143/1 expired and was terminated effective December 14, 1971.

INDICATORS, BOILER WATER LEVEL, SECONDARY TYPE

The Jerguson Gage & Valve Company, Adams Street, Burlington, Massachusetts 01803, Approval Nos. 162.025/75/1, 162.025/76/1 and 162.025/91/0 were terminated effective January 16, 1975 due to no Q specification.

The Jerguson Gage & Valve Company, 15 Adams Street, Burlington, Massachusetts 01803, Approval No. 162.025/90/0 expired and was terminated effective January 3, 1974.

The Bailey Meter Company, 29801 Euclid Avenue, Wickliffe, Ohio 44092, Approval No. 162.025/92/1 was terminated effective January 16, 1975 due to no Q specification.

The Clark-Reliance Corporation, 15901 Industrial Parkway, Cleveland, Ohio 44135, Approval Nos. 162.025/93/1, 162.025/94/1, 162.025/95/1, 162.025/98/1, 162.025/99/0, 162.025/103/0 and 162.025/104/0 were terminated effective January 16, 1975 due to no Q specification.

The Bailey Meter Company, Wickliffe, Ohio 44092, Approval No. 162.025/97/0 expired and was terminated effective July 16, 1974.

The Yarway Corporation, Blue Bell, Pennsylvania 19422, Approval Nos. 162.025/100/0 and 162.025/101/0 were terminated effective January 16, 1975 due to no Q specification.

The Jerguson Gage & Valve Company, 15 Adams Street, Burlington, Massachusetts 01803, Approval No. 162.025/102/0 expired and was terminated effective January 14, 1974.

The Diamond Power Specialty Corporation, P.O. Box 415, Lancaster, Ohio 43130, Approval Nos. 162.025/105/0 and 162.025/106/0 were terminated effective January 16, 1975 due to no Q specification.

The Penberthy Houdaille, P.O. Box 112, Prophetstown, Illinois 61277, Approval Nos. 162.025/107/0, 162.025/108/0 and 162.025/109/0 were terminated effective January 16, 1975 due to no Q specification.

Dated: February 12, 1975.

D. H. CLIFTON,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.75-4462 Filed 2-18-75;8:45 am]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON GRANT AND BENEFIT PROGRAMS

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Grant and Benefit Programs of the Administrative Conference of the United States, to be held at 10:00 a.m., Friday, March 21, 1975, in the offices of Administrative Conference of the United States, Suite 500, 2120 L Street NW., Washington, D.C.

The Committee will meet to consider the reports and recommendations of Professor William D. Popkin on the role of representatives for claimants in Federal disability claims adjudication proceedings and any other new business.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least one day in advance. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during, or after the meeting.

For further information concerning this Committee meeting contact William R. Shaw (phone 202-254-7065). Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

FEBRUARY 10, 1975.

[FR Doc.75-4393 Filed 2-18-75;8:45 am]

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

AMERICAN REVOLUTION BICENTENNIAL COUNCIL

Meeting

Pursuant to § 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the American Revolution Bicentennial Council will be held on February 24, 1975, from 3 p.m. to 5 p.m. in the Hemisphere Room of the Washington Hilton Hotel for briefings by the Administrator of the American Revolution Bicentennial Administration on the role of the ARBA. Subject to the concurrence of the members, the Council may proceed at this meeting with the election of officers and consideration of other organizational matters. The Council will reconvene at the call of its chairman from 8 a.m. to 9 a.m., February 25, 1975, in the Monroe West Room of the Washington Hilton Hotel. The Council will also meet in joint session with the American Revolution Bicentennial Board from 12:45 p.m. to 1:45 p.m., February 25, 1975, in the Monroe West Room. During the balance of the day, the Council will be attending the National Bicentennial Conference at the hotel.

The meetings will be open to the public on a space available basis. Accommodations are limited. Further information can be obtained from Jane Shay, Special Assistant to the Administrator, American Revolution Bicentennial Administration, 2401 E Street NW., Washington, D.C. 20276, telephone (202) 634-1841.

JOHN W. WARNER,
Administrator.

FEBRUARY 12, 1975.

[FR Doc.75-4410 Filed 2-18-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26990; Agreements C.A.B. 24827-24832; Order 75-1-140]

AMERICAN AIRLINES, INC. ET AL.

Order Regarding Capacity Agreement To Implement Fuel Allocation Program

Correction

In FR Doc. 75-3468 appearing at page 5556 in the issue for Thursday, February 6, 1975, make the following change:

On page 5560 in the third column, second full paragraph, in the last line the reference to "Docket 28995" should be changed to read "Docket 26995".

[Docket 27064]

ANTHONY COSIMANO, ET AL.

Application; Notice of Proposed Approval

Application of Anthony Cosimano et al. for disclaimer of jurisdiction, approval, or exemption pursuant to sections 408 and 409 of the Federal Aviation Act, Docket 27064.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the Civil Aeronautics Board intends to issue the attached order. Interested persons are hereby afforded until February 20, 1975, within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., February 13, 1975.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

An application [1] has been filed requesting the Board to disclaim jurisdiction or

[1] The application was filed by Decair Corporation; Decair Helicopters, Inc.; Ramapo & Aero Helicopters, Inc.; Decair Helicopters of Peru, Inc.; Anthony Cosimano; Ted Dubolsky; Richard Eimert; Ben Turner and Son (Helicopters) Limited; and Caribbean Bank (Cayman) Limited.

to grant relief, pursuant to sections 408 and 409 of the Federal Aviation Act of 1958, as amended (the Act), with respect to the transactions set forth below.

In 1968, Anthony Cosimano, Ted Dubolsky, and Richard Eimert formed Decair Helicopters, Inc. (Helicopters), an air taxi operator, and became its sole officers, directors, and stockholders. These same individuals held similar interests in Ramapo Aero & Helicopters, Inc. (Ramapo), which engages in the maintenance and repair of helicopter aircraft.

In 1971, these individuals formed Decair Corporation (Decair), which subsequently acquired Helicopters and Ramapo as wholly owned subsidiaries. Decair is a publicly held company whose shares are traded over the counter. Messrs. Cosimano, Dubolsky, and Eimert hold 50.5 percent of Decair's stock and constitute its entire Board of Directors. The remaining shares are held in amounts of less than 10 percent by approximately 700 persons, virtually all of whom are U.S. citizens.[2]

In 1973, Helicopters formed a wholly owned subsidiary, Decair Helicopters of Peru, Inc. (Peru Inc.), a Delaware corporation, to engage in furnishing helicopters and pilots to oil exploratian companies in Peru. Messrs. Cosimano, Dubolsky, and Eimert are the sole directors and officers of Peru Inc.

Applicants now seek approval, disclaimer of jurisdiction, or exemption with respect to the foregoing control relationships, and exemption of the interlocking relationships arising by virtue of the positions of Messrs. Cosimano, Dubolsky, and Eimert as the sole officers and directors of each of the aforementioned companies.

Additionally, Peru Inc. has entered into a joint-venture agreement with two foreign corporations for the purpose of establishing a company operating out of the Cayman Islands which will provide helicopter services to oil companies in South America and elsewhere. The company will not operate in the United States. Under the terms of the agreement, one of the joint-venture partners, Ben Turner and Son (Helicopters) Limited (hereinafter referred to as Ben Turner & Son, will receive an option to purchase up to 10 percent of the stock of Decair as part consideration for its investment of further funds in the joint-venture operations.[3] The applicants request disclaimer, approval, or exemption with respect to (1) the resulting control of the joint-venture company by Peru Inc. and (2) the option held by Ben Turner & Son to purchase a 10-percent stock interest in Decair. In support of the requests, applicants state that the financing to be provided by virtue of the joint-venture agreement is urgently needed to prevent bankruptcy of Decair and its subsidiaries.

No comments have been received with respect to the application.

Upon consideration, it is concluded that Helicopters is an air carrier; that Peru Inc., Ramapo, and the joint-venture company are persons engaged in a phase of aeronautics; and that the following transactions are subject to § 408 of the Act: (1) the acquisition of control of Helicopters by Decair, and through Decair by Messrs. Cosimano, Eimert, and Dubolsky, (2) the acquisition of control by Helicopters of Peru Inc., and through Peru Inc. of the joint-venture company, (3) the acquisition of control of Helicopters through Decair by Ben Turner & Son, and (4) the common control through Decair of Helicopters and Ramapo.

Turning first to the acquisition of control of Helicopters by Decair, and through Decair by its three major shareholders, Messrs, Cosimano, Eimert, and Dubolsky, § 408(a)(5) of the Act prohibits the acquisition of control of an air carrier "by any person" in any manner whatsoever in the absence of prior Board approval, and section 413 provides that "control" may be indirect as well as direct. Thus, the reorganization of Helicopters which resulted in its direct acquisition of control by Decair, and through Decair by its three major shareholders, Messrs. Cosimano, Eimert, and Dubolsky, is subject to the requirements of § 408(a)(5) of the Act.[4] It is further concluded that the proposed control relationships will not result in creating a monopoly, and thereby restrain competition or jeopardize another air carrier; nor does it appear that the requirements of section 408 will be otherwise unfulfilled. The relationships are similar to others which have been authorized by the Board[5] and do not appear to raise any conicts of interest or other substantive regulatory concerns.[6] Accordingly, it is found that it would be in the public interest to exempt the control relationships from the requirements of § 408(a)(5) pursuant to the proviso therein.[7]

As previously noted, Ben Turner & Son has been granted an option to purchase 10 percent of the shares of Decair in exchange for its investment in the joint-venture company. The financing of the joint-venture agreement is dependent upon prior approval of the *exercise* of that option.[8] In considering the exercise of this stock option, we find that, since Helicopters is a wholly owned subsidiary of Decair, the acquisition of a 10-percent interest in the parent is effectively an acquisition of a 10-percent interest in the air carrier subsidiary. Whether this acquisition has resulted in the acquisition of control of the Act is an issue of fact which must be determined from a broad consideration of the particular facts of this case[9] and in light of § 408(f) of the Act.[10]

The Board further concludes that the applicants have not rebutted the § 408(f) presumption of control and that Ben Turner & Son's acquisition of a 10-percent interest in Decair is an acquisition of indirect control of an air carrier (Helicopters) subject to § 408(a)(5) of the Act. Control by a foreign citizen of a U.S. air carrier, even indirect, does raise serious concern with the Board in view of the congressional policy favoring U.S. control of U.S.-flag operations. However, the particular facts of this case indicate that even with its 10-percent interest, the influence of Ben Turner & Son on the affairs of Helicopters will be very limited. Decair and Helicopters are closely held corporations,[11] and the three majority shareholders (Messrs. Cosimano, Eimert, and Dubolsky) represent 50.5 percent of the stock ownership and will continue to constitute the entire Board of Directors of both Decair and Helicopters. In our view, the information set forth by the applicants appears to be sufficient to show that, despite Ben Turner & Son's interest, the substantive direction and influence over the air carrier will remain in the hands of Messrs. Cosimano, Eimert, and Dubolsky. Ben Turner & Son's focus of interest apparently will be in the successful operation of the joint-venture company rather than in the operation of Helicopters.[12] Thus, we find that it would

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[2] The application states that the families and close friends of the directors also constitute a substantial total of the other shareholders.

[3] The other joint-venture partner is the Caribbean Bank (Cayman) Limited, which is incorporated under the laws of Grand Cayman, British West Indies. The application states that neither the bank nor any of its stockholders holds a controlling interest in any sec. 408 enterprise.

[4] See orders 69-12-121 and 70-6-119.

[5] See order 74-2-114, Feb. 27, 1974.

[6] The reorganization of Helicopters appears to have been consummated without the requisite prior Board approval. However, it has been concluded that exceptional circumstances exist within the meaning of the Sherman Doctrine, and that there is no impediment to the processing of the application on its merits (*Sherman, Control and Interlocking Relationships*, 15 C.A.B. 876, 881).

[7] The various affiliations herein presented also give use to interlocking relationships within the meaning of sec. 409 of the Act. However, sec. 29811(h) of the Board's Economic Regulations exempts the air taxi operator from sec. 409 of the Act, and sec. 298.14 of the Economic Regulations grants a blanket approval of virtually all interlocking relationships involving individual officers and directors of the air taxi operator. In view of the foregoing, the applicant's request for further relief from sec. 409 of the Act will be dismissed.

[8] Ben Turner & Son is a British Company whose operations are limited solely to the sale and financing of helicopter aircraft. The application states that neither the company nor any of its stockholders holds a controlling interest in any sec. 408 enterprise.

[9] See *Eastern-Colonial Control Case*, 20 C.A.B. 629, 634-35 (1955); *Railroad Control of Northeast Airlines*, 4 C.A.B. 379, 381 (1943).

[10] Sec. 408(f) of the Act provides that the acquisition of 10 percent or more of the securities of an air carrier raises a presumption of control unless the Board finds otherwise.

[11] See note 2, *supra*, and accompanying text.

[12] It is this conclusion which distinguishes our decision here from that in Willy Peter Daetwyler d/b/a Interamerican Air Freight Co., order 71-10-114, Oct. 28, 1971, wherein the domination and direction of an air freight forwarder applicant was vested in a foreign citizen, thereby preventing the applicant from qualifying as a U.S. citizen (and thus as an "air carrier" within sec. 101(3) of the Act).

be in the public interest to exempt such control as Ben Turner & Son may have in Helicopters from the requirements of § 408(a)(5) pursuant to the proviso therein, subject to the conditions noted below.

Because of the Board's deep concern of foreign influence over U.S. air carriers, the continued effectiveness of the exemption of control of Helicopters by Ben Turner & Son will be conditioned on the requirements that (1) the direct or indirect stock interest of Ben Turner & Son in Decair and/or Helicopters be limited to a maximum of 10 percent of either company's outstanding stock, and (2) at least two-thirds of the directors and managing officers of Decair and Helicopters remain citizens of the United States. These conditions will not prevent Ben Turner & Son from fully exercising its stock option in Decair, but will insure that the domination, direction, and influence of the air carrier remains in the hands of U.S. citizens.

As noted above, we believe that Messrs. Cosimano, Eimert, and Dubolsky will retain effective control over Helicopters and will continue to exercise such control in the best interests of Helicopters. However, if future circumstances should indicate an attempt by Ben Turner & Son to use its influence through the joint-venture company to adversely affect Helicopters, the Board will be disposed to reconsider the public interest factors in Ben Turner & Son's control of Helicopters. We will retain jurisdiction over the relationships considered herein in order to impose such further terms and conditions, including disapproval, as may be required in the public interest.

Helicopter's acquisition of all the stock of Peru Inc. is subject to § 408(a)(6) of the Act, inasmuch as the air taxi operator is acquiring control of a person engaged in a phase of aeronautics. Similarly, Helicopter's ownership of the joint-venture company, though its subsidiary, Peru Inc., is subject to § 408(a)(6) as an acquisition of indirect control of a person engaged in a phase of aeronautics by an aircarrier. However, we find that both acquisitions fall within the exemption from § 408 afforded by § 298.11(g) of the Board's Economic Regulations, and we will therefore dismiss the application to the extent it requests further approval, exemption, or disclaimer of these relationships.

The acquisition of Ramapo by Decair is subject to the provisions of § 408(a)(6) of the Act, since, by reason of the acquisition, a common control relationship is created between Helicopters (an air carrier) and a phase of aeronautics.[13]

If this control relationship is to be authorized by the Board, it must be approved pursuant to § 408(b). We find, after review of the application, that the sole ownership interest of Decair in Ramapo does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation within the meaning of the third proviso of § 408(b), does not result in creating a monopoly, and does not tend to restrain competition. Moreover, no person disclosing a substantial interest is presently requesting a hearing, and it is found that the public interest does not require a hearing. On the basis of the foregoing, the Board concludes that it should approve, without hearing under the third proviso of § 408(b) of the Act, the acquisition of control of Ramapo by Decair.[14]

The Board's concern in this proceeding is limited to those transactions heretofore considered. Therefore, any further request for relief by the applicants will be dismissed.

Accordingly, it is ordered that:

1. The acquisitions of control of Helicopters by Decair, and through Decair by Messrs. Cosimano, Eimert, and Dubolsky and Ben Turner & Son, be and they hereby are exempted from the requirements of § 408(a)(5) of the Act pursuant to the proviso therein; *Provided, however,* That the exemption herein granted to Ben Turner & Son will be effective only so long as (a) the direct or indirect stock interest of Ben Turner & Son in Decair and/or Helicopters does not exceed 10 percent of either company's outstanding stock, and (b) at least two-thirds of the directors and of the managing officers of Decair and Helicopters remain citizens of the United States;

2. The acquisition of control of Ramapo by Decair be and it hereby is approved pursuant to § 408(b) of the Act;

3. By reason of the exemption granted in Part 298.11 of the Board's Economic Regulations, the request for relief of the acquisition of control by Helicopters of Peru Inc., and through Peru Inc. of the joint-venture company, be and it hereby is dismissed;

4. The Board shall retain jurisdiction over the relationships herein exempted or approved for imposing such further terms and conditions as may be required in the public interest; and

5. Except to the extent noted above, all other requests for relief in docket 27064 be and they hereby are dismissed.

This order shall be published in the FEDERAL REGISTER.

[FR Doc.75-4429 Filed 2-18-75;8:45 a.m.]

[13] Sec. 408(a)(6) requires approval, *inter alia*, of the acquisition of a phase of aeronautics by a person controlling an air carrier. Since Ramapo is a direct subsidiary of Decair (not under Helicopters' control), its control has not been considered in the context of the exemptions previously granted: See, *e.g.*, Berwind Corporation, *et al.*, order 69-11-12, Nov. 4, 1969.

[14] Notice of intent to dispose of the application without hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following such publication, both in accordance with the requirements of sec. 408(b) of the Act.

[Docket 23080-2]

PRIORITY AND NONPRIORITY DOMESTIC SERVICE MAIL RATES INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on March 25, 1975, at 10:00 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the various documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., February 13, 1975.

[SEAL] THOMAS P. SHEEHAN,
Administrative Law Judge.

[FR Doc.75-4425 Filed 2-18-75;8:45 am]

[Docket 27156]

LOYAL-AIR LTD.

Small Aircraft Permit Application Canada-United States

Postponement of Prehearing Conference and Hearing

Notice is hereby given that, at the request of counsel for the applicant, to which the Bureau of Operating Rights has indicated it has no objection, the prehearing conference and hearing previously scheduled in this case for February 27, 1975 (40 FR 6526, February 12, 1975), has been postponed to March 5, 1975, at 10:00 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue, NW, Washington, DC.

The hearing will be held immediately following conclusion of the prehearing conference unless a person has objected or shown reason for postponement pursuant to notice previously given.

Dated at Washington, D.C., February 12, 1975.

[SEAL] FRANK M. WHITING,
Administrative Law Judge.

[FR Doc.75-4426 Filed 2-18-75;8:45 am]

[Docket 25280; Agreement C.A.B. 24925 R-1]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates; Order

FEBRUARY 12, 1975.

By Order 75-1-119 the Board approved an agreement filed pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between

various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates, including, inter alia, the following:

Agreement C.A.B.	Specific commodity Item No.	Description and rate
24925: R-1	9522	Handicraft Products,[1] 267 cents per kg., minimum weight 100 kgs. 255 cents per kg., minimum weight 300 kgs., from Teresina to New York.

[1] See tariff for complete commodity descriptions.

By subsequent filing received February 3, 1975 on behalf of the above referenced carriers it appears that the origin point designated with respect to the Specific Commodity Item 9522 should be Teheran rather than Teresina, so that the item reads as follows:

Agreement C.A.B.	Specific commodity Item No.	Description and rate
24925: R-1	9522	Handicraft Products,[1] 267 cents per kg., minimum weight 100 kgs., 255 cents per kg., minimum weight 300 kgs., from Teheran to New York.

[1] See tariff for complete commodity descriptions.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement as corrected is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, It IS ORDERED, *That:*

Agreement C.A.B. 24925, R-1 as corrected, be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,
Chief, Passenger and Cargo Rates Division, Bureau of Economics.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-4427 Filed 2-18-75;8:45 am]

[Docket 26494; Agreement C.A.B. 24940 R-1 through R-3]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Passenger Fares; Order

FEBRUARY 12, 1975.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above C.A.B. agreement number.

The agreement, for effect February 15, 1975, proposes slight increases in first class, economy class and creative fares between other Middle Eastern points and Iran. We will approve the increases to first and economy class fares, which are combinable with fares to/from United States points and thus have indirect application in air transportation as defined by the Act, but will disclaim jurisdiction with respect to creative fares which are not similarly combinable.

Pursuant to authority duly delegated by the Board in the Board's Regulations 14 CFR 385.14:

1. It is not found that the following resolutions, incorporated in Agreement C.A.B. 24940 as indicated, and which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement C.A.B.	IATA No.	Title	Application
24940: R-1	052	TC2 First Class Fares (Not finally adopted) (Within Middle East) (Amending).	2
R-2	062	TC2 Economy Class Fares (Not finally adopted) (Within Middle East) (Amending).	2

2. It is not found that the following resolution, incorporated in Agreement C.A.B. 24940, affects air transportation within the meaning of the Act:

Agreement C.A.B.	IATA No.	Title	Application
24940: R-3	072b	TC2 Creative Fares Except Europe (Not finally adopted) (Within Middle East) (Amending).	2

Accordingly, *It is ordered*, That:

1. Those portions of Agreement C.A.B. 24940 described in finding paragraph 1 above, which have indirect application in air transportation as defined by the Act, be and hereby are approved; and

2. Jurisdiction be and hereby is disclaimed with respect to that portion of Agreement C.A.B. 24940 described in finding paragraph 2 above.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,
Chief, Passenger and Cargo Rates Division, Bureau of Economics.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-4428 Filed 2-18-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 334-3; OPP-32000/191]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before April 21, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after April 21, 1975.

Dated: February 11, 1975.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED (OPP-32000/191)

EPA File Symbol 4313-LN. Carroll Co., 2900 W. Kingsley Rd., Garland TX 75041. CARROSOL GLYCOL MINT AIR SANITIZER. Active Ingredients: Triethylene Glycol 4.5%; Propylene Glycol 3.0%; n-Alkyl (50% C14, 40% C12, 10% C16) Dimethyl Benzyl Ammonium Chloride 0.1%. Method of Support: Application proceeds under 2(c) of interim policy. PM33.

EPA File Symbol 34761-I. Ecology Ltd., Industrial Park, Bldg. #5, W. Haverstraw NY 10993. ECOLOGY INDUSTRIAL SPRAY. Active Ingredients: Pyrethrins 0.40%; Piperonyl Butoxide, Technical 2.00%; Petroleum Distillate 7.40%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 34761-L. Ecology Ltd. ECOLOGY WASP & HORNET KILLER. Active Ingredients: Pyrethrins 0.075%; Piperonyl Butoxide, Technical 0.188%; Carbaryl (1-Naphthyl N-Methylcarbamate) 0.500%; Petroleum Distillate 24.237%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 34761-G. Ecology Ltd. ECOLOGY ROACH & ANT SPRAY DIAZINON. Active Ingredients: O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 0.500%; Pyrethrins 0.052%; Piperonyl Butoxide, Technical 0.261%; Petroleum Distillate 95.608%. Method of Support: Application proceeds under 2(c) of interim policy. PM14.

EPA File Symbol 35062-R. Enzone, Inc., 1737 Campbell Rd., Houston TX 77055. ENDANT. Active Ingredients: Perchloroethylene 33%; Trichloroethylene 33%; I,I,I, Trichloroethane 17%; I,I,2, Trichloroethane 17%. Method of Support: Application proceeds under 2(c) of interim policy. PM11.

EPA File Symbol 2831-UI. NAPASCO International, PO Box 1219, Thibodaux LA 70301. LEMONEX AEROSOL QUAT REFRESHNER & SURFACE SPRAY DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 0.25%; Essential oils 0.50%; Isopropanol 43.22%. Method of Support: Application proceeds under 2(c) of interim policy. PM31.

EPA File Symbol 2831-UT. NAPASCO International. SAFARI BOUQUET AEROSOL QUAT RERESHNER & SURFACE SPRAY DISINFECTANT. Active Ingredients: Alkyl C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chlorides 0.25%; Essential oils 0.05%; Isopropanol 43.22%. Method of Support: Application proceeds under 2(c) of interim policy. PM31.

EPA File Symbol 2831-UA. NAPASCO International. SAFARI ORANGE AEROSOL QUAT REFRESHNER & SURFACE SPRAY DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 0.25%; Essential oils 0.50%; Isopropanol 43.22%. Method of Support: Application proceeds under 2(c) of interim policy. PM31.

EPA File Symbol 18185-L. Petway Prod. Corp., 350 5th Ave., New York NY 10001. PET WAY FLEA & TICK SPRAY CATS. Active Ingredients: Pyrethrins 0.05%; Piperonyl Butoxide, Technical 0.50%; Carbaryl (1-Naphthyl N-methylcarbamate) 0.50%; Butoxypolypropylene Glycol 5.00%; Petroleum Distillate 0.21%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 6811-UO. Research Prod. Co., 2423 Merrell Rd., Dallas TX 75229. DEFENSE RESIDUAL INSECTICIDE. Active Ingredients: 0,0-Diethyl 0-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 0.500%; Pyrethrins 0.52%; Piperonyl Butoxide Technical 0.261%; Petroleum Distillate 98.608%. Method of Support: Application proceeds under 2(c) of interim policy. PM14.

EPA File Symbol 346-GO. I. D. Russell Co. Labs., PO Box 1, Kansas City MO 64141. RUSSELL RAKIL CONTAINS PROLIN ANTICOAGULANT RODENTICIDE. Active Ingredients: Warfarin, 3(a-acetonylbenzyl)-4-hydroxycoumarin 0.025%; N1-2-quinoxalylsulfanilamide (sulfaquinoxaline) 0.025%. Method of Support: Application proceeds under 2(c) of interim policy. PM11.

EPA File Symbol 11715-UL. Speer Products, Inc., PO Box 9383, Memphis TN 38109. SPEER INSECTICIDE, AEROSOL RESMETHRIN. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 1.20%; Related compounds 0.08%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA File Symbol 11350-RR. Standard Paint & Varnish Co., PO Box 826, Harvey LA 70058. STAN-GARD MARINE COATINGS 693 ALUM-A-TOX ANTI-FOULING WHITE. Active Ingredients: Tributyltin Fluoride 7.2%. Method of Support: Application proceeds under 2(c) of interim policy. PM 24.

[FR Doc.75-4360 Filed 2-18-75;8:45 am]

[FRL 334-6]

AREAWIDE WASTE TREATMENT

Management Planning Approvals; Area and Agency Designations

Pursuant to section 208 of the Federal Water Pollution Control Act Amendments of 1972, notice is hereby given of approvals of designation of areawide waste treatment management planning areas and agencies for the period January 8, 1975, thru January 31, 1975.

The following area and agency designations have been approved by the Environmental Protection Agency:

Sussex County, Delaware (Sussex County Government, P.O. Box 507, Georgetown, Delaware 19947).

Southwest Virginia (Plateau and Lenowisco Planning District Commission, U.S. 58, 421 W. Duffield, Virginia 24244).

Palm Beach County, Florida (Planning Board of Palm Beach County, P.O. Box 3643, W. Palm Beach, Florida 33402).

Uintah Basin, Utah (Uintah Basin Association of Governments, P.O. Box 867, Roosevelt, Utah 84066).

Provo, Utah (Mountainland Association of Governments, 160 East Center Street, Provo, Utah 84601).

Dated: February 12, 1975.

JAMES L. AGEE,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.75-4361 Filed 2-18-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 75-162]

EMERGENCY BROADCAST SYSTEM

Closed Circuit Test

FEBRUARY 12, 1975.

A test of the Emergency Broadcast System (EBS) has been scheduled for Friday, February 21, 1975, between 2:07 and 2:14:30 p.m., Washington, D.C. time. Only ABC, CBS, NBC, IMN, MBS, and NPR radio network affiliates and UPI-audio clients will participate. Television networks are not participating in this test.

Network affiliates will be notified of test procedures via their network beginning four days in advance of the test. Test messages will also be run by AP and UPI radio press wire services for four days in advance of the test to insure wide dissemination of test announcement and schedule.

Final evaluation of the November test is scheduled to be made by the end of March 1975.

This is a closed circuit test and will not be broadcast over the air.

Action by the Commission February 12, 1975. Commissioners Wiley (Chairman), Lee, Reid, Hooks, Quello, Washburn and Robinson.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-4422 Filed 2-18-75;8:45 am]

[FCC 75-177]

EMERGENCY BROADCAST SYSTEM

Interconnecting Systems and Facilities; Closed Circuit Test

In the Matter of a closed circuit test of national-level interconnecting systems and facilities and program origination channels of the Emergency Broadcasting System.

1. The Commission has received a request from the White House Communications Agency to conduct a Closed Circuit Test of the National-Level interconnecting systems and facilities of the Emergency Broadcast System (EBS) on February 21, 1975, from 2:07 to 2:14:30 p.m. e.s.t.

2. This request has been coordinated with the major radio networks, the American Telephone and Telegraph Company, and the AP and UPI radio wire services.

3. Coordinated arrangements and voluntary agreements have been obtained from the White House Communications Agency, the Office of Telecommunications Policy, the major Radio Broadcast Networks, (ABC, CBS, IMN, MBS, NBC, NPR, UPI-Audio), and the AT&T.

4. *It is ordered*, pursuant to § 0.381 of the Commission's rules and regulations, That a Closed Circuit Test of the EBS be conducted on February 21, 1975, from 2:07 to 2:14 p.m. e.s.t., in accordance with § 73.962 of the rules.

5. Authority for the adoption of this action is contained in Section 1, 4(i), 4(o), and 303(r) of the Communications Act of 1934, as amended.

Adopted: February 11, 1975.

Released: February 13, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-4418 Filed 2-18-75;8:45 am]

[Docket Nos. 20345 and 20346; File Nos. BPH-8914 and 9125]

DR. E. PAUL EDER AND C. C. BROADCASTING, INC.

Applications for Construction Permits; Hearing Order

In re applications of Dr. E. Paul Eder, Cape Coral, Florida. Requests: 103.9 MHz, Channel No. 280; 3 kW (H&V); 300 feet. C. C. Broadcasting, Inc., Cape Coral, Florida. Requests: 103.9 MHz, Channel No. 280; 3 kW (H&V); 300 feet, for construction permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned applications which are mutually exclusive in that they seek the same channel in Cape Coral, Florida.

2. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

3. *Accordingly, It is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue which, if either, of the applications should be granted.

4. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants, herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

5. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: February 5, 1975.

Released: February 10, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-4420 Filed 2-18-75;8:45 am]

[Docket No. 19660; R-690]

WESTERN UNION AND ITT WORLD COMMUNICATIONS INC.

Joint Petition; Order Extending Time

In the matter of International Record Carriers' scope of operations in the continental United States including possible revisions to the Formula prescribed under Section 222 of the Communications Act.

By the Chief, Common Carrier Bureau.

1. By Order released February 7, 1975 (39 FR 29050) we granted the petition of Western Union International, Inc. to extend the time from February 3, 1975 to February 7, 1975 to respond to the Joint Petition to Approve Settlement Agreement (Joint Petition) filed by the Western Union Telegraph Company (Western Union) and ITT World Communications Inc. in the above-captioned proceeding. By motion dated February 6, 1975, RCA Global Communications, Inc. (RCA Globcom) requests a further extension of time until February 14, 1975 to respond to the Joint Petition.

2. In support of its request, RCA Globcom states that it is actively considering the settlement proposal extended by Western Union and believes that in view of the fact that a settlement may be reached and a response to the Joint Petition rendered moot, it is desirable to extend the time for filing so that it will not be necessary to file pleadings which may support legal petitions without furthering the settlement discussions.

3. Good cause has been shown for the requested extension.

Accordingly, it is ordered, pursuant to § 0.303(c) of the Commission's rules, 47 CFR § 0.303(c), the Motion for Extension of Time filed by RCA Globcom is granted, and the time for response to the Joint Petition is extended until February 14, 1975.

Adopted: February 7, 1975.

Released: February 11, 1975.

[SEAL] WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.75-4419 Filed 2-18-75;8:45 am]

[Dockets Nos. 19991 and 19992; File Nos. BRCT-71 and BRCT-4527; FCC 75R-54]

RKO GENERAL, INC. AND MULTI-STATE COMMUNICATIONS, INC.

Applications for Construction Permits; Memorandum Opinion and Order Enlarging Issues

In re applications of RKO General, Inc. (WOR-TV), New York, New York, for renewal of broadcast license and Multi-State Communications, Inc., New York, New York, for construction permit for new television broadcast station.

By the Review Board:

1. Before the Review Board for consideration is a motion to enlarge issues (39 FR 29965), filed December 10, 1974, by Multi-State Communications, Inc. (Multi-State), requesting the addition of news falsification, adequacy of supervision, Suburban, and misrepresentation issues against RKO General, Inc. (RKO).[1] Initially, the Review Board notes that Multi-State has not demonstrated that good cause exists to justify the late filing of its motion. However, in view of the serious charges contained in the motion, the Board will accept the motion and examine it on its merits. See The Edgefield-Saluda Radio Co., 5 FCC 2d 148, 8 RR 2d 611 (1966).

[1] Also before the Review Board for consideration are the following related pleadings: (a) opposition, filed December 23, 1974, by RKO; (b) opposition, filed December 26, 1974, by the Broadcast Bureau; (c) reply, filed January 8, 1975, by Multi-State; (d) motion for leave to file response to reply, filed January 14, 1975, by RKO; (e) response to reply, filed January 14, 1975, by RKO. RKO has not shown sufficient cause for acceptance of its supplemental pleading; in accordance with our general practice, therefore, we will deny its motion for leave to file response to rely and dismiss the response. In re Filing of Supplemental Pleadings Before The Review Board, 40 FCC 2d 1026 (1972).

NEWS FALSIFICATION AND LACK OF SUPERVISION ISSUES

2. In support of its request for a news falsification issue, movant asserts that on September 11, 1974, RKO deliberately falsified a news report dealing with racial turmoil in Mozambique. According to Multi-State, RKO received only one newswire dealing with the Mozambique incident on September 11, 1974—a newswire from the Associated Press which reads as follows:

Lourenco Marques, Mozambique—A Portuguese army officer in Mozambique says rioters around the capital are completely out of control. A senior police officer estimates that at least 200 people—mostly black—have died in the racial turmoil that followed the collapse yesterday of a white rebellion. A communique issued earlier in Lisbon said the army and police are having difficulty stemming the violence in the African townships that surround Lourenco Marques.

During the course of its news broadcast that evening, movant maintains, RKO's anchorman, Thomas Dunn, reading from his own script, made the following remarks:

Black Africans in Mozanbique (sic) went wild today after whites tried to reverse the freedom of the colony granted by Portgual.

200 persons, most of them white, were stabbed in the fighting in the capital of Lourenco Marques.

A Portuguese army officer says the blacks just went on a rampage and started stabbing every white they could find.

Given the variances between the wire story and Mr. Dunn's presentation, movant argues that an inquiry is necessary to determine whether RKO has intentionally broadcast false information.[2] Moreover, Multi-State alleges that RKO falsification of the Mozambique report is not an isolated act of news rigging or distortion by RKO, and urges the Review Board to also add an issue to determine whether the licensee is adequately supervising its employees.[3]

3. In support of its opposition, RKO submits the affidavit of Thomas Dunn, in which he states that he did not base his news broadcast dealing with the Mozambique uprising upon the Associated Press news wire relied upon by Multi-State, but rather upon a second Associated Press dispatch received that day by RKO.[4] According to RKO, the discrepancies noted by movant are not the product of deliberate falsification, but resulted from Multi-State and Dunn relying upon separate Associated Press releases, which contained materially different versions of the Mozambique incident.[5] Consequently, RKO urges the Board to deny the request. The Broadcast Bureau, while believing that Multi-State has raised a substantial question as to whether Mr. Dunn intentionally distorted the news, nonetheless opposes the motion since there is no allegation of improper involvement by the licensee, its principals, or management personnel. Moreover, both the Bureau and RKO oppose the request for the addition of an adequacy of supervision issue.

4. The Board will deny Multi-State's request for a news falsification issue since we believe that RKO has satisfactorily responded in its opposition and accompanying affidavit to the allegations raised by movant. In our view, Dunn's explanation in his affidavit for the variances between the newswire cited by Multi-State and his own news script is not unreasonable and it appears that the discrepancies in question were attributable to the release by the Associated Press of conflicting news stories and not to Dunn's improper action.[6] Thus, we be-

[2] In supoprt of its allegations, Multi-State submits the affidavit of Edgar O. Lake, who states he was formerly employed as News Desk Assistant by RKO and was on duty on September 11, 1974. Attached to Mr. Lake's affidavit are copies of the previously mentioned news wire and the related news script allegedly prepared and used by Dunn.

[3] In support, Multi-State points out that it had previously, on April 30, 1974, requested the Review Board to add an issue inquiring into whether RKO employees had attempted to stage a news event. As Multi-State notes, the Board denied that request; see RKO General, Inc. 47 FCC 2d 824, 30 RR 2d 955 (1974).

[4] In his affidavit, Dunn states that the newswire relied upon by Multi-State is known as the Associated Press's "Radio" wire, which is a rewritten version of the Associated Press's "A" wire specifically adapted for broadcast station use. According to Dunn, RKO reporters usually do not use the "Radio" wire but prefer to rewrite significant news stories themselves directly from the "A" wire. The newswire which served as the basis of Dunn's presentation and is attached to RKO's affidavit, reads as follows:

Lourenco Marques, Mozambique—At least 200 persons, mostly white, were stoned, stabbed or beaten to death in racial rioting that followed the collapse of a white settlers' revolt, a senior police officer said Wednesday.

The officer made his estimate after touring the black shanty towns surrounding the capital of Lourenco Marques on three sides. They have been the scene of destruction, killing, burning and looting since Tuesday when the leaders of a white movement surrendered.

The whites were protesting the signing of an agreement Saturday giving control of the territorial government to Frelimo, the African guerrilla movement that fought the Portuguese for ten years. The colony received its independence in June.

Most of the African townships were sealed off by Portuguese officials Wednesday and one officer said, "They are just in a wild mood and completely out of hand."

A Portuguese Army Captain, reporting via Radio Lisbon, said many Africans reacted to the whites' surrender by going on a rampage. He was in charge of the Lourenco Marques radio station the whites had used as their headquarters.

[5] Dunn avers he used the "A" wire in preparing his script and does not recall having used the "Radio" wire in his presentation or of being aware of any discrepancies between the "Radio" and "A" wires.

[6] Specifically, we note that the "A" wire relied on by Dunn includes the following data supportive of Dunn's position: (1) 200 whites were killed; (2) some of those dead had been stabbed; and (3) an officer of the Portuguese army had been quoted as stating that many Africans had gone on a rampage. Although Dunn's statement that blacks "started stabbing every white they could find" appears to be an exaggeration of the information on the "A" wire, we do not believe that it alone would warrant addition of an issue.

lieve that Multi-State has failed to submit sufficient "extrinsic evidence" to show that RKO has engaged in news falsification. See CBS Program, "Hunger in America," 20 FCC 2d 143, 17 RR 2d 674 (1969); Democratic National Convention Television Coverage, 16 FCC 2d 650, 15 RR 2d 791 (1969).[7] Additionally, we point out that even if Dunn were shown to have falsified the news, Multi-State's request would still be denied since movant has not alleged or indicated that managerial-level employees at WOR-TV were involved in any improper activities. See CBS Program, "Hunger in America," supra; RKO General, Inc. (WOR-TV), 47 FCC 2d 824, 30 RR 2d 955 (1974). Finally, since we do not believe that a substantial question of news falsification by an RKO employee has been raised, the Board finds no justification for the addition of an adequacy of supervision issue.

SUBURBAN AND MISREPRESENTATION ISSUES

5. Petitioner alleges that RKO failed to conduct the community leader survey contained in its 1972 renewal application in accordance with the requirements of Q. and A. 11 of the Commission's Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 21 RR 2d 1507 (1971). Multi-State predicates its request on two grounds. First, Multi-State alleges that RKO's News Director, Alan B. Zimmerman, improperly delegated the conduct of the community leader survey to non-managerial personnel. According to Multi-State, on or about August 28, 1974, Zimmerman circulated a written memorandum requesting RKO's news reporters assigned to him to interview community leaders. As compensation for their interviewing efforts, Multi-State continues, Zimmerman offered the reporters $5 per consultation.[8] Multi-State asserts that the procedure outlined in Zimmerman's memorandum contravened the Primer's requirement that the decision-making personnel of an applicant conduct community leader interviews. Second, movant contends that RKO has failed to specify in its application the identity of the individuals who conducted its community leader survey.[9] In light of the foregoing, Multi-State requests the Board to add a Suburban issue against RKO. Additionally, Multi-State asserts that since RKO, in its application, has misrepresented to the Commission that its community leader survey was conducted only by managerial employees, a misrepresentation issue is justified against the applicant.

6. Opposing enlargement, both the Broadcast Bureau and RKO argue that since the Zimmerman memorandum was drafted on or about August 28, 1974, it is irrelevant to any consideration of whether the community leader survey contained in RKO's renewal application and completed in 1972 was conducted in conformity with Q. and A. 11.[10] Rather, RKO points out that the Zimmerman memorandum related to a community leader survey voluntarily conducted by RKO to insure its continuing awareness of community needs. Furthermore, RKO's General Manager, Robert L. Williamson, in an accompanying affidavit, states that upon learning of the Zimmerman memorandum, he countermanded the memorandum and instructed Zimmerman to conduct any future community leader interviews himself. RKO also maintains that the Zimmerman memorandum does not reflect the policy of the station's management and therefore does not justify the addition of the requested issue. Turning to movant's other allegations, RKO argues that, contrary to Multi-State's contentions, the Primer does not require an applicant to inform the Commission of the identity of those who conducted the community leader survey.

7. The Review Board will add a limited Suburban issue since RKO has failed to identify by name those individuals who conducted its community leader interviews. Absent this information, it is impossible for the Board to determine whether RKO has complied with the requirement of Q. and A. 11 of the Primer that interviews of community leaders be conducted by an applicant's principals or management-level employees. KOWL, Inc., ____ FCC 2d _____, 31 RR 2d 1589 (1974).[11] Therefore, an appropriate issue will be added. However, the Review Board finds no merit in the contention that the Zimmerman memorandum raises a serious question as to whether RKO improperly delegated to non-management level employees the conduct of its community leader survey.[12] Finally, in light of the foregoing, the Board finds no basis for Multi-State's claim that RKO intentionally misrepresented to the Commission that only its principals or managerial-level employees conducted its community leader survey.

8. Accordingly, *it is ordered*, That the motion for leave to file response to Multi-State Communications, Inc.'s reply to opposition to motion to enlarge issues, filed January 14, 1975, by RKO General, Inc., IS DENIED; and

9. *It is further ordered*, That the response to Multi-State Communications, Inc.'s reply to motion to enlarge issues, filed January 14, 1975, by RKO General, Inc., is dismissed; and

10. *It is further ordered*, That the motion to enlarge issues, filed December 10, 1974, by Multi-State Communications, Inc. is granted to the extent indicated above, and is denied in all other respects; and the issues in this proceeding are enlarged to include the following issue:

To determine who conducted the community leader interviews relied on by RKO General, Inc. and in light of the evidence adduced, whether the applicant has complied with the requirements set forth in the Commission's Primer.

11. *It is further ordered*, That the burden of proceeding with the introduction of evidence and the burden of proof under the issue added herein SHALL BE on RKO General, Inc.

Adopted: February 6, 1975.

Released: February 12, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-4421 Filed 2-18-75;8:45 am]

[7] The Board also notes that, contrary to Lake's contention, RKO claims to have received three newswires—not one—regarding the Mozambique uprising—one from United Press International and the two from Associated Press.

[8] In support, Multi-State attaches a copy of the Zimmerman memorandum to the previously mentioned affidavit of Edgar Lake. In his affidavit, Lake also makes reference to the Zimmerman memorandum.

[9] In support, Multi-State refers to three statements in RKO's 1972 renewal application. The first, contained in Exhibit No. 1, states that RKO's Vice President for Public Affairs consults with community leaders, but does not indicate whether he conducts all such interviews. Secondly, movant refers to another statement in Exhibit No. 1, in which RKO noted that its in-depth consultations with community leaders were "generally" conducted by management. Finally, Multi-State refers to Exhibit No. 2, in which the renewal applicant stated that community leader survey interviews were conducted by "station management personnel". According to movant, an examination of these statements raises serious doubt as to whether RKO has conducted its interviews in conformity with the Primer.

[10] RKO, in support, submits the affidavits of Zimmerman and four of the five reporters who received the memorandum from Zimmerman, all of whom state that they did not participate in the ascertainment survey contained in the 1972 renewal application.

[11] Although RKO claims that certain portions of the exhibits cited by Multi-State refer to RKO's "continuing dialogue" with the community and not its "survey of community leaders", we note that RKO has not included in either section a listing of the individuals who conducted its community leader survey.

[12] Specifically, Multi-State has not demonstrated any correlation between Zimmerman's August 28, 1974, memorandum, and the community leader survey contained in RKO's 1972 renewal application, and RKO has categorically denied the existence of such a nexus. Moreover, the memorandum was quickly countermanded by RKO management.

FEDERAL ENERGY ADMINISTRATION

OLD OIL ALLOCATION PROGRAM

Entitlement Notice for December 1974

In accordance with the provisions of 10 CFR 211.67 relating to FEA's old oil allocation program, the monthly notice specified in § 211.67(i) is hereby published.

Based on reports submitted to FEA by refiners and eligible firms as to crude oil receipts, crude oil runs to stills and eligible product imports for December

1974 and an application of the entitlement adjustment for small refiners provided in 10 CFR 211.67(e), the adjusted national old oil supply ratio for December 1974 is calculated to be .400295.

The issuance of entitlements for the month of December 1974 to refiners and eligible firms is set forth as an Appendix to this notice. The Appendix lists the name of each refiner and other eligible firm to which entitlements have been issued, the number of entitlements issued to each such refiner or other firm, and the number of barrels of old oil included in each refiner's adjusted crude oil receipts.

Pursuant to 10 CFR 211.67(i)(4), FEA hereby fixes the price at which entitlements shall be sold and purchased for the month of December 1974 at $5.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of December 1974 than the number of barrels of old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of December 1974 equal to the difference between the number of barrels of old oil included in that refiner's adjusted crude oil receipts for that month and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of December 1974 in excess of the number of barrels of old oil included in their adjusted crude oil receipts for December 1974, and eligible firms which have been issued entitlements for December 1974, shall sell such excess entitlements to refiners required to purchase entitlements.

The listing of entitlement issuances contained in the Appendix reflects the application of Special Rule No. 3 (as amended February 5, 1975) which operates to relieve certain small refiners from the requirement to purchase entitlements for the first 30,000 barrels per day of their daily average volume of crude oil runs to stills for the months of November and December, 1974. Accordingly, for those small refiners whose purchase requirements were totally exempted pursuant to Special Rule No. 3, as amended, the Appendix specifies issuance of an incremental number of entitlements equal to the number such refiners would have otherwise been required to purchase. The total number of entitlements exempted from the purchase requirements of 10 CFR 211.67(b) is 3,459,272. A factor of .168811 has been applied to the number of entitlements available for sale by each refiner and eligible firm, which has the effect of reducing the total number of entitlements available for sale by an amount equal to the total purchase requirements exempted pursuant to Special Rule No. 3.

The listing of entitlement issuances contained in the Appendix also reflects corrections of November 1974 reports filed pursuant to § 211.66 (h) and (j) by refiners and eligible firms under the provisions of the emergency amendment to 10 CFR 211.67 issued by FEA on the date of this notice which permitted entitlement adjustments to correct reporting errors. As also provided by this emergency amendment, eligible firms that failed to report volumes of eligible products imported in the month of November 1974 and which have reported such volumes to FEA by February 3, 1975, have received appropriate adjustments in the entitlement issuance for the month of December 1974.

The listing of refiners' old oil receipts contained in the Appendix also reflects any adjustments made by FEA pursuant to § 211.67(h).

Refiners which have reported no volumes of old oil receipts and crude oil runs to stills for December 1974, and eligible firms which have filed reports indicating no eligible product imports for this month, have been included in the listing contained in the Appendix.

The listing contained in the Appendix specifies a negative volume of old oil receipts as to one refiner due to a corrective adjustment. The total number of entitlements issued to such refiner under the listing includes the number specified in the "issued" column, as well as a number of entitlements equal to the number of barrels of old oil shown as this negative volume.

The total volume of entitlements required to be purchased and sold under this notice is 17,032,748.

Entitlement purchases required under 10 CFR 211.67(b) for the month of December must be effected by February 28, 1975. On or prior to March 10, 1975, each refiner and eligible firm which has been issued entitlements for December shall file with FEA the monthly transaction report specified in 10 CFR 211.66(l) certifying its purchases and sales of entitlements for the month of December. FEA will mail monthly transaction report forms for December 1974 to reporting firms in February 1975. Refiners and eligible firms which have been unable to locate firms for required entitlement transactions by February 21, 1975, may contact FEA at 202-634-7610 to obtain assistance in locating a firm with outstanding purchase or sale requirements. For refiners and eligible firms that have failed to consummate entitlement transactions on or prior to February 28, 1975, FEA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(j).

Issued in Washington, D.C., February 11, 1975.

ROBERT E. MONTGOMERY, Jr.,
General Counsel,
Federal Energy Administration.

APPENDIX

ENTITLEMENTS FOR ALLOCATION OF OLD OIL

Reporting firm, short name	Old oil adjusted receipts	Entitlement position		
		Issued	Required to buy	Required to sell
A-Johnson	0	207,767	0	207,767
Arway	0	18,930	0	18,930
Allied	72,510	72,797	0	287
Amer-Petro	2,725,983	2,993,201	662,782	0
Amerada	3,824,042	6,941,728	0	3,117,686
Amoco	12,895,063	11,589,458	1,303,605	0
Apco	391,730	509,366	0	117,636
Apex	0	7,195	0	7,195
Arco	6,844,323	7,338,164	0	493,841
Arizona	42,632	42,632	0	0
Ashland	2,918,046	3,871,165	0	953,119
Asiatic	0	119,857	0	119,857
Bay	30,264	101,234	0	70,970
Bayou	47,337	47,337	0	0
Beacon	320,317	320,317	0	0
Belcher	0	136,106	0	136,106
Blue-Ridge	0	32,040	0	32,040
C. & H	6,167	6,167	0	0
Calumet	0	29,479	0	29,479
Canal	0	38,167	0	38,167
Caribou	74,437	79,761	0	5,324
Castle	0	31,782	0	31,782
Central	0	30,727	0	30,727
Champlin	2,062,826	1,830,146	232,680	0
Charter	1,097,858	1,033,133	64,725	0
Cirillo	0	78,127	0	78,127
Citco	4,008,361	2,778,160	1,230,201	0
Claiborne	77,230	77,230	0	0
Clark	624,038	976,559	0	352,521
Coastal	2,293,252	1,807,281	485,971	0
Colonial	0	53,868	0	53,868
Colonial-Oil	0	0	0	0
Con-Ed	0	321,449	0	321,449
Con-Ref	0	7,916	0	7,916
Conoco	4,222,750	3,829,906	392,844	0
Consumers-Power	0	34,599	0	34,599
Coree	0	971,965	0	971,965
Cra-Farm	501,122	655,589	0	154,467
Cross	12,764	58,065	0	45,301
Crown	627,332	737,429	0	110,097
Crystal-Oil	231,380	247,360	0	15,980
Crystal-Ref	13,427	29,856	0	16,429
Deepwater	0	13,497	0	13,497
Delta	483,486	503,059	0	19,573
Diamond	683,141	680,980	2,161	0
Dingman	7,520	9,192	0	1,672
Dorchester	[1]—1,764	[2] 9,908	0	11,672
E-Seaboard	0	55,294	0	55,294
Eastern	0	0	0	0
Eddy	36,760	36,760	0	0
Edgington-Oil	545,149	545,149	0	0
Edgington-Oxn	19,743	21,193	0	1,450
Elm	0	0	0	0
Energy-Fuels	0	0	0	0
Enterprise	0	6,689	0	6,689

Reporting firm, short name	Old oil adjusted receipts	Entitlement position		
		Issued	Required to buy	Required to sell
Evangeline	33,066	33,066	0	0
Exxon	16,838,160	14,562,205	2,275,955	0
F-Fletcher	0	1,715	0	1,715
Famariss	280,746	368,283	0	87,537
Farmers-Un	243,027	387,500	0	144,473
Fletcher	401,093	401,093	0	0
Flint	8,907	9,125	0	218
Fort-Neck	0	0	0	0
Gary	49,826	58,919	0	9,093
Gen-Portland	0	13,024	0	13,024
Geo-Hall	0	3,420	0	3,420
Getty	658,222	859,211	0	200,989
Giant	321,839	322,590	0	751
Gibbs	0	21,202	0	21,202
Gladieux	87,681	87,681	0	0
Goetz	0	0	0	0
Golden-Eagle	203,762	203,762	0	0
Golden-Eagle-N.Y	0	18,701	0	18,701
Good-Hope	454,019	454,019	0	0
Great-Northern	0	13,227	0	13,227
Guam	0	303,655	0	303,655
Gulf	13,177,080	10,271,672	2,905,408	0
Gulf-STS	4,102	5,769	0	1,667
Hartwell	0	0	0	0
Hirl	118,617	398,224	0	279,607
Howard	0	77,700	0	77,700
Howell	870,030	824,459	45,571	0
Hunt	296,763	296,763	0	0
Husky	570,351	578,371	0	8,020
Indiana-Farm	156,174	234,810	0	78,636
Irving	0	25,219	0	25,219
J. & W	189,196	224,984	0	35,788
K-H-White	0	5,255	0	5,255
Kaiser	0	0	0	0
Kentucky	876	5,505	0	4,629
Kerr-McGee	2,203,833	1,863,021	340,812	0
King	0	0	0	0
Koch	301,289	1,077,322	0	776,033
Lagloria	479,270	479,270	0	0
Lakeside	11,369	39,925	0	28,556
Laketon	209,780	209,780	0	0
Little-Amer	289,861	294,793	0	4,932
MacMillan	204,889	204,889	0	0
Marathon	4,301,724	3,713,161	588,563	0
Marion	109,205	227,934	0	118,729
Meenan	0	0	0	0
Mid-Amer	10,084	30,407	0	20,323
Mid-Tex	0	0	0	0
Midland	251,475	257,271	0	5,796
Mobil	9,840,361	10,523,968	0	683,607
Mohawk	591,013	591,013	0	0
Monsanto	476,642	475,507	1,135	0
Morrison	1,270	5,777	0	4,507
Mountaineer	3,298	3,493	0	195
Murphy	1,134,060	1,247,170	0	113,110
N-Amer-Petro	161,350	161,350	0	0
Narragansett	0	36,155	0	36,155
Natl-Coop	453,185	638,490	0	185,305
Navajo	429,191	429,191	0	0
NE-Petro	0	113,414	0	113,414
Nepco	0	58,706	0	58,706
New-Engl	0	323,508	0	323,508
Newhall	264,050	264,050	0	0
Newman	0	4,714	0	4,714
Norco	0	0	0	0
Northern-NJ	0	0	0	0
Northland	22,228	22,228	0	0
Northville	0	96,689	0	96,689
Oil-Shale	971,597	924,701	46,896	0
OKC	377,647	377,647	0	0
Orange & Rockland	0	5,819	0	5,819
Oriental	10,541	16,635	0	6,094
Pace	0	0	0	0
Pasco	888,263	795,072	93,191	0
Patchogue	0	78,429	0	78,429
Patterson	0	0	0	0
Pennzoil	625,131	653,788	0	28,657
Pepco	0	191,527	0	191,527
Petro-Heat-Ct	0	26,129	0	26,129
Petro-Heat-Pa	0	46,836	0	46,836
P.G. & E	0	21,460	0	21,460
Phillips	4,353,098	4,697,784	0	344,686
Pioneer	10,893	13,313	0	2,420
Pittston	0	247,883	0	247,883
Plateau	43,330	92,593	0	49,263
Powerine	559,720	551,804	7,916	0
Pride	208,256	323,805	0	115,549
Prulease	0	175,245	0	175,245
Publicker	0	0	0	0
Quaker-St	27,270	248,529	0	221,259
Remington	0	32,522	0	32,522
Rico	0	13,294	0	13,294
Road-Oil	0	3,962	0	3,962
Rock-Island	597,544	595,203	2,341	0
Rockway	0	0	0	0
Royal	0	30,720	0	30,720
Saber	0	0	0	0
Sage-Creek	4,642	5,717	0	1,075
San-Joaquin	291,548	291,548	0	0
Sears	0	25,466	0	25,466
Seminole	0	35,892	0	35,892
Shaheen	0	0	0	0
Shell	15,454,125	11,491,162	3,962,963	0
Sigmor	0	0	0	0
Signal	0	0	0	0
Skelly	1,313,713	934,159	379,554	0
So-Hampton	70,047	77,873	0	7,826

Reporting firm, short name	Old oil adjusted receipts	Entitlement position		
		Issued	Required to buy	Required to sell
So-Terminal	0	0	0	0
Socal	9,227,000	10,711,942	0	1,384,942
Socaledison	0	97,123	0	97,123
Sohio	3,254,180	3,975,775	0	721,595
Somerset	0	38,065	0	38,065
Sound	56,165	56,165	0	0
Southland	338,788	338,788	0	0
Southwestern	0	0	0	0
Stephens	0	0	0	0
Steuart	0	130,230	0	130,230
Stillings	0	0	0	0
Simland	101,604	113,108	0	11,504
Sunoco	6,501,920	6,045,011	456,909	0
Swann	0	26,500	0	26,500
Tarricone	0	0	0	0
Tauber	0	15,957	0	15,957
Tenneco	1,418,347	1,410,692	7,655	0
Tesoro	982,461	887,799	104,662	0
Texaco	15,280,090	14,213,380	1,066,710	0
Texas-Asph	747	11,652	0	10,905
Texas-City	695,477	805,325	0	109,848
Texas-Fuel	0	0	0	0
Thagard	62,113	62,113	0	0
The-Refinery	94,342	167,338	0	72,996
Thriftway	6,042	22,142	0	16,100
Thunderbird	109,313	195,842	0	86,529
Time	0	0	0	0
Tonkawa	12,716	44,756	0	32,040
Toro	355,053	432,831	0	77,778
Total-Leon	145,078	432,059	0	286,981
Union-Oil	6,030,729	5,659,191	371,538	0
Union-Petro	0	0	0	0
Union-Texas	137,868	137,868	0	0
Untd-Ind	0	0	0	0
Untd-Ref	312,921	550,184	0	237,263
US-Oil	104,643	104,643	0	0
Ven-Fuel	0	13,572	0	13,572
Vi-Oil	0	0	0	0
Vickers	392,434	399,645	0	7,211
Vulcan	0	27,941	0	27,941
Wallace	0	0	0	0
Waller	0	9,982	0	9,982
Warrior	52,407	52,407	0	0
Webber	0	0	0	0
Wellen	0	0	0	0
West-Coast	88,506	88,506	0	0
Western	4,055	23,815	0	19,760
Whaleco	0	11,628	0	11,628
Wickett	0	0	0	0
Winston	118,998	219,042	0	100,044
Wireback	0	692	0	692
Witco	44,373	95,612	0	51,239
Wyatt	0	67,886	0	67,886
Yetter	0	1,243	0	1,243
Young	50,382	50,382	0	0
Total	176,346,407	176,346,407	17,032,748	17,032,748

[1] Reflects a correction for excessive old oil receipts reported by this firm for November 1974.
[2] Does not include entitlements issued to this firm under this notice as a result of the above-mentioned adjustment of old oil receipts.

[FR Doc.75-4293 Filed 2-12-75;11:41 am]

FEDERAL MARITIME COMMISSION

FLOTA MERCANTE GRAN CENTROAMERICANA, S.A. AND COORDINATED CARIBBEAN TRANSPORT, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW, Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 11, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

James N. Jacobi, Esquire
2000 K Street, N.W.
Washington, D.C. 20006

Agreement No. 10153 is an arrangement between Flota Mercante Gran Centroamericana, S.A. (Flomerca) and Coordinated Caribbean Transport, Inc. (CCT), whereby CCT has become associated with FLOMERCA for the transportation of cargo from Miami, Florida to Guatemala.

Under the terms of the agreement, CCT will pay FLOMERCA five percent of the gross ocean/inland freight revenue on all cargoes to any point in Guatemala. In return, FLOMERCA (1) will, jointly with CCT, meet with government agencies to coordinate movements of agricultural products; (2) will keep CCT informed of market conditions and opportunities; (3) will prepare and present all necessary documents to Guatemalan authorities for waiver for import cargo, and assist CCT to obtain the necessary permits for its business in Guatemala; (4) advertise in Guatemala that CCT, as an associate, has authority to transport duty exempt cargo; and (5) prepare and present all necessary documents authorizing importers using CCT services to receive industrial development law benefits. Other significant provisions require that all payments by CCT to FLOMERCA be made every three months; all rate changes must be reported to FLOMERCA, 30 days prior to the effective date; a commitment by CCT to export all perishable products originating in Guatemala; FLOMERCA's disclaimer of all liability and responsibility with respect to CCT's operations; the term of the arrangement shall be for three years from date of approval, and may be terminated by FLOMERCA for non-compliance; and obligations under the agreement are to be construed in accordance with the laws of Guatemala, and CCT expressly waives jurisdiction of the courts of its domicile and will submit to the jurisdiction of the courts chosen by FLOMERCA.

By Order of the Federal Maritime Commission.

Dated: February 13, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-4443 Filed 2-18-75;8:45 am]

NORTH ATLANTIC MEDITERRANEAN FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before March 11, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear

and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Jacob P. Billig, Esquire
Billig, Sher & Jones, P.C.
1126 Sixteenth Street, N.W.
Washington, D.C. 20036

Agreement No. 9548-7, among the member lines of the above-named Conference, modifies the organic agreement by providing that the Conference may appoint the Associated North Atlantic Freight Conferences, or its Executive Director, or any other entity to perform cargo inspection services.

By Order of the Federal Maritime Commission

Dated: February 12, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-4440 Filed 2-18-75;8:45 am]

SOUTH CAROLINA STATE PORTS AUTHORITY AND PUERTO RICO MARITIME SHIPPING AUTHORITY

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before March 11, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Marion S. Moore, Jr.
Traffic Manager
South Carolina State Ports Authority
P.O. Box 817
Charleston, South Carolina 29402

Agreement No. T-3059, between the South Carolina State Ports Authority (Authority) and the Puerto Rico Maritime Shipping Authority (PRMSA), provides for the preferential use by PRMSA of Berths 1 and 2 and lease to PRMSA of 8.91 acres of improved facilities at the Authority's Columbus Street Terminal, Charleston, South Carolina. As compensation, the Authority is to receive: (a) fixed monthly rent of $5,791.50; (b) 13 percent of the cost of the improvements caused to be constructed by the Authority; (c) all applicable dockage and crane hire charges per the Authority's tariffs; and (d) wharfage on the following basis: (i) a guaranteed minimum annual wharfage based on 150,000 short tons at 100 percent of the Authority's applicable tariff rates; plus (ii) 75 percent of the Authority's applicable tariff rates on tonnage exceeding 150,000 short tons annually; plus (iii) 50 percent of the Authority's applicable tariff rates on tonnage exceeding 250,000 short tons annually.

By order of the Federal Maritime Commission.

Dated: February 13, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-4441 Filed 2-18-75;8:45 am]

COMPANIA AVONIMA VENEZOLANA DE NAVEGACION COMPANIA PERUANA DE VAPORES AND PRUDENTIAL LINES

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within *20* days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Mr. John R. Marano
Executive Vice President Operations
Prudential Lines, Inc.
One World Trade Center, Suite 3601
New York, New York 10048

Agreement No. T-3014 among Compania Anonima Venezolana De Navegacion (CAVN), Compania Peruana De Vapores (CPV), and Prudential Lines, Inc. (Prudential), provides for the sharing, on a tonnage basis, of the leasehold expenses (including rent) of Pier 1, Brooklyn, N.Y., under a joint lease with the Port of New York and New Jersey Authority, and the sharing, on the same basis, of any revenues from use of the pier by others. Universal Marine Service Corporation will provide stevedoring at the Pier under separate contracts with each of Prudential, CAVN and CPV. CAVN will administer the various affairs related to the joint terminal lease by the parties as the representative for the parties.

By Order of the Federal Maritime Commission.

Dated: February 13, 1975.

FRACIS C. HURNEY,
Secretary.

[FR Doc.74-4442 Filed 2-18-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-8624]

ARIZONA PUBLIC SERVICE CO.

Further Extension of Procedural Dates

FEBRUARY 11, 1975.

On February 6, 1975, Arizona Public Service Company filed a motion to extend the procedural dates fixed by order issued December 12, 1974, as most recently modified by order of the Presiding Administrative Law Judge issued January 8, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of cost of service by company, February 18, 1975.

All other dates will be as modified by the order of the Presiding Administrative Judge issued February 11, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-4375 Filed 2-18-75;8:45 am]

[Docket No. CP75-218]

CAPROCK PIPELINE CO.

Application

FEBRUARY 11, 1975.

Take notice that on January 27, 1975, Caprock Pipeline Company (Applicant), P.O. Box 2542, Amarillo, Texas 79105, filed in Docket No. CP75-218 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for exchange and the sale for resale of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to gather, transport and exchange with Transwestern Pipeline Company (Transwestern) up to 350 Mcf of gas per day purchased at the wellhead from C. H. Hinton, et al. Applicant will deliver said gas to Transwestern under the terms of an existing exchange agreement[1] in Carson County, in exchange for thermally equivalent volumes to be delivered by Transwestern at a delivery point in Parmer County, Texas. Transwestern will redeliver such gas, together with other volumes of gas delivered under said exchange agreement, at rates of up to 10,000 Mcf per day.

Applicant proposes to sell the gas delivered by Transwestern to Applicant's parent, Pioneer Natural Gas Company (Pioneer), at the rate of 60.0 cents per Mcf at 14.65 psia. Applicant proposes to effect the sale of such redelivered volumes to Pioneer at the point of redelivery pursuant to an agreement dated November 27, 1974, between Applicant, as seller, and Pioneer, as buyer, proposed to be designated as Applicant's Rate Schedule S-7. The gas to be sold hereunder will supplement other volumes of gas sold to Pioneer in Parmer County, Texas, by Applicant to meet existing demand for gas, fuel and irrigation engines. Applicant proposes to commence service on or before January 31, 1975.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-4377 Filed 2-18-75;8:45 am]

[1] Applicant indicates that its existing exchange arrangement with Transwestern was certificated in Docket No. CP72-254 and that the rate scheduled providing for such an exchange is on file as Applicant's Rate Schedule S-5, Original Sheet No. 46, et seq., in Applicant's FPC Gas Tariff, Original Volume No. 2.

[Docket No. CP74-126]

EL PASO NATURAL GAS CO.

Amendment to Application

FEBRUARY 11, 1975.

Take notice that on January 30, 1975, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP74-126 an amendment to its application filed pursuant to Section 7(c) of the Natural Gas Act in said docket requesting authorization for additional points for the exchange of natural gas between Applicant and Natural Gas Pipeline Company of America (Natural) and the construction and operation of certain facilities necessary therefor, all as more fully set forth in the amendment to the application, which is on file with the Commission and open to public inspection.

In its application in the instant docket Applicant requests a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and the delivery in interstate commerce by means thereof of natural gas for exchange with Natural. Applicant states that it has acquired the right to purchase gas produced from various leaseholds in the West Putnam Field in Dewey County, Oklahoma and that it has entered into an exchange agreement with Natural, dated September 24, 1973, in order to make said gas available to its customers. Pursuant to the agreement Applicant is to deliver up to 40,000 Mcf of gas to Natural in Dewey County and Natural is to deliver equivalent volumes to Applicant at a point on Applicant's 36-inch mainline in Reeves County, Texas. The agreement further provides for use of alternative exchange points in Ward and Reeves County, Texas, as required. The proposed exchange has been authorized pursuant to temporary certificates issued by the Commission on July 25, 1974, in the instant docket and in Natural's Docket No. CP74-162.

By the instant amendment to the application Applicant proposes to exchange gas at an additional point of delivery from Applicant to Natural in Beckham County, Oklahoma, and four additional points of delivery from Natural to Applicant in Eddy County, New Mexico. Applicant proposes to deliver to Natural at a point on Natural's 26-inch pipeline in Beckham County natural gas produced from the Annie Bruner No. 1-33 and Price No. 1-3 wells in Beckham County.[1] Applicant contemplates delivery of an additional 3,400 Mcf of gas per day at the Beckham delivery point, which volume will not, when added to the 10,600 Mcf per day presently delivered at 10,600 Mcf per day presently delivered the Dewey Exchange point, exceed the originally requested authorization for the exchange of 40,000 Mcf per day.

In the instant amendment Applicant proposes to exchange gas at the following delivery points from Natural to Applicant:

(1) Eddy No. 1 Exchange Point for delivery from the Sun State No. 1 well,
(2) Eddy No. 2 Exchange Point for delivery from Natural's gathering system into Applicant's gathering system,[2]
(3) Eddy No. 3 Exchange Point for delivery from the Champlin Petroleum Company's Pecos Federal No. 1 well, and
(4) Eddy No. 4 Exchange Point for delivery from the Champlin Petroleum Company's Nix Yates No. 1 well.

The gas to be delivered at points 1, 3 and 4 shall be delivered into Applicant's existing wellhead measurement facilities along with gas being purchased by Applicant from producers at the three named wells. Natural has filed in Docket No. CP74-162 an amendment to its application for a certificate of public convenience and necessity relating to its part of the additional arrangements described herein.[3]

Applicant further requests authority to construct and operate for the purpose

[1] Applicant states that it has entered into agreements with Union Oil Company of California (Union) and Burmah Oil and Gas Company (Burmah) to purchase gas produced from said wells. Applicant further states that it is informed that Union has filed an application on December 11, 1974, in Docket No. CI75-378 for a certificate of public convenience and necessity authorizing Union to sell gas to Applicant and that Burmah is expected to submit appropriate filings to the Commission forthwith.

[2] Applicant states that it has been informed that Natural does not plan to use the Eddy No. 2 Exchange Point at this time due to insufficient gas production from sources intended to supply such delivery point. Applicant proposes to construct the facilities necessary for said exchange point for use at such time as Natural's supply source becomes available at the proposed location.

[3] 39 FR 42423.

of implementing delivery at the Beckham delivery point:

(1) A 6⅝-inch standard orifice meter station with appurtenances (Beckham meter station) to be located at the point of interconnection between Applicant's gathering facilities and Natural's pipeline,

(2) A 5,000 Mcf per day capacity central dehydration unit to be located near said meter station,

(3) Approximately 2.03 miles of gathering pipeline and well-tie facilities with appurtenances to connect the subject wells with the Beckham meter station.

For the Eddy No. 2 Exchange Point, Applicant proposes to construct and operate a 4½-inch tap and valve assembly, with appurtenances, located at the proposed point of interconnection between Natural's and Applicant's gathering systems. Applicant estimates the total cost of the facilities at $243,072.

Applicant states that it requests the authorization proposed herein in order to be able to make available to its customers additional quantities of gas produced from sources in Beckham County, thereby obviating the need for constructing additional pipeline facilities which would otherwise be required to connect said supplies.

Any person desiring to be heard or to make any protest with reference to said amendment to the application should on or before February 26, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed wtih the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed protests or petitions to intervene need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-4378 Filed 2-18-75;8:45 am]

[Docket No. CP75-220]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

FEBRUARY 11, 1975.

Take notice that on January 28, 1975, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP75-220 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a 6000 horsepower central field compressor station for the compression of gas purchased by Applicant in the Washita Creek Area, Hemphill County, Texas, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a compressor station consisting of two 3,000 horsepower compressor engines on a site adjacent to its existing dehydration plant in Hemphill County, Texas, to enable Applicant to lower the gathering system operating pressure for the purpose of maintaining daily deliverability from the Washita Creek Area. The estimated cost of such facility is $2,015,000, which cost will be met from funds on hand.

Applicant states that reduction of the gathering system operating pressure to 500 psig from the present 1,000 psig will permit the recovery of approximately 29.5 million Mcf of gas during the first 10 years of production under such lowered compression, and by approximately 40 million Mcf over the life of the field, which volumes would not otherwise be recoverable.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 27, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-4382 Filed 2-18-75;8:45 am]

[Dockets Nos. RP71-125; PGA75-6]

NATURAL GAS PIPELINE CO. OF AMERICA

Special One-Time PGA Filing To Track Gas Cost Increases Incurred as Result of Opinion No. 699

FEBRUARY 11, 1975.

Take notice that on February 5, 1975, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, Nineteenth Revised Sheet No. 5.

Natural states the purpose of this filing is (1) to make a special one-time purchased gas cost adjustment, as permitted under the Commission's Opinion No. 699-H at Docket No. R389-B, to track increases in purchase gas costs attributable to the national rate which are in effect pursuant to filings made by natural gas producers on or before January 31, 1975, and (2) to make a special one-time PGA surcharge, as provided for in the Commission's Opinion No. 699-G at Docket No. R389-B, for the recovery of all Opinion No. 699 producer increases to be incurred up to the effective date of the surcharge.

The proposed effective date of the above tariff sheet is February 5, 1975.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 26, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-4381 Filed 2-18-75;8:45 am]

[Docket No. CI75-440]

NORTH AMERICAN ROYALTIES, INC.

Application

FEBRUARY 11, 1975.

Take notice that on January 27, 1975, North American Royalties, Inc. (Applicant), 200 East 8th Street, Chattanooga, Tennessee 37402, filed in Docket No. CI 75-440 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Gas Transmission Corporation (Texas Gas) from the Garden City Field, St. Mary Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it made a sale of natural gas to Texas Gas from the subject acreage wtihin the contemplation of § 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29) from October 9, 1974, to December 8, 1974. Applicant proposes to sell natural gas to Texas Gas for a period of one year from the first day of the month next following the month in which Applicant commences deliveries within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell to Texas Gas approximately 24,000 Mcf of natural gas per month at 73.0 cents per Mcf at 14.73 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot. The application indicates that initial upward Btu adjustment is estimated to be 8.9 cents per Mcf. Applicant alleges that the price to Texas Gas is substantially less than the price Applicant could charge and receive if such natural gas were sold in the intrastate market. Applicant further alleges that this gas will be available for sale to Texas Gas for only a limited period of time.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-4383 Filed 2-18-75;8:45 am]

[Dockets Nos. CP75-217; CP75-222]

NORTHERN NATURAL GAS CO. AND KANSAS-NEBRASKA NATURAL GAS CO., INC.

Applications

FEBRUARY 11, 1975.

Take notice that on January 27, 1975, Northern Natural Gas Company (Northearn), 2223 Dodge Street, Omaha, Nebraska 68102, and January 30, 1975, Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska), 300 North St. Joseph Avenue, Hastings, Nebraska 68901, filed in Docket Nos. CP75-217 and CP75-222,, respectively, applications pursuant to Section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing the exchange of natural gas between the two companies and the sale of natural gas by Northern to Kansas-Nebraska, all as more fully set forth in the applications, which are on file with the Commission and open to public inspection.

Northern states that it owns and controls 50 percent of the production from the Brown-Federal No. 1 Well in the West Frenchie Draw Field in Fremont County, Wyoming, located some distance from its existing gathering system. Northern further states that it has contracted with the Oil Development Company of Texas (ODC) to purchase the other 50 percent interest in the production of said well.

Under the terms of a June 5, 1974, agreement between Northern and Kansas-Nebraska:

(1) Northern will deliver all gas it owns or controls from the subject well to Kansas-Nebraska at the wellhead;

(2) Seventy-five percent of said gas will be redelivered to Northern by Kansas-Nebraska in Seward County, Kansas, and the remaining twenty-five percent will be purchased by Kansas-Nebraska.

(3) Northern will pay Kansas-Nebraska 11.0 cents per Mcf for all gas transported and redelivered to Northern;

(4) Kansas-Nebraska will pay Northern for each Mcf of the gas sold to Kansas-Nebraska the price equal to Northern's jurisdictional cost of service for such gas at the wellhead, or the highest price which Northern has paid the producer for gas transported by Kansas-Nebraska, whichever is the lesser;

(5) Kansas-Nebraska will install, own and operate all facilities necessary to accept delivery of gas from Northern at the wellhead; and

(6) All such costs are to be reimbursed by Northern. Kansas-Nebraska anticipates that any construction necessitated will be within the annual budget authority obtained by each company.

Northern states that the proposed arrangement will permit it to avoid the expenditures associated with installation of considerable gathering and transportation facilities to connect the subject well to its transmission system, and will thereby provide an economical means for receiving full gas purchase entitlement from said well. Kansas-Nebraska states that the proposed arrangement will provide it with additional gas supply to meet foreseeable future firm market requirements.

Annual gas production from the subject well is estimated at 290,000 Mcf.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 27, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, hearings will be held without further notice before the Commission on these applications if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matters finds that grants of the certificates are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearings.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-4384 Filed 2-18-75;8:45 am]

PENNZOIL CO. AND UNITED GAS PIPE LINE CO.

[Docket No. RP74-87]

Investigation of Spin-Off and Related Transactions; Order Establishing Procedures

FEBRUARY 11, 1975.

On February 5, 1975, the Chief Presiding Administrative Law Judge in the instant proceeding filed a certification of Procedural Recommendation with this Commission. The Judge filed the certification following a February 3, 1975, prehearing conference at which Pennzoil, United and a group of intervenors reported on the status of settlement negotiations among them. The Judge in his certification recommended the following:

(1) That the Commission promptly issue an order consolidating the "old gas

pricing" issue dockets with the instant show cause proceeding for the sole and limited purpose set forth above (i.e., for the sole and limited purpose of dealing with that portion of the instant settlement proposal relating to resolution of the "old gas pricing" issue, which was the subject of Opinion No. 682, and Docket Nos. RP74–41, et al.)

(2) That any such Commission consolidation order should inform the parties and make them subject to the following procedural dates laid down by the Presiding Judge in the instant show cause proceeding, at the February 3 prehearing conference:

(a) March 10—Deadline for submission of any evidence, plus written comments, relating to the proposed settlement.

(b) March 17—Final hearing session for limited interrogation, if any, with respect to any evidence related to the settlement, following which the proposed settlement will be certified to the Commission.

On February 6, 1975, Staff Counsel filed a response and objection to the certification that took issue with the procedures recommended in the Presiding Judge's certification.

In order to clarify the proper procedures to be followed by the Presiding Judge and the parties in dealing with the further course of the proceedings, the following procedures are established:

Pennzoil, United or the intervenors supportive of the settlement offer, but particularly Pennzoil, have the burden through a direct evidentiary presentation to:

(a) Demonstrate that the consolidation of the instant proceeding with docket (Nos. RP74–41, RP72–75, RP74–20, RP74–83, RP75–30, RP71–54, and RP72–133) involving the "old gas pricing" issue that was the subject of Commission Opinion No. 682 (January 11, 1974) operates in the public interest and set forth the benefits to be derived therefrom.

(b) Fully explain the settlement and in so doing to also demonstrate that the issues raised in our original orders (May 14, 1974 and June 12, 1974) herein and those additional issues that may have come to light during the hearings are resolved by the proposed settlement.

Additionally, the parties should be afforded the opportunity by the Law Judge of setting forth the procedural mechanics whereby these cases could be consolidated and resolved in light of the fact that Opinion No. 682 is now before the Fifth Circuit of Appeals (United Gas Pipe Line Company v. F.P.C., Case No. 72–2159). Here again the burden is with the moving party.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission require substantial evidence to support any settlement proposal that may be considered by it in this proceeding.

The Commission orders:

(A) The procedures recommended by the Chief Administrative Law Judge as set forth in his certification are hereby modified in accordance with this order.

(B) The Presiding Law Judge should establish procedures for the filing and presentation of direct evidentiary support by the proponents of the settlement as well as procedures for the orderly preparation of cross-examination and for the submittal of any rebuttal testimony after the direct evidence is cross-examined. In this regard, Pennzoil, United, and supportive intervenors, but particularly Pennzoil, should be required to provide substantial record evidence in support of the following:

(1) To demonstrate that the consolidation of the "old gas" pricing issue which was the subject of Commission Opinion No. 682, January 11, 1974, in United Gas Pipe Line Company (Pennzoil Phase D), Docket No. RP70–13 and which now remains to be litigated for a cost-of-service determination in a remanded proceeding incorporating the same issue from Dockets Nos. RP71–41, RP72–75, RP74–20, RP74–83, RP75–30, RP71–54, and RP72–133, with the instant proceeding, is in the public interest; (2) To fully explain the precise dimensions of the settlement proposal and the rights and obligations of the parties thereunder; (3) Resolution of the issues raised in the Commission's original orders and any additional issues arising in the course of the investigation.

(C) Additionally, the proponents of the settlement have the burden of coming forward either through legal argument or an evidentiary presentation supportive of the mechanics they would espouse to accomplish the proposed consolidation of dockets herein described.

(D) Pennzoil counsel shall serve the proposed settlement agreement not only on all parties to the instant show cause proceeding, but also on all parties on the Commission's service list in all of the "old gas pricing" issue dockets listed above, and shall certify such service to the Commission.

(E) The Secretary is directed to serve a copy of this order on all the parties in the instant docketed proceeding, all parties to the proceeding in Opinion No. 682, and in all the docketed proceedings listed in paragraph (B) above.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-4379 Filed 2-18-75;8:45 am]

[Docket No. RP69-27, et al.]

TRANSWESTERN PIPELINE CO.

Retention and Disbursement of Producer Supplier Refunds

FEBRUARY 10, 1975.

Take notice that Transwestern Pipeline Company (Transwestern) on January 30, 1975, filed a letter dated January 28, 1975, in which it stated that Transwestern proposes to retain and commingle in its general corporate funds the refund of $10,249.96 including interest received from Phillips Petroleum Company and to disburse such refunds pursuant to Article IV of Transwestern's Stipulation and Agreement dated October 2, 1970, approved by Commision order issued November 24, 1970 in this proceeding.

(No statement of service of copies of this letter upon its jurisdictional customers and interested State commissions is included in the letter; and no copy of a proposed notice for publication in the FEDERAL REGISTER is included in the filing pursuant to § 2.1(a) of the Commission's rules and § 154.28 of the regulations).

Any person desiring to be heard or to protest said application should file a petition to intervene (unless such intervention has previously been granted herein) or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 24, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-4385 Filed 2-18-75;8:45 am]

[Docket No. E-8959]

UTAH POWER & LIGHT CO.

Notice of Filing

FEBRUARY 11, 1975.

Take notice that on January 27, 1975, pursuant to Section 205 of the Federal Power Act and Part 35 of the Regulations issued thereunder, and by direction of the Commission by order issued November 15, 1974 herein, Utah Power & Light Company (Applicant) tendered for filing a January 20, 1975 Amendment to Service Schedule F–1 of the Interconnection Agreement with Arizona Public Service Company, dated May 31, 1973, reflecting elimination of the provision set forth in subparagraph 5.1(b) of Service Schedule F–1 which automatically adjusted the material cost component of the operation and maintenance charge associated with the 100 mw unit sale to Arizona Public Service Company from Applicant's 415 mw Huntington Plant. The automatic adjustment provision was intended solely to allow Arizona Public Service Company to fully recover its proportionate share of O&M costs associated therewith, based upon the Industrial Commodities Index prepared by the United States Department of Labor.

The tendered Amendment provides that Arizona Public Service Company pay Applicant a monthly readiness-to-supply charge equal to 1/12 of Applicant's actual fixed charge rate applied to an investment of $13,106,176, plus actual O&M charges, less fuel cost, incurred by

Applicant in generation unit operation multiplied by the ratio of 100 mw to the total 415 mw capacity of the Huntington unit. The readiness-to-supply charge is additionally not subject to adjustment due to reduction in capacity, use by Applicant, or sale by either party.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-4386 Filed 2-18-75;8:45 am]

[Docket No. E-8619]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Further Extension of Procedural Dates

FEBRUARY 11, 1975.

On February 4, 1975, Wisconsin Electric Power Company and Wisconsin Michigan Power Company filed a motion to extend the procedural dates fixed by order issued April 19, 1974, as most recently modified by notice issued December 10, 1974 in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of company rebuttal, March 25, 1975.
Hearing, April 22, 1975 (10 a.m. e.d.t.).

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-4387 Filed 2-18-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50-524A, 50-525A, 50-526A, and 50-527A]

ALABAMA POWER CO.

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following advice from the Attorney General of the United States, dated February 5, 1975:

You have requested our advice pursuant to provisions of Section 105c of the Atomic Energy Act of 1954, as amended, in regard to the above-cited application.

A description of the Applicant, its history and structure, conduct with respect to smaller systems and our conclusions based thereon was transmitted to the Atomic Energy Commission on August 16, 1971, in connection with its request for our advice on Alabama Power Company's application to construct the Joseph M. Farley Nuclear Units 1 and 2, AEC Docket Nos. 50-348A and 50-364A. We concluded then that Applicant's activities under the Farley licenses might create or maintain a situation inconsistent with the antitrust laws, and we recommended that your predecessor Commission hold a hearing on the matter. An antitrust hearing on the Farley application is now proceeding before an NRC Atomic Safety and Licensing Board, and we are a party thereto.

The Alan R. Barton Nuclear Plant now applied for will consist of four 1200-megawatt units, for a total of 4800 megawatts of nuclear generation. This new generation will become an integral element of Applicant's bulk power supply system and further will be integrated into the Southern System Power Pool, of which Applicant is a member. When the Barton units are operational, nuclear generation will represent 43% of Applicant's total generating capacity, and its growing importance to Applicant's future as a producer and supplier of electric power is quite clear.

The electric power market structure in central and southern Alabama and Applicant's practices and policies toward its competitors and potential competitors in that area which led to our conclusions of August 16, 1971, concerning the Farley license application, and upon which we are now focusing in the Farley hearing, have been equally significant to our antitrust consideration of the instant application. We conclude that Applicant's activities under the Barton licenses now sought, whereby Applicant would construct, operate and market power from these four 1200-mw nuclear units while continuing to foreclose to its smaller competitors the ability to produce power from large nuclear units to meet growing loads, would create or maintain a situation inconsistent with the antitrust laws.

We therefore recommend that a hearing be held in accordance with section 105c of the Atomic Energy Act on the subject license application.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's rules of practice, 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by March 21, 1975 either (1) by delivery to the NRC Public Docketing and Service Section at 1717 H Street NW.; Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Section.

For the Nuclear Regulatory Commission.

ABRAHAM BRAITMAN,
Chief, Office of Antitrust & Indemnity Nuclear Reactor Regulation.

[FR Doc.75-4366 Filed 2-18-75;8:45 am]

[Docket No. 50-255]

CONSUMERS POWER CO.

Issuance of Amendment to Provisional Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Provisional Operating License No. DPR-20 issued to Consumers Power Company which revised Technical Specifications for operation of the Palisades Plant, located in Covert Township, Van Buren County, Michigan. The amendment is effective as of its date of issuance.

This amendment involves: editorial corrections to clarify the intent of several specifications and to correct typographical errors; a modified specification for reactor coolant flow testing; revised acceptance criteria for containment leak testing; revised diesel generator surveillance; the addition of allowable tolerances for safety valve setting; modified procedures for testing reactor coolant samples and air filters; new surveillance requirements for the hydrogen recombiners; a revised setting for initiation of engineered safeguards on high containment pressure; elimination of surveillance requirements for the Reactor Protection System during prolonged refueling shutdown periods; modifications to the surveillance requirements for the containment high pressure channels; a revised method for testing the Safety Injection Refueling Water Tank Level Switch interlock and a different surveillance test for the interlock on the shutdown cooling system isolation valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment dated April 8, 1974, (2) Amendment No. 12 to License No. DPR-20, with any attachments, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 11th day of February 1975.

For The Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch #1, Division of Reactor Licensing.

[FR Doc.75-4367 Filed 2-18-75;8:45 am]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. DPR-46 issued to the Nebraska Public Power District which revised Technical Specification for operation of the Cooper Nuclear Station located in Nemaha County, Nebraska. The amendment is effective as of its date of issuance.

This amendment modifies the core spray and primary containment instrumentation requirements and revises the Specifications for filter systems and coolant chemistry.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment dated May 28, 1974, and supplement thereto dated September 16, 1974, (2) Amendment No. 7 to License No. DPR-46, with Change No. 10 and (3) the Commission's concurrently issued Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Auburn Public Library, 1118 15th Street, Auburn, Nebraska 68305. A copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 6th day of February 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch #2, Division of Reactor Licensing.

[FR Doc.75-4368 Filed 2-18-75;8:45 am]

[Dockets Nos. 50-324 and 50-325]

DAVID M. STEWART, ET AL.

Petition for Show Cause Order

Notice is hereby given that on January 29, 1975, David M. Stewart, et al., by their attorney, filed a request pursuant to 10 CFR 2.206 of the Commission's rules of practice for the issuance by the Acting Director, Office of Nuclear Reactor Regulation of an order to show cause why the Carolina Power & Light Company, Brunswick Steam Electric Plant license should not be amended to require a comprehensive and independent re-evaluation of the seismic safety of the plant site as a continuing condition of the fueling, testing and operation of the Brunswick Plant. In accordance with the procedures specified in 10 CFR 2.206, appropriate action will be taken on this request within a reasonable time.

A copy of the petition for the order to show cause is available for inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Southport Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461.

Dated at Bethesda, Maryland, this 10th day of February 1975.

For the Nuclear Regulatory Commission.

WALTER R. BUTLER,
Chief, Light Water Reactor Branch 1-2, Division of Reactor Licensing.

[FR Doc 75-4365 Filed 2-18-75; 8:45 am]

[Dockets Nos. STN 50-502 and STN 50-503]

WISCONSIN ELECTRIC POWER CO. ET AL. (KOSHKONONG NUCLEAR PLANT, UNITS 1 AND 2)

Special Prehearing Conference

Before the Atomic Safety and Licensing Board.

In the Matter of Wisconsin Electric Power Co., Wisconsin Power & Light Co., Wisconsin Public Service Corp., and Madison Gas and Electric Co. (Koshkonong Nuclear Plant, Units 1 and 2).

Please take notice, that the Special Prehearing Conference in the above-captioned proceeding, initially scheduled for February 14, 1975, is hereby rescheduled for March 4, 1975. As noted in the earlier notice, the public is invited to attend. However, the purpose of the special conference is to consider petitions to intervene and related matters. No limited appearance statements will be received.

Each of the attorneys for the parties and for the petitioners to intervene shall adhere to the following:

(a) Supply in writing directly to each member of this Board and to each other on or before February 23, 1975, a statement of a proposed schedule for each requirement or phase leading to the evidentiary hearing in this proceeding; and

(b) In filing any document, or paper in this proceeding, attach a certificate of service properly setting forth the name and address of the person on whom served, and the manner and date of service. See Rules of Practice, §§ 2.701 and 2.712.

Accordingly, the said conference will commence at 9:30 a.m. local time, on March 4, 1975 at the Council Chambers, City-County Building, Room 201, 210 Monona Avenue, Madison, Wisconsin 53709.

It is so ordered.

Dated at Bethesda, Maryland, this 12th day of February 1975.

ATOMIC SAFETY AND LICENSING BOARD
JOHN B. FARMAKIDES,
Chairman.

[FR Doc.75-4369 Filed 2-18-75;8:45 am]

[Docket No. 50-302]

FLORIDA POWER CORP. CRYSTAL RIVER UNIT 3 NUCLEAR GENERATING PLANT

Order Extending Construction Completion Date

Florida Power Corporation is the holder of Provisional Construction Permit No. CPPR-51 issued by the Commission on September 25, 1968, for construction of the Crystal River Unit 3 Nuclear Generating Plant presently under construction at the Company's site on the Gulf of Mexico in Citrus County, Florida.

On July 12, 1974 and October 21, 1974, the Company filed requests for an extension of the completion date because construction has been delayed due to (1) construction schedule, (2) work stoppages, (3) design modifications, (4) rework, and (5) delays due to financial considerations. This action involves no significant hazards consideration; good cause has been shown for the delay; and the requested extension is for a reasonable period, the bases for which are set forth in a staff evaluation dated February 12, 1975.

It is hereby ordered, That the latest completion date for CPPR-51 is extended from September 30, 1974 to December 31, 1976.

For the Nuclear Regulatory Commission.

Date of Issuance: February 12, 1975.

VOSS A. MOORE,
Assistant Director for Light Water Reactors, Group 2, Division of Reactor Licensing.

[FR Doc.75-4444 Filed 2-18-75;8:45 am]

[Docket No. 50-315]

INDIANA AND MICHIGAN ELECTRIC CO. AND INDIANA AND MICHIGAN POWER CO. (DONALD C. COOK NUCLEAR PLANT, UNIT 1)

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. DPR-58, issued to Indiana and Michigan Electric Company and Indiana and Michigan Power Company. The amendment is effective as of its date of issuance.

The amendment eliminates a Technical Specification requirement, unintended when the Technical Specifications were originally issued, that prohibits a change in reactor operating mode when meteorological monitoring instrumentation is inoperable.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment dated February 11, 1975, (2) Amendment No. 3 to License No. DPR-58, with any attachments, and (3) the Commission's letter to the licensee transmitting the amendment. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the St. Joseph Public Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 11th day of February 1975.

For The Nuclear Regulatory Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch 2-2, Division of Reactor Licensing.

[FR Doc.75-4445 Filed 2-18-75;8:45 am]

[Docket Nos. 50-282 and 50-306]

NORTHERN STATES POWER CO. (PRAIRIE ISLAND NUCLEAR GENERATING PLANT, UNITS 1 AND 2)

Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for these proceedings to consist of the following members:

Alan S. Rosenthal, *Chairman*
Dr. John H. Buck, *Member*
Dr. W. Reed Johnson, *Member*

Dated: February 12, 1975.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.75-4446 Filed 2-18-75;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ECONOMICS

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Economics to be held at 9 a.m. on March 7 and 8, 1975, in room 621, 1800 G Street NW., Washington, D.C.

The purpose of this Panel is to provide advice and recommendations concerning specific proposals submitted for consideration by the Economics Program.

This meeting will not be open to the public because the Panel will be reviewing, discussing, and evaluating individual research proposals. Also, these proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b), (4), (5), and (6). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of Section 10(d) of Pub. L. 92-463.

For further information about this Panel, please contact Dr. James H. Blackman, Program Director for Economics, Rm. 205, National Science Foundation, Washington, D.C. 20550, telephone 202/632-5968.

R. GAIL ANDERSON,
Acting Committee Management Officer.

FEBRUARY 12, 1975.

[FR Doc.75-4403 Filed 2-18-75;8:45 am]

ADVISORY PANEL FOR GENETIC BIOLOGY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Genetic Biology to be held at 9 a.m. on March 7 and 8, 1975, in room 338, 1800 G Street, NW., Washington, D.C.

The purpose of this Panel is to provide advice and recommendations concerning the merit of specific research proposals submitted for consideration by the Genetic Biology Program.

This meeting will not be open to the public because the Panel will be reviewing, discussing, and evaluating individual research proposals. Also, these proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b), (4), (5), and (6). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of Section 10(d) of Pub. L. 92-463.

For further information about this Panel, please contact Dr. Rose M. Litman, Program Director, Genetic Biology Program, Rm. 326, National Science Foundation, Washington, D.C. 20550, telephone, 202/632-5985.

R. GAIL ANDERSON,
FRED K. MURAKAMI,
Acting Committee Management Officer.

FEBRUARY 13, 1975.

[FR Doc.75-4404 Filed 2-18-75;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

INDEXES OF MATERIALS FOR PUBLIC INSPECTION

Notice of Delay in Availability

Pursuant to subsection (a)(2) of the Freedom of Information Act, 5 U.S.C. 552, as amended by Pub. L. 93-502, notice is hereby given that the National Transportation Safety Board deems it impractical at this time to publish indexes of materials available for public inspection and copying. Printed indexes are now in preparation and will be available for distribution at an early date. Meanwhile, the Safety Board will continue to provide prompt service to those seeking information concerning its records. All requests should be directed to the Accident Inquiry Unit, Office of the General Manager, National Transportation Safety Board, Washington, D.C. 20591.

[SEAL] FRITZ L. PULS,
General Counsel.

FEBRUARY 13, 1975.

[FR Doc.75-4492 Filed 2-18-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

AMERICAN AGRONOMICS CORP.

Suspension of Trading

FEBRUARY 11, 1975.

The common stock of American Agronomics Corp. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of American Agronomics Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from February 12, 1975 through February 21, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-4412 Filed 2-18-75;8:45 am]

[Rel. No. 18810; (70-5610)]

NEW ENGLAND POWER COMPANY

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

FEBRUARY 12, 1975.

Notice is hereby given that New England Power Company ("NEPCO"), 20 Turnpike Road, Westborough, Mass. 01581, an electric utility subsidiary company of New England Electric System ("NEES"), a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b), 9(a), 10 and 12 of the Act and Rules 42 and

50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

NEPCO proposes to issue and sell up to $80,000,000 aggregate principal amount of its First Mortgage Bonds, Series U, %, to mature not more than 30 years from March 1, 1975. Such bonds will be sold pursuant to the competitive bidding requirements of Rule 50 and the interest rate (which shall be a multiple of ⅛ of 1%) and the price exclusive of accrued interest (which shall be not less than 100% nor more than 102.75% of the principal amount) will be determined by competitive bidding. The bonds will be issued under the First Mortgage Indenture and Deed of Trust dated as of November 15, 1936, between NEPCO and New England Merchants National Bank, Trustee, as heretofore supplemented and amended and as to be further supplemented by a twentieth Supplemental Indenture to be dated as of March 1, 1975. NEPCO shall notify prospective bidders no later than the second full business day prior to the time designated for the submission of bids of (i) the maturity date of the bonds and (ii) whether or not the bonds shall be redeemable during the first five years of their term in connection with a refunding of the bonds at a lesser effective interest cost to NEPCO.

The proceeds from the sale of the bonds will be applied to the reduction of outstanding short-term promissory notes of NEPCO issued to pay for capitalizable expenditures or to reimburse the treasury thereof.

The application-declaration states that the Massachusetts Department of Public Utilities, The New Hampshire Public Utilities Commission and the Vermont Public Service Board have jurisdiction over the issue and sale of the bonds, and the Connecticut Public Utilities Commission may also have jurisdiction, subject to waiver, and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. The fees and expenses to be paid by NEPCO are estimated at $140,000, including service fees, at cost, of New England Power Service Company, a wholly-owned subsidiary company of NEES, of $40,000. The fees of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment.

Notice is further given that any intereted person may, not later than March 7, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 75-4409 Filed 2-18-75;8:45 am]

[File No. 500-1]

ROYAL PROPERTIES INC.

Suspension of Trading

FEBRUARY 11, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties Incorporated being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from February 12, 1975 through February 21, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-4413 Filed 2-18-75;8:45 am]

[File No. 500-1]

WINNER INDUSTRIES, INC.

Suspension of Trading

FEBRUARY 11, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Winner Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from February 12, 1975 through February 21, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-4414 Filed 2-18-75;8:45 am]

VETERANS ADMINISTRATION

CENTRAL OFFICE EDUCATION AND TRAINING REVIEW PANEL

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Central Office Education and Training Review Panel, authorized by section 1790(b), Title 38, United States Code, will be held in Room 119, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C. on March 20, 1975, at 10 a.m. The meeting will be held for the purpose of reviewing the December 17, 1974, decision of the Director, Veterans Benefits Office, Washington, D.C., that benefits to all eligible persons enrolled in Modern School of Music, 3109 Georgia Avenue NW., Washington, D.C., be discontinued, effective December 16, 1974.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Halsey A. Dean, Chief Appraisal and Compliance, Education and Rehabilitation Service, Veterans Administration Central Office (phone 202-389-2850) prior to March 10, 1975.

Dated: February 12, 1975.

[SEAL] R. L. ROUDEBUSH,
Administrator.

[FR Doc.75-4416 Filed 2-18-75;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

STANDARDS ADVISORY COMMITTEE ON MARINE TERMINAL FACILITIES

Notice of Meeting

Notice is hereby given that a Standards Advisory Committee on Marine Terminal Facilities, established under section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on Tuesday, March 4; Wednesday, March 5; and Thursday, March 6, 1975, starting at 9 a.m. in the Francis Scott Key Room B of the Key Bridge Marriott Motel, 1401 Lee Highway, Arlington, Virginia. The meeting will be open to the public.

The Standards Advisory Committee on Marine Terminal Facilities will continue review of the proposed safety regulations for longshoring, with respect to marine terminal facilities, for the purpose of making recommendations to the Assistant Secretary of Labor for Occupational Safety and Health.

Written data, views, or comments may be filed, together with 20 copies thereof, with the Committee Management Officer by close of business March 3, 1975. Any such submissions will be provided to the members of the committee and will be included in the record of the meeting.

Persons wishing to make an oral presentation to the committee should submit a written request to be heard to the Committee Management Officer no later than close of business March 3, 1975. The request must contain the name of the person who wishes to make a presentation, whom he represents, a short summary of the intended presentation, and an estimate of the amount of time that will be needed. Oral presentations will be scheduled at the discretion of the Committee Chairman.

Communications should be addressed to:

J. Goodell
Committee Management Office
Occupational Safety and Health Administration
U.S. Department of Labor
1726 M Street, N.W., Room 200
Washington, D.C. 20210

Signed at Washington, D.C. this 14th day of February, 1975.

JOHN STENDER,
Assistant Secretary of Labor.

NOTE.—With regard to the meetings announced by this notice, the requirement for 15 days advance notice has been impossible to meet. It was only at the conclusion of the most recent meeting of this committee on February 13, 1975, that a decision was made to hold the above-announced series of meetings.

[FR Doc.75-4668 Filed 2-18-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Applications

FEBRUARY 10, 1975.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in opposition with the Interstate Commerce Commission on or before March 21, 1975. (This procedure is outlined in the Commission's report and order in Gateway Elimination, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding including a detailed statement of protestant's interest in the proposal. No rebuttal statements will be accepted.

No. MC 119789 (Sub-No. 203G) (Correction), filed May 27, 1974, published in the FEDERAL REGISTER January 28, 1975. Applicant: REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, from Columbus, Ohio, to points in Arizona, California, and Utah. The purpose of this filing is to eliminate the gateway of Thibodaux, La. The purpose of this correction is to correct the "E" number, previously published as 293G.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before March 3, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 2633 (Sub-No. E14), filed May 12, 1974. Applicant: CROSSETT, Inc., P.O. Box 946, Warren, Pa. 16365. Applicant's representative: M. A. Burgett (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank trucks (except petrochemicals), as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from those points in Wayne County, N.Y., which are north of New York Highway 31, to points in Ohio and Michigan. The purpose of this filing is to eliminate the gateways of points in McKean County, Pa.

No. MC 7597 (Sub-No. E1), filed May 31, 1974. Applicant: ASBESTOS EASTERN TRANSPORT, INC., Main Street, Manville, N.J. 08835. Applicant's representative: Ronald I. Shapps, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: General commodities, except those of unusual value, dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities requiring special equipment, and those injurious or contaminating to other lading; (a) between New York, New York and points in Nassau County, New York, on the one hand, and, on the other, points in that part of New York, east of a straight line beginning at the New York-New Jersey State line and extending in a northerly direction through Port Jervis and Minklers Corners, New York, to the United States-Canada International Boundary line, and north of a line beginning at South Kortright, New York and extending easterly through Spencertown, New York to the New York-Massachusetts State line; (b) between points in Suffolk County, New York, on the one hand, and, on the other, points in that part of New York east of a straight line beginning at the New York-New Jersey State line and extending in a northerly direction through Port Jervis and Minklers Corners, New York to the United States-Canada International Boundary line, and north of a straight line beginning at South Kortright, New York and extending easterly through Spencertown, New York to the New York-Massachusetts State line; and (c) between Westchester County, New York, on the one hand, and, on the other, points that part of New York east of a straight line beginning at the New York-New Jersey State line and extending in a northerly direction through Port Jervis and Minklers Corners, New York to the United States-Canada International Boundary line, and north of a straight line beginning at Raquette Lake, New York and extending easterly through Wright, New York to the New York-Massachusetts State line. The purpose of this filing is to eliminate the gateway of Bergen County, New Jersey.

No. MC 15558 (Sub-No. E16), filed May 16, 1974. Applicant: WARWOOD TRANSFER CO., 2231-41 Warwood Avenue, Wheeling, W. Va. 26003. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York, on the one hand, and, on the other, those points in Ohio on and south of a line beginning at the Ohio-West Virginia State line and extending along U.S. Highway 22 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Ohio Highway 16, thence along Ohio Highway 16 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Ohio-Indiana State line. The purpose of this filing is to eliminate the gateway of Bridgeport, Ohio.

No. MC 15558 (Sub-No. E17), filed May 16, 1974. Applicant: WARWOOD TRANSFER CO., 2231-41 Warwood Ave., Wheeling, W. Va. 26003. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, from points in North Carolina, on the one hand, and, on the other, those points in

Ohio on and north of a line beginning at the Ohio-Pennsylvania State line and extending along Ohio Highway 7 to junction Ohio Highway 78, thence along Ohio Highway 78 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Ohio Highway 76, thence along Ohio Highway 76 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Indiana State line. The purpose of this filing is to eliminate the gateway of Bridgeport, Ohio.

No. MC 15558 (Sub-No. E18), filed May 16, 1974. Applicant: WARWOOD TRANSFER CO., 2231-41 Warwood Avenue, Wheeling, W. Va. 26003. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between those points in Virginia on and east of a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 220 to the Virginia-North Carolina State line, those points in West Virginia on and north of a line beginning at the Ohio-West Virginia State line and extending along U.S. Highway 250 to the West Virginia-Virginia State line, on the one hand, and, on the other, those points in Ohio on and north of a line beginning at the Ohio-Pennsylvania State line and extending along Ohio Highway 7 to junction Ohio Highway 78, thence along Ohio Highway 78 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Ohio Highway 76, thence along Ohio Highway 76 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Ohio-Indiana State line, and the Lower Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of Bridgeport, Ohio.

No. MC 47149 (Sub-No. E1), filed May 30, 1974. Applicant: C. D. AMBROSIA TRUCKING CO., Rural Delivery 1, Edinburg, Pa. 16116. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Limestone* and *limestone products*, insecticides, herbicides, fungicides, fertilizer, and fertilizer ingredients and materials (other than such commodities in bulk liquid form), and ironbearing agglomerates, when transported in dump trucks, (a) From points in that part of Columbiana County, Ohio, on and north of a line beginning at the Ohio-Pennsylvania State line and extending along Ohio Highway 558 to junction Ohio Highway 517, thence along Ohio Highway 517 to junction U.S. Highway 30, thence along U.S. Highway 30 the Columbiana-Stark County line, to points in Jefferson, Berkeley and Morgan Counties, West Virginia, and to those points in West Virginia on and east of U.S. Highway 19 and on and north of U.S. Highway 50. (b) From points in Mahoning and Trumbull Counties, Ohio, to those points in West Virginia on and north of U.S. Highway 50. (c) From points in Portage County, Ohio, to those points in West Virginia on and east of U.S. Highway 19 and on and north of U.S. Highway 50. (2) *Limestone*, in dump trucks in Crawford, Lawrence, and Mercer Counties, Pennsylvania. (a) From points to those points in West Virginia on and north of U.S. Highway 50, and those points in Ohio on and east of U.S. Highway 23, except in bulk to points in Cuyahoga, Franklin, Geauga, Lake, Licking, Lorain, Muskingum, Summit, and Wayne Counties, Ohio. (b) From points in Beaver County, Pennsylvania, to those points in Ohio on and east of U.S. Highway 23.

(c) From points in Astabula County, Ohio to those points in West Virginia on and north of U.S. Highway 50, except point in Hancock County, West Virginia. (d) From those points in Columbiana County, Ohio, on and south of a line beginning at the Ohio-Pennsylvania State line and extending along Ohio Highway 558, to junction Ohio Highway 517, thence along Ohio Highway 517 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Columbiana-Stark County line, to points in Jefferson, Berkeley, and Morgan Counties, West Virginia, and points in that part of West Virginia on and east of U.S. Highway 19 and on and north of U.S. Highway 50. (e) From points in Mahoning and Trumbull Counties, Ohio, to those points in West Virginia on and north of U.S. Highway 50. (3) *Iron-bearing fines*, in dump truck, (a) From points in that part of West Virginia on and north of U.S. Highway 50, except points in Hancock County, West Virginia, to points in Ashtabula County, Ohio. (b) From points in Jefferson, Berkeley and Morgan Counties, West Virginia to points in that part of Columbiana County, Ohio on and south of a line beginning at the Ohio-Pennsylvania State line and extending along Ohio Highway 558 to junction Ohio Highway 517, thence along Ohio Highway 517 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Columbiana-Stark County line. (c) From points in that part of West Virginia on and east of U.S. Highway 19 and on and north of U.S. Highway 50, to points in the above-described portion of Columbiana County, Ohio. (d) From those points in West Virginia on and north of U.S. Highway 50, to points in Mahoning and Trumbull Counties, Ohio. (e) From points in that part of West Virginia on and east of U.S. Highway 19 and on and north of U.S. Highway 50, to points in Portage County, Ohio. (f) From points in Jefferson, Berkeley and Morgan Counties, West Virginia to points in Stark County, Ohio. (g) From points in Jefferson, Berkeley and Morgan Counties, West Virginia, to points in Stark County, Ohio.

No. MC 59247 (Sub-No. E2), filed June 4, 1974. Applicant: LINDEN MOTOR FREIGHT COMPANY, INC., 1300 Lower Road, Linden, N.J. 07036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, chemicals, containers* and *chemical supplies* used in the manufacture and sale of chemical products, in containers and in tank vehicles, from points in Massachusetts to points in Delaware, Nassau and Suffolk Counties, New York, and points in that part of Maryland east of a line beginning at the Pennsylvania-Maryland State line and extending along Interstate Highway 83 to its junction with Maryland Highway 2, thence along Maryland Highway 2 to Annapolis, including points in Maryland on the Delaware-Maryland-Virginia Peninsula. The purpose of this filing is to eliminate the gateway of Linden, New Jersey.

No. MC 59247 (Sub-No. E7), filed June 4, 1974. Applicant: LINDEN MOTOR FREIGHT COMPANY, INC., 1300 Lower Road, Linden, N.J. 07036. Applicant's representative: Louis Salz (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, chemicals, containers* and *chemical supplies*, used in the manufacture and sale of chemical products, in containers and in tank vehicles, from points in Rhode Island to points in Delaware, Nassau and Suffolk Counties, New York, points in that part of Maryland east of a line beginning at the Pennsylvania-Maryland State line and extending along Interstate Highway 83 to its junction with Maryland Highway 2, thence along Maryland Highway 2 to Annapolis, including points in Maryland on the Delaware-Maryland-Virginia Peninsula, and points in that part of Pennsylvania on and east of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 11 to its junction with Interstate Highway 83, thence along Interstate Highway 83 to its junction with unnumbered highway (formerly U.S. Highway 111) at York, Pennsylvania, thence along unnumbered highway to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of Linden, New Jersey.

No. MC 59247 (Sub-No. E8), filed June 4, 1974. Applicant: LINDEN MOTOR FREIGHT COMPANY, INC., 1300 Lower Road, Linden, N.J. 07036. Applicant's representative Louis Salz (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, chemicals, containers and chemical supplies in containers*, between points in Rhode Island, on the one hand, and, on the other, points in Middlesex, Union, Bergen, Passaic, Essex, Hudson, Somerset, Mercer and Morris Counties, N.J. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 59247 (Sub-No. E13), filed June 4, 1974. Applicant: LINDEN MOTOR FREIGHT COMPANY, INC., 1300 Lower Road, Linden, N.J. 07036. Applicant's representative: Louis Salz

(same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, chemicals, containers, and chemical supplies in containers*, between points in Connecticut, on the one hand, and, on the other, point in Middlesex, Union, Bergen, Passaic, Essex, Hudson, Somerset, Mercer, and Morris Counties, N.J. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 59247 (Sub-No. E17), filed June 4, 1974. Applicant: LINDEN MOTOR FREIGHT COMPANY INC., 1300 Lower Road, Linden, N.J. 07036. Applicant's representative: Louis Salz (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, chemicals, containers* and *chemical supplies* in Nassau and Suffolk Counties, New York, on the one hand, and, on the other, points in Middlesex, Union, Bergen, Passaic, Essex, Hudson, Somerset, Mercer and Morris Counties, New Jersey. The purpose of this filing is to eliminate the gateway of New York, New York.

No. MC 59247 (Sub-No. E21), filed June 4, 1974. Applicant: LINDEN MOTOR FREIGHT COMPANY INC., 1300 Lower Road, Linden, N.J. 07036. Applicant's representative: Louis Salz (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, chemicals, containers* and *chemical supplies* in containers, between Philadelphia, Pennsylvania, on the one hand, and, on the other, points in Massachusetts, Connecticut and Rhode Island. The purpose of this filing is to eliminate the gateway of New York, New York.

No. MC 61592 (Sub-No. E12), filed June 4, 1974. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: Bob Jenkins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural and garden tractors and agricultural implements*, from points in Wisconsin south of U.S. Highway 10 to points in Nebraska and points in South Dakota on and south of South Dakota Highway 34. The purpose of this filing is to eliminate the gateway of Ida Grove, Iowa.

No. MC 61592 (Sub-No. E68), filed July 4, 1974. Applicant: JENKINS TRUCK LINE, INC., Rural Route 3, Box 697, Jeffersonville, Ind. 47130. Applicant's representative: Bob Jenkins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck-tractors and except those which because of size or weight, require the use of special equipment), from New Orleans, La., to points in Michigan on and north of a line beginning at the Michigan-Indiana State line and extending north along U.S. Highway 131 to junction Michigan Highway 46, thence along Michigan Highway 46 to Lake Huron, and points in Nebraska on and north of a line beginning at the Nebraska-Missouri State line and extending along Nebraska Highway 92 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-South Dakota State line. Restriction: The operations authorized herein are restricted to the transportation of traffic (a) originating at the plantsites or warehouse facilities of International Harvester Company, and (b) destined to the destination points specified above, except that the restriction in (b) shall not apply to traffic moving in foreign commerce. The purpose of this filing is to eliminate the gateway of the facility of International Harvester at Davenport, Iowa.

No.. MC 61592 (Sub-No. E93), filed June 4, 1974. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: Bob Jenkins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Agricultural implements and parts, from points in Iowa to Dothan, Ala., points in Connecticut, Delaware, Florida; those points in Georgia on and southeast of a line beginning at the Georgia-Florida State line and extending along U.S. Highway 19 to junction Georgia Highway 16, thence along Georgia Highway 16 to junction U.S. Highway 278, thence along U.S. Highway 278 to the Georgia-South Carolina State line; those points in Indiana on and north of U.S.. Highway 30; those points in Kentucky on and east of a line beginning at the West Virginia State line and extending along U.S. Highway 60 to junction Kentucky Highway 7, thence along Kentucky Highway 7 to junction Kentucky Highway 699, thence along Kentucky Highway 699 to junction Kentucky Highway 463, thence along Kentucky Highway 463 to junction U.S. Highway 119, thence east along U.S. Highway 119 to junction Kentucky Highway 160, thence along Kentucky Highway 160 to the Kentucky-Virginia State line; points in Maine, Massachusetts, Maryland; points in Michigan on and south of Michigan Highway 72; points in New Hampshire, New Jersey, New York, North Carolina; points in Ohio on and north of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 33 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Ohio-Pennsylvania State line; points in Pennsylvania, South Carolina, Tennessee on and east of Tennessee Highway 70, Virginia, and West Virginia. Restriction: The operations authorized herein are restricted to the transportation of traffic (a) originating at the plant site or warehouse facilities of International Harvester Company and (b) destined to the destination points specified above, except that the restricted in (b) shall not apply to traffic moving in foreign commerce. The purpose of this filing is to eliminate the gateway of Rock Island, Ill.

No. MC 61592 (Sub-No. E95), filed June 4, 1974. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: Bob Jenkins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardboard and flakeboard, and plywood* in mixed loads with hardboard and flakeboard, from Catawba, S.C., to points in Colorado, Minnesota, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Wisconsin, Wyoming, and points in Illinois on and west of U.S. Highway 67. The purpose of this filing is to eliminate the gateway of Wright City, Mo.

No. MC 61592 (Sub-No. E108), filed June 4, 1974. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: Bob Jenkins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors*, (except truck-tractors and those that because of size or weight require the use of special equipment) from Baltimore, Maryland, to points in Indiana, the lower peninsula of Michigan, and those in Kentucky on and north of a line beginning at the Kentucky-Tennessee State line, extending along U.S. Highway 27 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Kentucky-West Virginia State line at Louisa, Kentucky. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC 61592 (Sub-No. E110), filed June 4, 1974. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: Bob Jenkins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors and those that because of size or weight require the use of special equipment), from the facilities of Burkhardt-Larsen Company at Minneapolis, Minnesota, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Mississippi, Vermont, Virginia, West Virginia, and Michigan on and south of Michigan Highway 72. The purpose of this filing is to eliminate the gateway of Port Washington, Wisconsin.

No. MC 61592 (Sub-No. E111), filed June 4, 1974. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: Bob Jenkins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors and those which because of size or weight require the use of special equipment), from Philadelphia, Pa.,

to points in Indiana, the Lower Peninsula of Michigan, and points in Kentucky on and north of a line beginning at the Kentucky-Tennessee State line, thence along U.S. Highway 127 to junction Kentucky Highway 28, thence along Kentucky Highway 28 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction U.S. Highway 23, thence along U.S. Highway 23 to Louis, Ky., at the Kentucky-West Virginia State line. The purpose of this filing is to eliminate the gateway of the facilities of Hayward Distributing Co., at Columbus, Ohio.

No. MC 61592 (Sub-No. E114), filed June 4, 1974. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: Bob Jenkins (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors and those which because of size or weight require the use of special equipment), from Philadelphia, Pa., to points in Kansas, Missouri, Nebraska, those points in Iowa on and west of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 34 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Iowa-Minnesota State line, and those points in Illinois on and west of a line beginning at Illinois Highway 37 at Cairo, thence along Illinois Highway 37 to junction U.S. Highway 50, thence along U.S. Highway 50 to U.S. Highway 51, thence along U.S. Highway 51 to Illinois Highway 29, thence along Illinois Highway 29 to junction U.S. Highway 136, thence along U.S. Highway 136 to the Illinois-Iowa State line. The purpose of this filing is to eliminate the gateways of Columbus, Ohio, and the facilities of the Deuty Tractor Corporation at O'Fallon Industrial Park, St. Charles County, Mo.

No. MC 103926 (Sub-No. E1), filed May 31, 1974. Applicant: W. T. MAYFIELD SONS TRUCKING, CO., P.O. Box 947, Mableton, Ga. 30059. Applicant's representative: Paul M. Daniell, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *prestressed and precast concrete and prestressed and precast concrete products;* from Charlotte, North Carolina, to points in Alabama, points in that part of Tennessee on and west of U.S. Highway 41, points in that part of Florida west of the Suwanee River, and points in that part of Florida in and south of Pinellas, Hillsborough, Polk, Osceola, and Indian River Counties, Florida (Fulton County, Ga.*); and (b) *contractors' metal tanks*, setup, requiring special equipment and handling, not limited to such tanks as are intended solely for use by contractors; (1) from points in that part of Florida east of the Apalachicola River; (4) from points in that part of North Carolina in and east of Yancey, McDowell and Rutherford Counties, to points in Mississippi; (5) between in Alabama, on the one hand, and, on the other, points in that part of North Carolina north and east of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 52 to its junction with U.S. Highway 70, thence along U.S. Highway 70 to its junction with U.S. Highway 321, thence along U.S. Highway 321 to the North Carolina-Tennessee State line; (6) between points in that part of North Carolina west and south of U.S. Highway 52, on the one hand, and, on the other, points in that part of Alabama west and south of a line beginning at the Alabama-Tennessee State line and extending along Interstate Highway 65 to its junction with Interstate Highway 20, thence along Interstate Highway 20 to the Alabama-Georgia State line.

(7) From points in that part of South Carolina on, east and south of a line beginning at the South Carolina-Georgia State line and extending along Interstate Highway 95 to its junction with Interstate Highway 26, thence along Interstate Highway 26 to Charleston, to points in that part of Kentucky on and west of Interstate Highway 65; (8) from points in that part of South Carolina north and east of a line beginning at the South Carolina-North Carolina State line and extending along Interstate Highway 95 to its junction with U.S. Highway 521, thence along U.S. Highway 521 to Georgetown, to points in that part of Kentucky on and west of U.S. Highway 231; (9) from points in Richland, Calhoun, and Lexington Counties, South Carolina, to points in that part of Kentucky on and west of U.S. Highway 231; (10) from points in that part of North Carolina on, east and north of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 701 to its junction with U.S. Highway 74, thence along U.S. Highway 74 to Wilmington, to points in that part of Kentucky on and west of U.S. Highway 231; (11) from points in that part of North Carolina on and east of U.S. Highway 1, to points in that part of Kentucky on and west of U.S. Highway 45; (12) between points in that part of South Carolina on and bounded by a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 1 to the North Carolina-Georgia State line, thence along the North Carolina-Georgia State line to Interstate Highway 95, thence along Interstate Highway 95 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to U.S. Highway 1, on the one hand, and, on the other, points in that part of Tennessee on and west of a line beginning at the Alabama-Tennessee State line and extending along Tennessee Highway 13 to its junction with U.S. Highway 79, thence along U.S. Highway 79 to the Tennessee-Kentucky State line;

(13) Between points in Mecklenburg County, North Carolina, on the one hand, and, on the other, points in that part of Tennessee on and west of the Tennessee River; (14) between points in that part of North Carolina on and east of U.S. Highway 1, on the one hand, and, on the other, points in that part of Tennessee on and west of U.S. Highway 41; (15) between points in that part of South Carolina, on, south and east of a line beginning at the South Carolina-Georgia State line and extending along Interstate Highway 95 to its junction with Interstate Highway 26, thence along Interstate Highway 26 to Charleston, on the one hand, and, on the other, points in that part of Alabama on and north of U.S. Highway 78; (16) between points in that part of South Carolina bound by a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 301 to the South Carolina-Georgia State line, thence along the South Carolina-Georgia State line to U.S. Highway 1, thence along U.S. Highway 1 to the South Carolina-North Carolina State line, thence along the South Carolina-North Carolina State line to U.S. Highway 301, on the one hand, and, on the other, points in that part of Alabama on and north of U.S. Highway 80; and (17) between points in that part of South Carolina on and west of South Carolina Highway 72, on the one hand, and, on the other, points in that part of Alabama on and south of U.S. Highway 78 (Newnon, Georgia*). The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 104654 (Sub-No. E22), filed May 14, 1974. Applicant: COMMERICAL TRANSPORT, INC., South 20th St., Belleville, Ill., 62222. Applicant's representative: Edward G. Villalon, Suite 1032 Pennsylvania Bldg., 13th & Pennsylvania Ave. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Indianapolis, Ind., and points within 20 miles thereof, to points and places within an area in Kentucky bounded by a line beginning at the Indiana-Kentucky State line extending along U.S. Highway 231 to Bowling Green, Ky., thence along U.S. Highway 31W to the Kentucky-Tennessee State line, thence west along the Kentucky-Tennessee State line to the Mississippi River, thence along the Ohio River to the point of beginning, including points and places on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateway of Lawrenceville, Ill.

No. MC 104654 (Sub-No. E23), filed May 14, 1974. Applicant: COMMERCIAL TRANSPORT, INC., South 20th St., Belleville, Ill. 62222. Applicant's representative: Edward G. Villalon, Suite 1032 Pennsylvania Bldg., 13th & Pennsylvania Ave. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor*

Carrier Certificates, 61 M.C.C. 209, in bulk, in tank vehicles, to points and places in Missouri bounded by a line beginning at the Missouri-Illinois State line on U.S. Highway 66, extending southerly along U.S. Highway 66 to U.S. Highway 63, thence along U.S. Highway 63 to the Missouri-Arkansas State line, thence along the Missouri-Arkansas State line to the Mississippi River, thence along the Mississippi River to the point of beginning, including points and places on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateways of St. Elmo and Gale, Ill.

No. MC 104654 (Sub-No. E25), filed May 14, 1974. Applicant: COMMERCIAL TRANSPORT, INC., South 20th St. Belleville, Ill. 62222. Applicant's representative: Edward G. Villalon, Suite 1032 Pennsylvania Bldg., 13th & Pennsylvania Ave. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Indianapolis, Ind., and points within 20 miles thereof, to points and places in that part of Tennessee bounded by a line beginning at the Kentucky-Tennessee State line south along U.S. Highway 89, then south along U.S. Highway 22 to the Tennessee-Mississippi State line, thence along the Tennessee-Mississippi State line to the Mississippi River, thence north along the Mississippi River to the Kentucky-Tennessee State line to point of beginning including points and places on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateway of Gale, Ill.

No. MC 104654 (Sub-No. E27), filed May 14, 1974. Applicant: COMMERCIAL TRANSPORT, INC., South 20th St., Belleville, Ill. 62222. Applicant's representative: Edward G. Villalon, Suite 1032 Pennsylvania Bldg., 13th & Pennsylvania Ave. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from the site of the States Oil Co., Inc., river terminal at or near Hickman, Ky., to points and places in Arkansas within an area bounded by a line beginning at the Missouri-Arkansas State line at Arkansas Highway 9, extending southwest along Arkansas Highway 9 to junction U.S. Highway 65, thence south along U.S. Highway 65 to U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 49, thence southeast along U.S. Highway 49 to the Arkansas-Mississippi State line, thence north along the Mississipppi River to the Missouri-Arkansas State line to point of beginning, including points and places on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateway of Caruthersville, Mo.

No. MC 104654 (Sub-No. E30), filed May 14, 1974. Applicant: COMMERCIAL TRANSPORT, INC., South 20th St., Belleville, Ill. 62222. Applicant's representative: Edward G. Villalon, Suite 1032 Pennsylvania Bldg., 13th & Pennsylvania Ave. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquid hydrogen derived from petroleum and road building and construction materials derived from petroleum), in bulk, in tank vehicles, from Roxana and points and places within 5 miles thereof, East St. Louis and Cahokia, Ill., to points in Ohio. The purpose of this filing is to eliminate the gateway of that part of Jackson County, Ill., located on and east of a line extending from the Jackson-Bartholomew County line south along Indiana Highway 58 to junction Indiana Highway 135, thence along Indiana Highway 153 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Indiana Highway 250, thence along Indiana Highway 250 to the Jackson-Jennings County line.

No. MC 104654 (Sub-No. E31), filed May 14, 1974. Applicant: COMMERCIAL TRANSPORT, INC., South 20th St., Belleville, Ill. 62222. Applicant's representative: Edward G. Villalon, 13th & Pennsylvania Ave. N.W., Suite 1032, Pennsylvania Bldg., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquid chemicals, liquid hydrogen derived from petroleum and road building and construction materials rederived from petroleum), as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, in bulk, in tank vehicles, from Roxana and points and places within 5 miles thereof, East St. Louis and Cahokia, Ill., to point in Pennsylvania. The purpose of this filing is to eliminate the gateways of Jackson County, Ind., and Butler County, Ohio.

No. MC 104654 (Sub-No. E32), filed May 14, 1974. Applicant: COMMERCIAL TRANSPORT, INC., South 20th St., Belleville, Ill. 62222. Applicant's representative: Edward G. Villalon, 13th and Pennsylvania Ave. NW., Suite 1032 Pennsylvania Bldg., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquid chemicals, liquid hydrogen derived from petroleum, and road building and construction materials derived from petroleum), as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Roxana and points and places within 5 miles thereof, East St. Louis, and Cahokia, Ill., to points in West Virginia. The purpose of this filing is to eliminate the gateways of Jackson County, Ind., and Butler County, Ohio.

No. MC 104654 (Sub-No. E38), filed May 14, 1974. Applicant: COMMERCIAL TRANSPORT, INC., South 20th St., Belleville, Ill. 62222. Applicant's representative: Edward G. Villalon, Suite 1032 Pennsylvania Bldg., 13th and Pennsylvania Ave. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from the plant site of the American Oil Co., located approximately 2 miles south of Brookston, Ind., on or near Indiana Highway 43 to points and places in Kentucky bounded by a line beginning at the Indiana-Kentucky State line extending along U.S. Highway 231 to Bowling Green, Ky., thence along U.S. Highway 31W to the Kentucky-Tennessee State line, thence west along the Kentucky-Tennessee State line to the Mississippi River, thence along the Ohio River to the point of beginning, including points and places on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateway of Lawrenceville, Ill.

No. MC 104654 (Sub-No. E41), filed May 14, 1974. Applicant: COMMERCIAL TRANSPORT, INC., South 20th St., Belleville, Ill. 62222. Applicant's representative: Edward G. Villalon, Suite 1032 Pennsylvania Bldg., 13th and Pennsylvania Ave. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from the plant site of The American Oil Co., located approximately 2 miles south of Brookston, Ind., on or near Indiana Highway 43, to points and places in Tennessee bounded by a line beginning at the Kentucky-Tennessee State line at Tennessee Highway 89, thence south along Tennessee Highway 89 to Tennessee Highway 22, thence along Tennessee Highway 22 to the Tennessee-Mississippi State line, thence along the Tennessee-Mississippi State line to the Mississippi River, thence north along the Mississippi River to the Kentucky-Tennessee State line to the point of beginning, including points and places on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateway of Gale, Ill.

No. MC 104654 (Sub-No. E43), filed May 14, 1974. Applicant: COMMERCIAL TRANSPORT, INC., South 20th Street, Bellevelle, Ill. 62222. Applicant's representative: Edward G. Villalon, Suite 1032 Pennsylvania Bldg., 13th and Pennsylvania Ave. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Whiting, Ind., to points and places in that part of Kentucky west of a line extending from the Illinois-Kentucky State line at Kentucky Highway 453, thence

south along Kentucky Highway 453 to Kentucky Highway 282, thence along Kentucky Highway 282 through Calvert City, Ky., to U.S. Highway 641, thence south along U.S. Highway 641 to the Kentucky-Tennessee State line, including points and places on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateway of Lambert Field, St. Louis, Mo.

No. MC 106775 (Sub-No. E4) (Correction), filed May 21, 1974, published in the FEDERAL REGISTER January 28, 1975. Applicant: ATLAS TRUCK LINE, INC., P.O. Box 9848, Houston, Tex. 77015. Applicant's representative: James McCurdy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural steel, metal castings, and reinforcing rods*, between points in Lea and Eddy Counties, N. Mex., on the one hand, and, on the other, points in Oklahoma, points in that part of Louisiana on and west of U.S. Highway 71 and on and north of Louisiana Highway 6, and points in that part of Arkansas on and south of U.S. Highway 67 and on and west of Arkansas Highway 35 and U.S. Highway 137. The purpose of this filing is to eliminate the gateway of Fort Worth, Tex., and those points within 250 miles of Fort Worth, Tex. The purpose of this correction is to correct the MC number, previously published as 206775.

No. MC 106920 (Sub-No. E72), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Commodities classified as *dairy products* under B in the appendix to the report in modification of permits of motor contract carriers of packinghouse products, 48 M.C.C. 628, from points in the upper peninsula of Michigan bounded by a line beginning at the Wisconsin-Michigan State line and extending along U.S. Highway 45 to junction of Michigan Highway 28, thence along Wisconsin Highway 28 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 45, thence along U.S. Highway 45 to the point of origin, to points in Mississippi north and east of a line beginning at the Mississippi-Alabama State line and extending along Mississippi Highway 50 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction Mississippi Highway 7, thence along Mississippi Highway 7 to junction Mississippi Highway 6, thence along Mississippi Highway 6 to junction U.S. Highway 78, thence along U.S. Highway 78 to the Mississippi-Alabama State line. The purpose of this filing is to eliminate the gateway of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E74), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities classified as dairy products* under B in the Appendix to the report in *Modification of Permits of Motor Contract Carriers of Packing House Products*, 48 M.C.C. 628, from points in the Upper Peninsula south of a line beginning at Lake Michigan and extending along unnumbered highway to junction U.S. Highway 2 at Gulliver, thence along U.S. Highway 2 to junction Michigan Highway 77, thence along Michigan Highway 77 to junction County Highway 58, thence along County Highway 58 to junction County Highway 37, thence along County Highway 37 to junction Michigan Highway 123, thence along Michigan Highway 123 to junction Interstate Highway 75, to points in Kentucky north of a line beginning at the Indiana-Kentucky State line and extending along Kentucky Highway 69 to junction Kentucky Highway 369, thence along Kentucky Highway 369 to junction Kentucky Highway 106, thence along Kentucky Highway 106 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Kentucky Highway 962, thence along Kentucky Highway 962 to junction U.S. Highway 68, thence along U.S. Highway 68 to the Kentucky-Missouri State line. The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E75), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities classified as dairy products* under B in the Appendix to the report in *Modification of Permits of Motor Contract Carriers of Packing House Products*, 48 M.C.C. 628, from points in the Upper Peninsula of Michigan to points in Alabama, Florida, and Georgia. The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E76), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* as described in Section B of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and 766, from points in the Upper Peninsula of Michigan to points in Maine, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E77), June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dairy products*, as described in Section B of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points in Illinois to points in New Hampshire, Maine and Vermont. The purpose of this filing is to eliminate the gateways of Darke, Mercer and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E78), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities* classified as *dairy products* under B in the appendix to the report in *Modification of Permits of Motor Contract Carriers of Packing-House Products*, 48 M.C.C. 628, from points in Illinois north of a line beginning at the Illinois-Indiana State line and extending along Illinois Highway 114 to junction Illinois Highway 17, thence along Illinois Highway 17 to junction Illinois Highway 88, thence along Illinois Highway 88 to junction Illinois Highway 90, thence along Illinois Highway 90 to junction Illinois Highway 78, thence along Illinois Highway 78 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Illinois Highway 17, thence along Illinois Highway 17 to the Illinois-Iowa State line to points in Georgia. The purpose of this filing is to eliminate the gateways of Darke, Mercer and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E79), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW, Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities* classified as *dairy products*, under B in the appendix to the report in *Modification of Permits of Motor Contract Carriers of Packing-House Products*, 48 M.C.C. 628, from points in Illinois north of a line beginning at the Illinois-Indiana State line and extending along Illinois Highway 114 to junction Illinois Highway 1, thence along Illinois Highway 1 to junction Illinois Highway 17, thence along Illinois Highway 17 to junction Illinois Highway 18, thence along Illinois Highway 18 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Iowa State line, to points in Florida. The purpose of this filing is to eliminate the gateways

of Darke, Mercer and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E80), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities classified as *dairy products* under B in the appendix to the report in modification of permits of motor contract carriers of packinghouse products, 48 M.C.C. 628, from points in Illinois on and east of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 30 to junction Illinois Highway 53, thence along Illinois Highway 53 to junction Interstate Highway 55, thence along Interstate Highway 55 to Lake Michigan, to points in Alabama on and east of a line beginning at the Florida-Alabama State line and extending along Alabama Highway 55 to junction U.S. Highway 29, thence along U.S. Highway 29 to Junction U.S. Highway 331, thence along U.S. Highway 331 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Interstate Highway 59, thence along Interstate Highway 59 to junction U.S. Highway 431, thence along U.S. Highway 431 to junction Alabama Highway 79, thence along Alabama Highway 79 to junction U.S. Highway 72, thence along U.S. Highway 72 to the Alabama-Tennessee State line. The purpose of this filing is to eliminate the gateway of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E81), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities classified as dairy products* under B in the Appendix to the report in *Modification of Permits of Motor Contract Carriers of Packing House Products*, 48 M.C.C. 628, from points in Illinois on and north of a line beginning at the Missouri-Illinois State line and extending along U.S. Highway 24 to junction Interstate Highway 74, thence along Interstate Highway 74 to the Illinois-Indiana State line, to points in Kentucky on and east of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 27 to junction U.S. Highway 68, thence along U.S. Highway 68 to the Ohio-Kentucky State line. The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 106920 (Sub-No. E82), filed June 3, 1974. Applicant: RIGGS FOOD EXPRESS, INC., P. O. Box 26, New Bremen, Ohio 45869. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities classified as dairy products* under B in the appendix to the report in *Modification of Permits of Motor Contract Carriers of Packing House Products*, 48 M.C.C. 628, from points in Illinois north of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 34 to junction U.S. Highway 150, thence along U.S. Highway 150 to junction Interstate Highway 74, thence along Interstate Highway 74 to the Illinois-Iowa State line, to points in Georgia on and south of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 27 to junction Interstate Highway 85, thence along Interstate Highway 85 to junction U.S. Highway 129, thence along U.S. Highway 129 to the Georgia-North Carolina State line. The purpose of this filing is to eliminate the gateways of Darke, Mercer, and Auglaize Counties, Ohio.

No. MC 107478 (Sub-No. E12) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER January 22, 1975. Applicant: OLD DOMINION FREIGHT LINE, P.O. Drawer 2006, High Point, N.C., 27261. Applicant's representative: John T. Coon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and tubing, and fittings therefor*, from those points in North Carolina and South Carolina, north and east of a line beginning at the North Carolina-Tennessee State line and extending along Interstate Highway 40 to its junction with U.S. Highway 74, thence along U.S. Highway 74 to its junction with U.S. Highway 221, thence along U.S. Highway 221 to its junction with South Carolina Highway 11, thence along South Carolina Highway 11 to junction South Carolina Highway 105, thence along South Carolina Highway 105 to junction South Carolina Highway 211, thence along South Carolina Highway 211 to junction with South Carolina Highway 97, thence along South Carolina Highway 97 to its junction with U.S. Highway 521, thence along U.S. Highway 521 to its junction with U.S. Highway 52, thence along U.S. Highway 52 to the Atlantic Ocean, to those points in Florida south and east of a line beginning at the Gulf of Mexico and extending along Florida Highway 60 to its junction with Interstate Highway 75, thence along Interstate Highway 75 to its junction with U.S. Highway 301, thence along U.S. Highway 301 to the Georgia-Florida State line. The purpose of this filing is to eliminate the gateway of Charleston, S.C. The propose of this correction is to correct the territorial description.

No. MC 107515 (Sub-No. E75), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from Harrisburg, Pa., to points in Nevada. The purpose of this filing is to eliminate the gateways of Richmond, Va., and Gainesville, Ga.

No. MC 107515 (Sub-No. E101), filed May 29, 1974. Applicant: REFRIGERATED CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from Philadelphia, Pa., to points in Nevada. The purpose of this filing is to eliminate the gateways of Richmond, Va., and Gainesville, Ga.

No. MC 107515 (Sub-No. E113), filed May 29, 1974. Applicant: Refrigerated Transport Co., Inc., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles, hides), from New York, N.Y., to points in Illinois on and south of a line beginning at the Indiana-Illinois State line, at Shawneetown, Ill., thence along Illinois Highway 3 to junction with Illinois Highway 149, thence along Illinois Highway 149 to its junction with Illinois Highway 3, thence along Illinois Highway 3 to Chester at junction of Illinois Highway 51, thence along Illinois Highway 51 to the Illinois-Missouri State line, that part of Missouri on and south of a line beginning at the Missouri-Illinois State line, thence along Missouri Highway 51 to junction U.S. Highway 61 at Perryville, Mo., thence north along U.S. Highway 61 to junction Missouri Highway 32, thence along Missouri Highway 32 to junction U.S. Highway 67 at Farmington, Mo., thence north along U.S. Highway 67 to junction Missouri Highway 8, thence along Missouri Highway 8 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Missouri Highway 64 at Lebanon, Mo., thence along Missouri Highway 64 to junction U.S. Highway 65, thence north along U.S. Highway 65 to the junction of U.S. Highway 54 at Preston, Mo., thence along U.S. Highway 54 to the Missouri-Kansas State line. The purpose of this filing is to eliminate the gateways of Richmond, Va., and Madison, Tenn.

No. MC 107515 (Sub-No. E336), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen*

meat, meat products, and meat by-products, as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Fort Smith, Ark., to points in Connecticut, Massachusetts, New Jersey, Delaware, points in Maryland on and east of U.S. Highway 522, and New York, N.Y., and its commercial zone, and points in Nassau, Suffolk, and Westchester Counties, N.Y., and the District of Columbia. The purpose of this filing is to eliminate the gateway of Rocky Mount, N.C.

No. MC 107515 (Sub-No. E405), filed May 29, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *frozen foods*, in mechanically refrigerated equipment from Hart, Ludington, Ionia, and Suttons Bay, Michigan to points in Connecticut, Rhode Island, Massachusetts, and New York. The purpose of this filing is to eliminate the gateway of Mendon, Michigan, and Toledo, Ohio.

No. MC 114211 (Sub-No. E454) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER January 28, 1975. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, the transportation of which, because of size or weight, requires special equipment, from points in North Dakota to points in that part of Texas on and east of a line beginning at the Oklahoma-Texas State line, thence along Texas Highway 79 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction U.S. Highway 180, thence along U.S. Highway 180 to junction Texas Highway 351, thence along Texas Highway 351 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 377, thence along U.S. Highway 377 to Del Rio, Tex., with no transportation for compensation on return except as otherwise authorized restricted against movement to oil field locations. The purpose of this filing is to eliminate the gateways of Beatrice and Omaha, Nebr., and Council Bluffs, Iowa. The purpose of this correction is to correct the "E" number, previously published as E254.

No. MC 114211 (Sub-No. E689), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe and fittings and accessories therefor* when moving with such pipe, from Gainsville, Tex., to points in Montana, North Dakota, South Dakota; to points in that part of Illinois on and north of a line beginning at the Iowa-Illinois State line extending along U.S. Highway 34 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Illinois-Indiana State line; to points in that part of Nebraska on and north of a line beginning at the Wyoming-Nebraska State line extending along U.S. Highway 20 to junction U.S. Highway 275, thence along U.S. Highway 275 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction Nebraska Highway 92, thence along Nebraska Highway 92 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to the Nebraska-Iowa State line; to points in that part of Wyoming on and north of a line beginning at the Nebraska-Wyoming State line extending along U.S. Highway 20 to junction Wyoming Highway 136, thence along Wyoming Highway 136 to junction U.S. Highway 26, thence along U.S. Highway 26 to the Wyoming-Idaho State line; and to points in that part of Michigan on and north of a line beginning at Tawas City, Mich., extending along Michigan Highway 55 to junction Michigan Highway 33, thence along Michigan Highway 33 to junction Michigan Highway 72, thence along Michigan Highway 72 to Empire, Mich., with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of the plant site of the Griffin Pipe Co., located at or near Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E801), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, the transportation of which, because of size or weight, requires special equipment, between points in that part of Illinois on and south of a line beginning at the Missouri-Illinois State line, thence along Illinois Highway 140 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Illinois Highway 47, thence along Illinois Highway 47 to junction Interstate Highway 72, thence along Interstate Highway 72 to junction U.S. Highway 150, thence along U.S. Highway 150 to the Illinois-Indiana State line, thence along the Illinois-Indiana State line, thence along Illinois Highway 34 to junction Illinois Highway 13, thence along Illinois Highway 13 to junction Illinois Highway 149, thence along Illinois Highway 149 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction Illinois Highway 51, thence along Illinois-Highway 51 to the Illinois-Missouri State line, on the one hand, and, on the other, points in that part of Kansas on and south of a line beginning at the Nebraska-Kansas State line, thence along U.S. Highway 183 to junction Kansas Highway 9, thence along Kansas Highway 9 to junction U.S. Highway 159, thence along U.S. Highway 159 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Kansas Highway 193, thence along Kansas Highway 192 to junction U.S. Highway 73, thence along U.S. Highway 73 to the Kansas-Missouri State line, thence along the Kansas-Missouri State line to junction U.S. Highway 54, thence along U.S. Highway 54 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 160, thence along U.S. Highway 160 to junction U.S. Highway 75, thence along U.S. Highway 75 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateways of the St. Louis, Mo., commercial zone, and Martin City, Mo.

No. MC 114211 (Sub-No. E802), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 402, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, the transportation of which because of size or weight, requires special equipment, between points in that part of Illinois on and east and south of a line beginning at the Wisconsin-Illinois State line, thence along Illinois Highway 47 to junction Illinois Highway 176, thence along Illinois Highway 176 to junction Illinois Highway 23, thence along Illinois Highway 23 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Illinois Highway 29, thence along Illinois Highway 29 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Illinois Highway 50, thence along Illinois Highway 50 to junction Illinois Highway 3, thence along Illinois Highway 3 to junction Illinois Highway 149, thence along Illinois Highway 149 to junction Illinois Highway 13, thence along Illinois Highway 13 to junction Illinois Highway 34, thence along Illinois Highway 34 to junction Illinois Highway 146, thence along Illinois Highway 146 to junction Illinois Highway 1, thence along Illinois Highway 1 to the Illinois-Kentucky State line, on the one hand, and, on other, points in that part of Kansas on and south of a line beginning at the Colorado-Kansas State line. The purpose of this filing is to eliminate the gateways of St. Louis, Mo., and Martin City, Mo.

No. MC 114211 (Sub-No. E857), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carirer*, by motor vehicle, over irregular routes, transporting: *Tractors* (except those with vehicle beds, bed

frames, and fifth wheels), *equipment* designed for use in conjunction with tractors, attachments for the above-described commodities, and *parts* of the commodities described above in mixed loads with such commodities from points in that part of Minnesota on and north and east of a line beginning at the Wisconsin-Minnesota State line, thence along U.S. Highway 12 to junction Minnesota Highway 15, thence along Minnesota Highway 15 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Minnesota Highway 371, thence along Minnesota Highway 371 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to junction Minnesota Highway 73, thence along Minnesota Highway 73 to the Minnesota-Canada International Boundary line to points in North Dakota (except Pembina County), with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of that part of the Fargo, N. Dak., commercial zone located in Moorhead, Minn.

No. MC 114211 (Sub-No. E858), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except those with vehicle beds, bed frames, and fifth wheels), equipment designated for use in conjunction with tractors, *attachments* for the above-described commodities, and *parts* of the commodities described above, in mixed loads with such commodities, from points in that part of Minnesota on and west of a line beginning at Duluth, Minn., thence along U.S. Highway 61 to junction Minnesota Highway 23, thence along Minnesota Highway 23 to junction Minnesota Highway 65, thence along Minnesota Highway 65 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Minnesota-Wisconsin State line to points in that part of North Dakota on and north of a line beginning at the South Dakota-North Dakota State line, thence along North Dakota Highway 3 to junction North Dakota Highway 30, thence along North Dakota Highway 30 to junction Interstate Highway 94, thence along Interstate Highway 94 to the North Dakota-Minnesota State line, thence along the North Dakota-Minnesota State line to junction U.S. Highway 2, thence along U.S. Highway 2 to junction North Dakota Highway 1, thence along North Dakota Highway 1 to the North Dakota-Canada International Boundary line, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of that part of the Fargo, N. Dak., commercial zone located in Moorhead, Minn.

No. MC 115554 (Sub-No. E1), filed June 4, 1974. Applicant: SCOTT'S TRANSPORTATION SERVICE, INC., P.O. Box 1136, Cedar Rapids, Iowa 52403. Applicant's representative: James R. Madler, Suite 100–327 South La Salle St., Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refrigerators, refrigeration, cooling, heating and electrical equipment, appliances, and parts, materials, and supplies* used in the manufacture, repair, and distribution of such commodities, (1) between points in Indiana on and north of a line beginning at the Indiana-Illinois State line, thence along Indiana Highway 2 to its intersection with Indiana Highway 8, thence along Indiana Highway 8 to its intersection with Indiana Highway 17, thence along Indiana Highway 17 to its intersection with U.S. Highway 30, thence along U.S. Highway 30 to its intersection with Indiana Highway 13, thence along Indiana Highway 13 to the Michigan-Indiana State line, on the one hand, and, on the other, points in Missouri on and west of U.S. Highway 65, Kansas on and east of Kansas Highway 99, Oklahoma on and east of Oklahoma Highway 99, Texas on and east of U.S. Highway 75, Arkansas on and west of Arkansas Highway 7, Louisiana on and west of a line beginning at the Arkansas-Louisiana State line, thence along U.S. Highway 71 to the junction with U.S. Highway 167, thence along U.S. Highway 167 to the Gulf of Mexico, (2) between points in Indiana on and east of a line beginning at the Indiana-Michigan State line, thence along Indiana Highway 13 to its intersection with U.S. Highway 30 to the Indiana-Ohio State line, on the one hand, and, on the other, points in Missouri on and west of U.S. Highway 65, Arkansas on and west of U.S. Highway 71 beginning at the Missouri-Arkansas State line and ending at Port Smith, Ark., Kansas on and east of Kansas Highway 99, Oklahoma on and east of Oklahoma Highway 99, and points in that part of Texas on and east of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 75 to the Gulf of Mexico, and on and west of a line beginning at the Oklahoma-Texas State line, thence along U.S. Highway 271 to junction Texas Highway 19, thence along Texas Highway 19 to junction County Highway 356, thence along County Highway 356 to junction U.S. Highway 190, thence along U.S. Highway 190 to junction Texas Highway 146, thence along Texas Highway 146 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of Amana, Iowa.

No. MC 116915 (Sub-No. E2), filed June 3, 1974. Applicant: ECK MILLER TRANSPORTATION CORPORATION, 1125 Sweeney St., Owensboro, Ky. 42301. Applicant's representative: William P. Sullivan, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular route, transporting: *Aluminum and aluminum products and equipment, materials and supplies* used in the manufacture and processing of aluminum and aluminum products (except commodities in bulk), between points in Arkansas and Texas, on the one hand, and, on the other, points in Connecticut, New York, New Jersey, and Pennsylvania. The purpose of this filing is to eliminate the gateway of Hawesville, Ky.

No. MC 116915 (Sub-No. E8), filed June 4, 1974. Applicant: ECK MILLER TRANSPORTATION CORPORATION, Owensboro, Ky. 42301. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum* and *aluminum products* (other than motor vehicles) which requires the use of special equipment by reason of size or weight from points in Virginia and West Virginia on and south of U.S. Highway 60 to Minneapolis, Minnesota, and points in Wisconsin. The purpose of this filing is to eliminate the gateway of Hancock County, Kentucky.

No. MC 116915 (Sub-No. E10), filed June 4, 1974. Applicant: ECK MILLER TRANSPORTATION CORPORATION, Owensboro, Ky. 42301. Applicant's representative: William P. Sullivan, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oil wells and mine machinery, pipe and supplies* which because of size or weight require the use of special equipment, (1) from points in Georgia and Mississippi to points in Ohio, Indiana, Illinois, and the Lower Peninsula of Michigan, (2) from points in Mississippi to points in Virginia and West Virginia, (3) from points in Georgia to points in Missouri, (4) from points in Tennessee to Illinois, Ohio, Indiana, and the Lower Peninsula of Michigan and from points in Kentucky to points in Ohio, Illinois, Indiana, Missouri, and the Lower Peninsula of Michigan, (5) from points in Kentucky on and west of Interstate Highway 25 and points in Tennessee on and west of U.S. Highway 231 to points in Virginia, (6) from points in Kentucky on and west of Interstate Highway 75 to points in Tennessee, (7) from points in Indiana and Illinois to points in Tennessee, and (8) from points in Indiana west and south of a line beginning at Bristol and extending south along Indiana Highway 15 to Marion, thence east along Indiana Highway 18 to the Indiana-Ohio State line and points in Illinois to points in Virginia and West Virginia. The purpose of this filing is to eliminate the gateways of those points in Indiana, Illinois, Kentucky, and Tennessee within 150 miles of Owensboro, Ky.

No. MC 117344 (Sub-No. E14), filed May 25, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Thomas L. Maxwell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: *Coal tar and coal tar products*, in bulk, in tank vehicles, from Hamilton and Middleton, Ohio, to points in Kentucky (except points in Jefferson County, Ky.), Tennessee and West Virginia (except points in Brooke, Hampshire, Hancock, Kanawha, Marion, Marshall, Monongalia, Ohio, Pleasants, and Wetzel Counties, and the plant site of the Celanese Corporation of America near Point Pleasant, Mason County, W. Va. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio.

No. MC 119702 (Sub-No. E5), filed May 31, 1974. Applicant: STAHLY CARTAGE COMPANY, P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from Cahokia and East St. Louis, Illinois, to points in Indiana, Iowa, Kentucky, Michigan, Missouri (except to points in that part of Missouri within 125 miles of East St. Louis, Illinois, points in Ohio, and Wisconsin. The purpose of this filing is to eliminate the gateway of St. Louis, Missouri.

No. MC 119702 (Sub-No. E6), filed May 31, 1974. Applicant: STAHLY CARTAGE COMPANY, P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road oil* and *asphalt*, in bulk, in tank vehicles, from Cahokia and East St. Louis, Illinois, to points in that part of Missouri on and east of U.S. Highway 65 (except from Hartford, Roxana, and Wood River, Illinois, to those points in Missouri within 125 miles of East St. Louis, Illinois. The purpose of this filing is to eliminate the gateways of St. Louis, Missouri, Wood River, Illinois, and points in Illinois within five miles thereof.

No. MC 119702 (Sub-No. E7), filed May 31, 1974. Applicant: STAHLY CARTAGE COMPANY, P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Cahokia and East St. Louis, Illinois, to points in Iowa. The purpose of this filing is to eliminate the gateway of the terminal of Great Lakes Pipe Lines Company, near Palmyra, Missouri.

No. MC 119702 (Sub-No. E8), filed May 31, 1974. Applicant: STAHLY CARTAGE COMPANY, P.O. Box 486, Edwardsville, Ill. 62025. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Hartford, Roxana and Wood River, Illinois, to those points in Wisconsin on, south and east of a line beginning at the Mississippi River and extending along U.S. Highway 16 to junction Wisconsin Highway 13, thence along Wisconsin Highway 13 to junction Wisconsin Highway 64, thence along Wisconsin Highway 64 to Lake Michigan. The purpose of this filing is to eliminate the gateway of the facilities of Illinois Road Contractors, Inc., Amboy, Illinois.

No. MC 119968 (Sub-No. E12), filed May 20, 1974. Applicant: A. J. WEIGAND, INC., 3966 Pearl Road, Cleveland, Ohio 44109. Applicant's representative: Paul F. Beary, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured and sold by chemical manufacturing plants* (except petroleum products, in bulk, in tank trucks), when moving to or from warehouses or other facilities of chemical manufacturing plants, that are included in machinery, equipment, materials, and supplies used by chemical manufacturing plants, in bulk, between those points in West Virginia on and north of U.S. Highway 60, and on and west of Interstate Highway 77, on the one hand, and, on the other, points in Connecticut, Massachusetts, that part of the Southern Peninsula of Michigan on and north of Michigan Highway 21; that part of New Jersey on and north of U.S. Highway 322; New York; that part of Ohio on and north of a line beginning at Sandusky, Ohio, and extending south along U.S. Highway 250 to junction Ohio Highway 39, thence along Ohio Highway 39 to the Ohio-Pennsylvania State line; that part of Pennsylvania on and north of a line beginning at the Ohio-Pennsylvania State line and extending east along Pennsylvania Highway 68, to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 322, thence along U.S. Highway 322 to the Pennsylvania-New Jersey State line. The purpose of this filing is to eliminate the gateway of Dover, Ohio.

No. MC 119968 (Sub-No. E14), filed May 20, 1974. Applicant: A. J. WEIGAND, INC., 3966 Pearl Road, Cleveland, Ohio 44109. Applicant's representative: Paul F. Beary, 8 East Broad Street, Columbus, Ohio 43115. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured and sold by chemical manufacturing plants* (except petroleum products, in bulk, in tank trucks), when moving to or from warehouses or other facilities of chemical manufacturing plants, that are included in machinery, equipment, materials, and supplies used by chemical manufacturing plants, in bulk, between those points in West Virginia on and bounded by a line beginning at the Ohio-West Virginia State line and extending south along Interstate Highway 77 to junction U.S. Highway 119, thence north along U.S. Highway 119 to the Pennsylvania-West Virginia State line, except those points in Marshall County, W. Va., on the one hand, and, on the other, points in that part of Illinois on and north of a line beginning at the Illinois-Iowa State line and extending along U.S. Highway 34 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Illinois-Indiana State line; that part of Indiana on and north of U.S. Highway 6; the southern Peninsula of Michigan; that part of Ohio on, north, and west of a line beginning at the Ohio-Indiana State line and extending east along U.S. Highway 6 to junction Ohio Highway 15, thence along Ohio Highway 15 to junction U.S. Highway 23, thence along U.S. Highway 23 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction Ohio Highway 39, thence along Ohio Highway 39 to junction Interstate Highway 77, thence along Interstate Highway 77 to Lake Erie; that part of New York on and north of a line beginning at Morristown, N.Y., and extending east along New York Highway 58 to junction New York Highway 3, thence along New York Highway 3 to Plattsburg, N.Y. The purpose of this filing is to eliminate the gateway of Dover, Ohio.

No. MC 119968 (Sub-No. E15), filed May 20, 1974. Applicant: A. J. WEIGAND, INC., 3966 Pearl Road, Cleveland, Ohio 44109. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured and sold by chemical manufacturing plants* (except petroleum products, in bulk, in tank trucks), when moving to or from warehouses or other facilities of chemical manufacturing plants, that are included in machinery, equipment, materials, and supplies used by chemical manufacturing plants, in bulk, between those points in West Virginia on and bounded by a line beginning at the Virginia-West Virginia State line and extending north along Interstate Highway 77 to junction U.S. Highway 119, thence south along U.S. Highway 119 to the Kentucky-West Virginia State line, on the one hand, and, on the other, points in that part of Illinois on and north of Interstate Highway 80; that part of Indiana on and north of U.S. Highway 6; the southern Peninsula of Michigan; that part of New York on, west and north of New York Highway 7; that part of Ohio on and north of a line beginning at the Indiana-Ohio State line and extending east along U.S. Highway 6 to junction Ohio Highway 199, thence along Ohio Highway 199 to junction Ohio Highway 18, thence along Ohio

Highway 18 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction Ohio Highway 100, thence along Ohio Highway 100 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Ohio Highway 39, thence along Ohio Highway 39 to the Ohio-Pennsylvania State line; that part of Pennsylvania on and north of a line beginning at the Ohio-Pennsylvania-Ohio State line and extending along Pennsylvania Highway 68 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 14, thence along Pennsylvania Highway 14 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Dover, Ohio.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-4457 Filed 2-18-75;8:45 am]

[Notice No. 700]

ASSIGNMENT OF HEARINGS

FEBRUARY 13, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after February 19, 1975.

MC 32882, Sub 67, Mitchell Bros., Truck Lines, now assigned February 24, at San Francisco, Calif., and March 10, 1975, at St. Paul, Minn., hearing is cancelled and application is dismissed.

MC 121586, Sub 1, Kruse Transportation Co., Inc., now assigned March 5, 1975, at Omaha, Nebr., is cancelled and application is dismissed.

MC 110420, Sub 727, Quality Carriers, Inc., now being assigned April 4, 1975 (1 day), at Chicago, Ill., in a hearing room to be designated later.

MC 126716, Sub 2, Weston Trucking Company dba Weston Trucking, now being assigned April 8, 1975 (3 days), at Carson City, Nevada, in a hearing room to be designated later.

MC 126477, Sub 4, Jet Air Freight & Parcel Delivery, Inc., now being assigned April 8, 1975 (3 days), at Indianapolis, Ind., in a hearing room to be designated later.

MC 95540, Sub 915, Watkins Motor Lines, Inc., now being assigned March 17, 1975 (1 week) at Denver, Colorado; in a hearing room to be designated later.

MC 140081, A & A Trucking, Inc., now being assigned April 4, 1975 (3 days) at Lincoln, Nebr., in a hearing room to be later designated.

MC 106644, Sub 184, Superior Trucking Company, Inc., now assigned February 24, 1975, at Washington, D.C., is canceled and application dismissed.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-4455 Filed 2-18-75;8:45 am]

[Notice No. 232]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

FEBRUARY 18, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before March 10, 1975. Pursuant to section 17 (8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75512. By order of February 6, 1975, the Motor Carrier Board approved the transfer to Hall Way, Inc., Ankeny, Iowa, of the operating rights in Certificate No. MC 136385 (Sub-No. 2) issued August 20, 1974, to Hall Truck Lines, Inc., Ankeny, Iowa, and the operating rights in Certificate No. MC 135521 (Sub-No. 1) issued October 31, 1973, to Ernest S. Hall, Harold E. Hall, and Cleo L. Hall, a partnership, doing business as Hall Truck Lines, Lone Tree, Iowa, respectively authorizing the transportation of (1) frozen foods, from the facilities of the Kitchens of Sara Lee Corporation at or near New Hampton, Iowa, to points in Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, and (2) meats, meat products and meat by-products, and articles distributed by meat packinghouses, except hides and commodities in bulk, from the facilities of Tama Meat Packing Corporation, at Tama, Iowa, to points in the same destination States as specified in (1) above. Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309, attorney for applicants.

No. MC-FC-75514. By order of February 6, 1975, the Motor Carrier Board approved the transfer to L J P Truck Lines, Inc., Howard Beach, N.Y., of the operating rights in Certificate No. MC 59114 issued February 2, 1972, to Flexible Freight Transport, Inc., Edgewater, N.J., authorizing the transportation of general commodities, with usual exceptions, between Elizabeth, N.J., on the one hand, and, on the other, points in Camden, Passaic, Bergen, Hudson, Essex, Union, Middlesex, Monmouth, Mercer, Somerset, Morris, Ocean, and Sussex Counties, N.J., and those in Pennsylvania on and east of Pennsylvania Highway 309. Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904, and Harold M. Cohen, 1180 Raymond Boulevard, Newark, N.J. 07102, attorneys for applicants.

No. MC-FC-75637. By order entered February 6, 1975, the Motor Carrier Board approved the transfer to Alex Chalmers, Cornwell Heights, Pa., of the operating rights set forth in Permit No. MC 5603, issued August 12, 1943, to Querin Special Motor Freight Line, Inc., Florence, New Jersey, authorizing the transportation of such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, equipment, materials, and supplies used in the conduct of such business, between points in New Jersey, Delaware, Pennsylvania, New York, Maryland, and the District of Columbia. Francis P. Desmond, 115 East Fifth St., Chester, Pa. 19013, attorney for applicants.

No. MC FC 75640. By order entered February 6, 1975, the Motor Carrier Board approved the transfer to Leroy Peterson, doing business as Peterson Trucking, Ellsworth, Wis., of the operating rights set forth in Certificates Nos. MC 84633 and MC 84633 (Sub-No. 3), issued by the Commission November 15, 1949 and January 2, 1952, respectively, to W. H. Murphy, Prescott, Wis., authorizing the transportation of livestock, farm machinery, animal and poultry feeds, feed ingredients, seeds, and fertilizer, and general commodities, with the usual exceptions, from, to, and between specified points in Minnesota and Wisconsin. F. H. Kroeger, 1745 University Ave., St. Paul, Minn. 55104, representative for applicants.

No. MC-FC-75644. By order entered February 6, 1975, the Motor Carrier Board approved the transfer to A. W. Kozel Trucking Co., Inc., Perth Amboy, N.J., of the operating rights set forth in Permit No. MC 56382, issued by the Commission October 26, 1961, to Andrew W. Kozel, doing business as A. W. Kozel Trucking Co., Edison, N.J., authorizing the transportation of groceries, empty containers or related articles used in transporting groceries, and alcoholic liquors, from specified points in New Jersey and New York, to points in Pennsylvania, New York, Connecticut, Maine, Delaware, Maryland, Massachusetts, New Hampshire, Rhode Island, Vermont, Virginia, and the District of Columbia. George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306, practitioner for applicant.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-4456 Filed 2-18-75;8:45 am]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

INDEX OF PUBLIC RECORDS

Freedom of Information Requirements

On November 21, 1974, Pub. L. 93–502 was enacted. This law, referred to as the 1974 Amendments to the Freedom of Information Act amended 5 U.S.C. 552. A provision of Pub. L. 93–502 requires that "Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the FEDERAL REGISTER that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication."

The provision of 5 U.S.C. 552 which was amended by the above quoted language originally read "Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published."

Pursuant to this original provision, the Comptroller of the Currency promulgated 12 CFR 4.15(b) stating the location where the index was available for inspection and copying.

After full consideration of 5 CFR 4.15 (b) and the type and contents of the index referred to therein, I hereby determine and order that the publication of the index and supplements thereto is unnecessary and impracticable.

Signed at Washington, D.C. on February 14, 1975.

THOMAS G. DESHAZO,
Acting Comptroller of the Currency.

[FR Doc.75-4672 Filed 2-18-75;8:45 am]

federal register

WEDNESDAY, FEBRUARY 19, 1975

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Volume 40 ■ Number 34

PART II

FREEDOM OF INFORMATION ACT

Implementation Regulations

■

VARIOUS EXECUTIVE AGENCIES

NOTE: Listed below are other documents containing Freedom of Information implementation regulations published previously in the FEDERAL REGISTER:

Agency	*1975 Date of Issue*	*Vol. 40 FR, Page No.*
Cost Accounting Standards Board	Jan. 30	4445
Cost Accounting Standards Board (correction)	Feb. 4	5135
Defense Department/Office of Secretary	Feb. 11	6336
Emergency Loan Guaranty Board	Feb. 10	6201
Federal Maritime Commission	Jan. 17	2983
Interstate Commerce Commission	Jan. 20	3215
Justice Department	Feb. 12	6494
Occupational Safety and Health Review Commission	Feb. 7	5779

NOTE: Listed below are other Freedom of Information documents on file with the Office of the Federal Register which will be published at a later date:

Agency	*1975 Date of Issue*
Interior Department/Office of the Secretary	Feb. 20
Renegotiation Board	Feb. 20
Treasury Department/Office of the Secretary	Feb. 20

Title 2—Amnesty

CHAPTER II—SELECTIVE SERVICE SYSTEM

PART 200—RECONCILIATION SERVICE

Freedom of Information Act Regulations

The Director of Selective Service, pursuant to Proclamation 4313, Executive Order 11804, and the Freedom of Information Act, 50 U.S.C. 552 as amended by Pub. L. 93-502, gave public notice on January 14, 1975 (40 FR 2592), that consideration is being given to a proposed amendment to the Reconciliation Service Regulations constituting a portion of Chapter II of Title 2 of the Code of Federal Regulations.

More than thirty days have elapsed subsequent to such publication during which period comments from the public have been received and considered. The proposed amendment is being made effective without change in substance.

The amendment establishes the criteria and procedures for the release of information in a returnee's file.

Pursuant to the authority vested in me by Proclamation 4313, Executive Order 11804, and the Freedom of Information Act, 50 U.S.C. 552 as amended by Pub. L. 93-502, the Reconciliation Service Regulations constituting a portion of Chapter II of Title 2 of the Code of Federal Regulations are amended, effective February 19, 1975.

Section 200.9 is added to read as follows:

§ 200.9 Availability and use of information pertaining to a returnee.

(a) Information contained in a returnee's file and in records pertaining to an identifiable returnee may be disclosed or furnished to or examined by, the following persons:

(1) The returnee or any person having written authority dated and signed by the returnee: *Provided*, That whenever the time of the expiration of such authority is not specified therein, no information shall be disclosed, furnished, or examined under that authority after the expiration of a period of 1 year from its date.

(2) The legal representative of a deceased or incompetent returnee.

(3) All personnel of the Selective Service System while engaged in carrying out the functions of the Reconciliation Service Program.

(4) The Attorney General and his duly authorized representatives, including agents of the Federal Bureau of Investigation, whenever the returnee has been reported for failure to complete his reconciliation service in accord with his agreement with the Attorney General.

(5) Any other agency, official, or employee, or class or group of officials or employees of the United States upon written request in individual cases, but only when and to the extent specifically authorized in writing by the Director of Selective Service.

(b) No information shall be disclosed or furnished to, or examined by, any person under the provisions of this section, until such person has been properly identified as entitled to obtain such information.

(c) A copy of a returnee's file and the documents contained in such file will be furnished to an individual described in paragraph (a) (1) or (2) of this section upon payment of a fee of 25¢ per page for each page in the form of a money order payable to the Treasury of the United States. A copy of other identifiable records or documents will be furnished to a person other than an individual described in paragraph (a) (3), (4), or (5) of this section entitled to receive it upon payment of a fee of 25¢ per page in the form of a money order payable to the Treasury of the United States. Search of records is made by compensated employees of the Selective Service System without charge.

(d) Whenever an employee receives a request for information or documents the disclosure of which is not clearly authorized by the provisions of this section that request will be immediately reported by telephone to the General Counsel, Selective Service System, for instructions as to its disposition.

(e) Complaints concerning possible abuse of discretion granted selective service employees under this section or failure to respond to inquiries shall be directed to the state director in the case of state headquarters or local board employees and to the Director in the case of National Headquarters employees.

(f) A requester whose request for information or documents has not been satisfied may appeal to the Director of Selective Service, 1724 F Street, NW., Washington, D.C. 20435.

(Proclamation 4313, Executive Order 11804, and the Freedom of Information Act, 50 U.S.C. 552 as amended by Pub. L. 93-502.)

BYRON V. PEPITONE,
Director.

FEBRUARY 13, 1975.

[FR Doc.75-4450 Filed 2-18-75;8:45 am]

Title 6—Economic Stabilization

CHAPTER VII—COUNCIL ON WAGE AND PRICE STABILITY

PART 701—ORGANIZATION

PART 702—PUBLIC ACCESS TO RECORDS

This is intended to establish a new Chapter VII, Council on Wage and Price Stability, in Title 6 of the Code of Federal Regulations and to issue, as Parts 701 and 702 of that new chapter, the regulations of the Council under the Freedom of Information Act, 5 U.S.C. Section 552.

The Council on Wage and Price Stability was established on August 24, 1974 by the enactment of the Council on Wage and Price Stability Act of 1974. The Council's principal purposes under the Act are to monitor the inflationary impact of price, wage and other activities in both the private and public sectors of the economy. In connection with these purposes, the Council collects data related to the economy. These regulations issued today contain the criteria and procedures whereby the Council will determine to provide public access to, or alternative to preserve the confidentiality of this data, in compliance with the Freedom of Information Act.

In order that these regulations may be effective upon the February 19, 1975 effective date of the Freedom of Information Act Amendments of 1974, they are issued to become effective immediately. However, public comment on these rules is welcome, and will be considered by the Council in determining the need to amend these rules. Comments on these rules should be addressed to the General Counsel, Council on Wage and Price Stability, Room 3235, New Executive Office Building, 726 Jackson Place NW., Washington, D.C. 20506.

Issued in Washington, D.C. on February 13, 1975 and to become effective immediately.

ALBERT REES,
Director.

Chapter VII is added as follows:

CHAPTER VII—COUNCIL ON WAGE AND PRICE STABILITY

Part
701 Organization.
702 Public Access to Records.

Part 701 is added as follows:

Sec.
701.1 Purpose.
701.2 Status.
701.3 Membership.
701.4 Staff.
701.5 Officers.
701.6 Functions of the Council.
701.7 Divisions.

AUTHORITY: 5 U.S.C. 552.

§ 701.1 Purpose.

This Part is intended to provide a general description of the organization of the Council on Wage and Price Stability (the "Council"), in compliance with the Freedom of Information Act, 5 U.S.C. Section 552(a)(1). More detailed information can be obtained from the Assistant Director for Public Affairs and Congressional Relations, Council on Wage and Price Stability, Room 3225, The New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20506.

§ 701.2 Status.

Pursuant to the Council on Wage and Price Stability Act of 1974, 12 U.S.C. Section 1904 note, the Council was established as an agency within the Executive Office of the President.

§ 701.3 Membership.

The Council consists of eight members and four adviser-members, all of whom are appointed by the President. The President has designated the Secretary of the Treasury to be a member and serve as Chairman of the Council, and the Assistant to the President for Economic Affairs to be a member and serve as Deputy Chairman of the Council. See Executive Order No. 11808.

§ 701.4 Staff.

The staff of the Council is headed by a Director, appointed by the President, and a Deputy Director.

§ 701.5 Offices.

The offices of the Council are at the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20506. The principal office of the Council is at Room 3235 at the above address.

§ 701.6 Functions of the Council.

The principal function of the Council, pursuant to the Council on Wage and Price Stability Act, is to encourage restraint in wage, price and other activity that might have an inflationary effect upon the nation's economy. The Council serves this function by (a) monitoring wage, price and other activity within the private sector of the economy, (b) reviewing programs and policies of the various federal departments and agencies to analyze their inflationary impact upon the economy, (c) working with representatives of labor and management in various sectors of the economy to encourage restraint in their wage, price and other activity, and (d) to hold hearings and otherwise collect data related to the economy. The Council does not, however, have the authority to impose any involuntary wage, price or other restraint upon any sector of the economy.

§ 701.7 Divisions.

To implement the above functions, the Council staff is organized by the following Divisions:

(a) *Office of the Director.* This office consists of the Director, the Deputy Director and an administrative officer. It provides general policy and guidance to the Council staff.

(b) *Office of Wage and Price Monitoring.* This office is headed by the Assistant Director for Wage and Price Monitoring, and consists principally of a small staff of professional economists. The office is responsible for the Council's monitoring of wage, price and other activities in the private sector of the economy, and undertakes studies, public hearings and investigations in furtherance of that responsibility.

(c) *Office of Government Operations and Research.* This office is headed by the Assistant Director for Government Operations and Research and also consists principally of a small staff of professional economists. The office is responsible for the Council's review and analysis of the economic impact of rules, regulations, policies and other actions of the federal departments and agencies, and occasionally participates in formal proceedings before those departments and agencies to present the Council's views as to specific department or agency actions.

(d) *Office of General Counsel.* This office consists of the General Counsel and a small legal staff. It provides the Council with legal advice and representation in connection with the various activities of the Council.

(e) *Office of Public Affairs and Congressional Relations.* This office is headed by the Assistant Director for Public Affairs and Congressional Relations and has a small professional staff. It is responsible for the Council's response to Congressional inquiries about the Council's work, for inquiries from the news media, for inquiries from the public (including requests under the Freedom of Information Act, as set forth in Part 702 below), and for other activities, for example, the arrangement of public hearings.

Part 702 is added as follows:

Subpart A—General

Sec.
702.1 Purpose.
702.2 Waiver.
702.3 Authority.

Subpart B—Confidential Records

702.4 Request for confidential treatment.
702.5 Confidential records.
702.6 Confidential determination.

Subpart C—Request for Disclosure of Records

702.7 Written requests.
702.8 Notice of request.
702.9 Initial decision.
702.10 Notice of initial decision.
702.11 Preservation of requests and notices.

Subpart D—Appeals

702.12 Written appeal.
702.13 Additional information.
702.14 Appellate decision.
702.15 Notice of appellate decision.
702.16 Access.
702.17 Fees.
702.18 Prior approval or advanced deposit of fees.
702.19 Payment of fees.

AUTHORITY: 5 U.S.C. 552.

Subpart A—General

§ 702.1 Purpose.

The Freedom of Information Act, 5 U.S.C. Section 552, which is applicable to the Council, requires the public disclosure of records held by the Council, with the exception of specific categories of confidential records described in that Act. This Part establishes the Council's procedures for providing public access to Council records and for determining the confidential treatment of specific records submitted to it. This Part authorizes the Assistant Director for Public Affairs and Congressional Relations (hereinafter referred to in this Part as "Assistant Director"), subject to review by the Director of the Council, to receive and act upon requests for the disclosure of records.

§ 702.2 Waiver.

Whenever a waiver of any of the procedures set forth in this Part would further the purposes of the Freedom of Information Act by causing the public disclosure of nonconfidential records within the time period required by that Act, the Director or Assistant Director may, in the context of individual requests for records, waive any of the procedural requirements of this Part.

§ 702.3 Authority.

The provisions of this part are promulgated pursuant to the requirement in the Freedom of Information Act, 5 U.S.C. Section 552, that such provisions be promulgated and to 18 U.S.C. Section 1905, both of which statutory provisions are made expressly applicable to the Council by Section 4 of the Council on Wage and Price Stability Act of 1974.

Subpart B—Confidential Records

§ 702.4 Request for confidential treatment.

(a) Any person requesting the confidential treatment, pursuant to 5 U.S.C. Section 552(b) and to 18 U.S.C. Section 1905, of records submitted by that person to the Council shall make that request in writing to the Council. Such a written request shall accompany the records for which confidential treatment is requested and shall specifically identify the portions of the submitted records for which confidential treatment is requested.

(b) To the extent possible, records for which confidential treatment is requested shall be separately bound or otherwise segregated from any accompanying material submitted without a request for confidentiality.

§ 702.5 Confidential records.

The following kinds of records, exempt from the public availability requirements of 5 U.S.C. Section 552, may be provided confidential treatment by the Council, pursuant to a request made as set forth in § 702.1:

(a) Records specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(b) Records related solely to the internal personnel rules and practices of the Council;

(c) Records specifically exempted from disclosure by statute;

(d) Trade secrets and commercial or financial information obtained from a person and privileged or confidential. This exemption includes, without limitation, data about the amount of sources of income, profits, losses, costs or expenditures; inventory lists; customer lists; manufacturing processes and other trade secrets; in each case to the extent that such information is not in fact published or otherwise made available on a nonconfidential basis.

(e) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the Council. The exemption includes, without limitation, minutes and other records of the deliberations of the Council members and staff, intra- and inter-agency reports, memorandums, letters, work papers, and staff papers, except to the extent that such documents have been publicly released by the Council. To the extent that their premature release would be contrary to the public interest, such documents to be made public are included within this exemption until their public release by the Council.

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The exemption includes, without limitation, the personnel records of the Council, files containing reports, records or other

material pertaining to individual cases in which disciplinary or other administrative action has been or may be taken, including records of proceedings pertaining to the conduct or performance of duties by Council personnel.

(g) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(h) Records contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(i) Geological and geophysical information and data, including maps, concerning wells.

§ 702.6 Confidentiality determination.

Where a request for the confidential treatment of records submitted to the Council has been made, the General Counsel may, within a reasonable time, notify the party making that request of the General Counsel's determination whether those records are confidential records, as defined in § 702.5.

Subpart C—Requests for Disclosure of Records

§ 702.7 Written requests.

(a) Any request for records held by the Council shall be made in writing and addressed to the Assistant Director for Public Affairs and Congressional Relations, Council on Wage and Price Stability, Room 3235 The New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20506.

(b) Any request for records from the Council shall describe and identify, in reasonable detail, the particular documents or the type of records requested.

(c) Such a written request shall also estimate, pursuant to the fee schedule set forth in Subpart E, the maximum fee that the party making the request would be willing to pay for the search and duplication of the requested records, without further approval.

§ 702.8 Notice of request.

Whenever a request shall be made for the disclosure of records that the General Counsel has previously concluded, pursuant to § 702.6 to be confidential, notice shall be given to the party who has submitted those records that their disclosure has been requested.

§ 702.9 Initial decision.

(a) Except as set forth in § 702.8 above, the Assistant Director shall, within ten (10) days (excepting Saturdays, Sundays and legal public holidays) of the receipt of any written request for records, determine whether to grant or deny, in whole or in part, that request. In making such a determination, the Assistant Director shall consider, among other alternatives, the possibility of separating confidential records, as defined in Subpart B, from other portions of any requested records, and disclosing the nonconfidential portions.

(b) In the event of an unusual circumstance, as defined in Paragraph (b) (1), (2), or (3) of this section, the Assistant Director may extend, by no more than ten (10) working days, the time within which he must make an initial decision in response to a written request. The Assistant Director shall immediately give written notice to the party making the request of any such extension of time, of the reasons for such an extension, and of the expected date of the initial decision. "Unusual circumstances," for this purpose, shall include:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the Council's office at the New Executive Office Building in Washington, D.C.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request for records or among two or more components of the Council having substantial subject-matter interest therein.

(c) For purposes of this Section, a written request for records shall be deemed "received" when it has arrived in the offices of the Council in a written form that complies with the requirements of § 702.7.

§ 702.10 Notice of initial decision.

The Assistant Director shall, immediately upon making an initial decision about a request for records, give written notice of that decision to the person making the request. In the event that that initial decision is to grant a request in whole or part, the written notice shall include a statement of that decision, a brief description of the records to be made available, a statement of the times and place when such records can be available for inspection or, alternatively, of the procedure for duplication and delivery (by mail or other means) of the records to the requesting party, and an itemized statement of the total fees chargeable to the requesting person, pursuant to the fee schedule set forth in Subpart E, for the search for and duplication of the requested records. In the event, on the other hand, that the Assistant Director's initial decision is to deny a request in whole or in part, the written notice of that decision shall include a brief statement of that decision and of the reasons therefor, an identification of the name and title of the person making that decision, and also a description of the procedures, pursuant to Subpart D, for an appeal from that decision.

§ 702.11 Preservation of requests and notices.

The Assistant Director shall preserve all written requests for records and all written notices of his initial decisions in response thereto for at least one calendar year.

Subpart D—Appeals

§ 702.12 Written appeal.

(a) Any person who has made a written request for the disclosure of records, pursuant to Subpart C, may, within 30 days of receipt of a written notice of the Assistant Director's initial decision or after the Assistant Director's failure to take any timely action upon that request, request that the Director of the Council review that decision or nonaction. Any such request for review should be made in writing, shall be addressed to the Director, Council on Wage and Price Stability at Room 3235, The New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20506.

(b) Any written request for review of an initial decision shall include a copy of the party's initial request to the Assistant Director for the disclosure of records, a copy of the Assistant Director's initial decision, and a brief statement of the legal, factual or other basis for the party's objection to that initial decision.

§ 702.13 Additional information.

Immediately upon receipt of a written appeal, the Director may request that additional information be submitted by the party appealing or by the Assistant Director.

§ 702.14 Appellate decision.

(a) The Director shall, within twenty (20) days (excepting Saturdays, Sundays, and legal public holidays) of the receipt of any written appeal, determine whether to grant or deny that appeal.

(b) In the event of an unusual circumstance, as defined in § 702.9(b), the Director may extend, by no more than ten (10) working days, the time within which he must make an appellate decision in response to a written appeal. The Director shall immediately give written notice to the party making the request of any such extension of time, of the reasons for such an extension, and of the expected date of the appellate decision.

§ 702.15 Notice of appellate decision.

The Director shall, immediately upon making an appellate decision, give written notice of that decision to the person making the request. This notice shall include a brief statement of the appellate decision and of the reasons therefor.

Subpart E—Access to Records; Fees

§ 702.16 Access.

(a) Except as set forth in paragraph (b) of this section or as otherwise determined by the Assistant Director or Director, requested records or duplicate copies thereof, to be made available to any person shall be made available during regular business hours at the offices of the Council on Wage and Price Stability, The New Executive Office Building, Washington, D.C.

(b) Upon the Assistant Director's or the Director's approval, requested records or duplicate copies thereof can be

made available by mail to the person making the request.

§ 702.17 Fees.

(a) Fees charged by the Council for the search for and duplication of any records requested shall comply with the following fee schedule:

(1) *Search for records.* $5 per hour when the search is conducted by a clerical employee. $8 per hour when the search is conducted by a professional employee. No charge for searches of less than one hour.

(2) *Duplication of records.* Records will be duplicated at a rate of $.25 per page for all copying of four pages or more. There is no charge for duplicating three or less pages.

(3) *Other.* When no specific fee has been established for a service, the Assistant Director is authorized to establish an appropriate fee based on "direct costs" as provided in the Freedom of Information Act and in accordance with Office of Management and Budget Circular No. A–25. Examples of services covered by this provision include searches involving computer time or special travel, transportation or communication costs.

(4) If records requested are stored elsewhere than at the offices of the Council, the special costs of returning those records to the Council's offices for review will be added to the search costs. Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made or if it is determined that a requested record is confidential and should be withheld.

(b) The Assistant Director or Director may determine, in connection with specific requests for records, that the public interest is best served by the provision of the requested records at no cost or at a cost below the above schedule and, in those specific instances, may waive the above schedule, in whole or in part.

§ 702.18 Prior approval or advanced deposit of fees.

(a) Where the search, duplication or other fees anticipated to result from a request are substantially greater than the amount estimated in the written request, pursuant to § 702.7 above, or in the absence of such an estimate where the anticipated fees are greater than $25, the person requesting the records shall be immediately notified of the estimated fees and his approval for such fees requested. Such person shall also be offered the opportunity to reformulate his or her request in order to reduce the search, duplication and other fees but yet satisfy that person's needs for records.

(b) Where the estimated search, duplication and other fees would exceed $25, the Assistant Director may in addition request that the person requesting records make an advance deposit of the estimated fees.

(c) The dispatch of any such request for an estimated fee approval or advance deposit shall suspend, until a reply is received by the Council, the period, pursuant to 5 U.S.C. section 552 and to § 702.9, within which the Assistant Director must respond to a written request for records.

§ 702.19 Payment of fees.

(a) Fees actually charged a person for the search and duplication of records must be paid in full prior to issuance to him or her of those records. In the event that that person is in arrears for previous requests to the Council for records, records will not be provided for any subsequent requests until the arrears have been paid in full.

(b) Payment of fees shall be made by a personal check, postal money order or bank draft drawn on a bank in the United States, made payable to the order of the Treasurer of the United States.

[5 U.S.C. 552]

[FR Doc.75-4466 Filed 2-18-75;2:04 pm]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

Requests Under the Freedom of Information Act, as Amended; Policy and Procedure

Pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383) as amended by Pub. L. 93–502 (88 Stat. 1561) and the authority contained in section 103 of the Immigration and Nationality Act (66 Stat. 103; 8 U.S.C. 1103), 28 CFR 0.105, and 8 CFR 2.1, amendments are being made to 8 CFR Part 103 to conform Service regulations to the requirements of the Freedom of Information Act as amended by the Act of November 21, 1974 (88 Stat. 1561).

The amendments contained in this order revise the Immigration and Naturalization Service regulations to conform with the new time limits for determining requests under the Freedom of Information Act (5 U.S.C. 552) established by the amendments to that Act contained in Pub. L. 93–502 (88 Stat. 1561). These amendments also conform with and supplement new amendments to the Freedom of Information Act regulations of the Department of Justice, 28 CFR Part 16, Subpart A, which become effective February 19, 1975. On January 16, 1975, the Service published proposed fee and proposed time limit regulations. So much of the proposed rules as concerned fees is not affected by the present amendments; the proposed rules pertaining to fees are being adopted by a separate order. The present amendments supersede so much of the proposed rules as concerned other aspects of the administration of the Freedom of Information Act.

In addition to changes necessitated by the recent amendments to the Freedom of Information Act and the amendments to 28 CFR Part 16, these amendments delegate the authority to deny requests, heretofore reserved to the Commissioner, to the Associate Commissioner, Management, and to regional commissioners and district directors. The amendments set forth specific requirements and suggestions for the making and processing of requests. Most of these amendments are intended to insure compliance with the new time limits imposed by the amendments to the Act. There are statements regarding when time limits will commence to run. There is a provision that when time limits have been exhausted a requester will be informed of his right to treat the absence of a reply as a denial, entitling him to appeal to the Attorney General, and that he may also be asked to forego his right of appeal while the Service is continuing to process his request. A distinction is made between requests for records and requests for official verifications of facts, the latter being denoted as not being under the Freedom of Information Act.

In the light of the foregoing, the following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

§ 103.7 [Amended]

1. In § 103.7 *Fees*, paragraph (b)(1) is amended by adding at the end thereof the following fee:

For filing application for certification of information contained in Service records	$3.00

2. In § 103.7(c), a new subparagraph (2) is added and the existing subparagraph (2) is redesignated as subparagraph (3). As amended, § 103.7(c) (2) and (3) reads as follows:

(2) Fees under the Freedom of Information Act, as amended, may be waived or reduced where the Service determines such action would be in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(3) When the prescribed fee is for services to be performed by the clerk of court under section 344(a) of the Act, the affidavit for waiver of the fee shall be filed with the district director or officer in charge of the Service having administrative jurisdiction over the place in which the court is located at least 7 days prior to the date the fee is required to be paid. If the waiver is granted, there shall be delivered to the clerk of court by a Service representative on or before the date the fee is required to be paid, a notice prepared on Service letterhead and signed by the officer granting the waiver, that the fee has been waived pursuant to this paragraph.

3. In § 103.8, the title and the introductory text are revised to read as follows:

§ 103.8 Definitions pertaining to availability of information under the Freedom of Information Act.

Sections 103.8, 103.9, and 103.10 of this part comprise the Service regulations under the Freedom of Information Act, 5 U.S.C. 552. These regulations supplement those of the Department of Justice, 28 CFR Part 16, Subpart A. As used in this part the following definitions shall apply:

* * * * *

§ 103.9 [Amended]

4. In § 103.9, the title is revised to read as follows:

§ 103.9 Availability of decisions and interpretive material under the Freedom of Information Act.

5. Section 103.10 is amended in the following respects: the title is revised; paragraph (a)(1) is revised by the deletion and addition of offices to the listing therein and by the addition of two new sentences at the end of the paragraph; paragraph (a)(2) is revised in its entirety; paragraph (b)(1) is revised by the addition of a new subdivision (vi); paragraph (b)(2) is revised; paragraph (b)(4) is being revoked by a separate order and paragraphs (c), (d), and (e) are revised in their entirety; and a new paragraph (f) is added. As amended, § 103.10 is revised to read as follows:

§ 103.10 Requests for records under the Freedom of Information Act.

(a) *Place and manner of requesting records.*—(1) *Place.* Records shall be made available in the Central Office, each regional office, any district office, and the following offices: Agana, Guam; Albany, N.Y.; Cincinnati, Ohio; Dallas, Tex.; Hammond, Ind.; Harlingen, Tex.; Las Vegas, Nev.; Memphis, Tenn.; Milwaukee, Wis.; Norfolk, Va.; Pittsburgh, Pa.; Providence, R.I.; Reno, Nev.; St. Louis, Mo.; Salt Lake City, Utah; San Diego, Calif.; Spokane, Wash.; additionally, in particular cases, a district director may designate any other Service office. Active alien records are maintained in the district or sub-office listed above where the subject of the record resides. For locations of regional and district offices, see 8 CFR 100.4.

(2) *Manner of requesting records.* Requests for records may be made in person or by mail. If a request is made by mail, both the envelope and its contents shall be clearly marked: "FREEDOM OF INFORMATION REQUEST" or "INFORMATION REQUEST". Any request for information not marked and addressed as specified in this paragraph will be so marked by Service personnel as soon as it is properly identified, and forwarded immediately to the appropriate office. A request will not be deemed to have been received for purposes of the time period set forth in 5 U.S.C. 552(a)(6) until forwarding to the appropriate office has been effected, or until such forwarding would have been effected with the exercise of due diligence by Service personnel. On receipt of a request forwarded as set forth above to the appropriate office, such office shall notify the requester of the date on which the time period commenced to run. The use of Form G-639 is recommended for rapid identification as a Freedom of Information matter and to insure expeditious handling. Each request made under this section pertaining to the availability of a record shall describe the record with sufficient specificity with respect to names, dates, subject matter and location to permit it to be identified and located. A request for all records falling within a reasonable specific category shall be regarded as conforming to the requirement that records be reasonably described if it enables the records requested to be identified by any process that is not unreasonably burdensome or disruptive of Service operations. If it is determined that a request does not reasonably describe the records sought, as specified above, the response rejecting the request on that ground shall specify the reasons why the request failed to meet requirements and shall extend to the requester an opportunity to confer with Service personnel in order to attempt to reformulate the request in a manner which will meet the needs of the requester and the requirements of this subsection.

(b) *Authority to grant and deny requests.*—(1) *Grants.* The Associate Commissioner, Management, may grant any type of request. The head of any office specified in paragraph (a)(1) of this section may grant the following types of requests:

(i) Requests for information and records which officers and employees of the Service prior to the enactment of 5 U.S.C. 552 customarily furnished to the public in the regular performance of their duties;

(ii) Requests for records of proceedings in deportation hearings, unless members of the public have been excluded from the hearings by direction of the special inquiry officer pursuant to § 242.16(a) of this chapter;

(iii) Requests for records of proceedings in naturalization examinations and hearings;

(iv) Requests for records of proceedings in any other proceedings before the Service which were open to the public;

(v) Requests for records of proceedings in administrative fine cases; and

(vi) Requests for any other records of the Service, including portions of records, which clearly are not within the exemptions from disclosure enumerated in 5 U.S.C. 552(b).

(2) *Denials.* The Associate Commissioner, Management, regional commissioners, and district directors have authority to deny a request.

(3) *Authority to state that a record cannot be located or does not exist.* The head of any office specified in paragraph (a)(1) of this section has authority to notify a requester that a record cannot be located from the information supplied, or is known to have been destroyed or otherwise disposed of.

(c) *Prompt response.*—(1) *Response within 10 days.* Within 10 days (excluding Saturdays, Sundays and legal public holidays) of the receipt of a request by the Service (or in the case of an improperly addressed request, of its receipt by the appropriate office as specified in paragraph (a) of this section), the authorized Service official shall either comply with or deny such request unless an extension is made under 28 CFR 16.5(c). A request improperly addressed will not be deemed to have been received for purposes of the time period set forth in 5 U.S.C. 552(a)(6) until forwarding to the appropriate office has been effected, or until such forwarding would have been effected with the exercise of due diligence by Service personnel. On receipt of a request forwarded as set forth in paragraph (a) of this section to the appropriate office, such office shall notify the requester of the date on which the time period commenced to run.

(2) *Treatment of delay as a denial.* If no substantive reply is forthcoming at the end of the 10-day period, or the last extension thereof under 28 CFR 16.5(c), the requester may deem his request denied, and exercise a right of appeal in accordance with 28 CFR 16.7. When no substantive reply can be made within the applicable time limit, the responsible Service office shall nevertheless continue to process the request; it shall inform the requester upon expiration of the time limit of the reason for the delay, of the date on which a determination may be expcted to be dispatched, and of his right to treat the delay as a denial and appeal to the Attorney General in accordance with 28 CFR 16.7; and it may ask the requester to forego appeal until a determination is made.

(d) *Disposition of requests.*—(1) *Form of grant.* When a requested record is available, the responsible office shall notify the requester when and where the record is available or copies will be available. The notification shall also advise the requester of any applicable fees under 28 CFR 16.9.

(2) *Form of denial.* A reply denying a written request for a record in whole or in part shall be in writing, signed by the Associate Commissioner, Management, by a regional commissioner, or by a district director, and it shall include a reference to the specific exemption under the Freedom of Information Act authorizing withholding of the record. To the extent consistent with the purpose of the exemption, the notice of denial shall contain a brief explanation of how the exemption applies to the record withheld, and if the deciding official considers it appropriate, a statement of why the exempt record is being withheld. The notice of denial shall include a statement of the right of appeal to the Attorney General in accordance with 28 CFR 16.7 (see subparagraph (3) of this paragraph), and that judicial review will thereafter be available in the district in which the requester resides or has his principal place of business or the district in which the agency records are situated or the District of Columbia.

(3) *Right of appeal.* When a request for records has been denied in whole or in part the requester may, within 30 days of its receipt, appeal the denial to the Attorney General (Attention: Freedom of Information Appeals Unit), Department of Justice, Washington, D.C. 20530, and both the envelope and the letter shall be clearly marked: "FREEDOM OF INFORMATION APPEAL" or "INFORMATION APPEAL."

(e) *Copies of responses to Deputy Attorney General.* A copy of each notification to a requester of a delay, notice of extension, denial or of inability to locate a requested record shall be furnished to the Deputy Attorney General.

(f) *Verification of information from Service records.* When a requester desires, not a copy of a record, but a formal statement by the Service verifying particular information based on Service records, his request is not being made pursuant to the Freedom of Information Act and shall be submitted on Form G-641 to the Service office having jurisdiction over his place of residence.

(Sec. 103, 66 Stat. 173; (8 U.S.C. 1103))

Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary because the amendments pertain to agency policy and procedure. In addition, since many of the amendments are necessary for implementation of the amendments to the Freedom of Information Act (5 U.S.C. 552) by the Act of November 21, 1974 (Pub. L. 93-502; 88 Stat. 1561), which become effective February 19, 1975, there is insufficient time to receive and evaluate public comment. However, in accordance with the spirit of the provisions of 5 U.S.C. 553, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 7100-C, 425 Eye Street NW., Washington, D.C. 20536, written data, views, or arguments, in duplicate, with respect to these amendments. Such comments may not be presented orally in any manner. All relevant material received by March 19, 1975, will be considered in the same manner as if this document were a notice of proposed rule making.

Effective date. The amendments contained in this order shall become effective February 19, 1975.

Dated: February 14, 1975.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc.75-4600 Filed 2-18-75;8:45 am]

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

Fees and Requests for Records Under Freedom of Information Act

Reference is made to the Notice of Proposed Rule Making which was published in the FEDERAL REGISTER of January 16, 1975 (40 FR 2817) pursuant to the provisions of 5 U.S.C. 553 (80 Stat. 383) and 5 U.S.C. 552(a)(4), as amended by Public Law 93-502 (88 Stat. 1561), and in which there were set forth proposed amendments to 8 CFR 103.7 and 103.10 pertaining to fees and requests for record search and duplication under the Freedom of Information Act, as amended.

No representations were received in response to the proposed rules of January 16, 1975. Items 1, 2, 3, and 6 of the proposed rules are adopted, as proposed. Items 4, 5, 7, and 8 of those proposed rules, which pertain to aspects of the Freedom of Information Act other than fees, are not adopted because superseded by amendments being published separately to conform Service regulations to the requirements of the Act as amended by Public Law 93-502 (88 Stat. 1561).

In the light of the foregoing and pursuant to the authority contained in section 103 of the Immigration and Nationality Act, 28 CFR 0.105(b) and 8 CFR 2.1, the proposed amendments to §§ 103.7 (b), 103.7(d), and 103.10(b)(4) of Part 103, Chapter I, Title 8 of the Code of Federal Regulations, as set forth below, are hereby adopted:

§ 103.7 [Amended]

1. In § 103.7 *Fees*, amend paragraph (b)(1) by adding at the end thereof the following:

For filing application on Form I-550 for verification of lawful permanent residence of an alien	$3.00
For certification of true copies, each	1.00
For attestation under seal	3.00

2. In § 103.7, amend paragraph (b)(2) by deleting in its entirety the existing material and by substituting in lieu thereof the following:

(2) Fees for production or disclosure of records under 5 U.S.C. 552 shall be charged in accordance with the regulations of the Department of Justice, 28 CFR 16.9.

3. Section 103.10(b)(4) is redesignated as § 103.7(d) and reads as follows:

(d) *Authority to certify records.* Whenever authorized under 5 U.S.C. 552 or any other law to furnish information from records to persons entitled thereto, the following officials have authority to make certifications, as follows:

(1) The Associate Commissioner, Management—copies of files, documents, and records in the custody of the Central Office.

(2) A regional commissioner or district director—copies of files, documents, and records in the custody of his office.

(3) The Chief, Records Administration and Information Branch, Central Office—the nonexistence of an official record in the records of the Service.

(Sec. 103, 66 Stat. 173; (8 U.S.C. 1103))

The basis and purpose of the above-prescribed rules are to conform fees for the production and disclosure of records under the Freedom of Information Act to the provisions of Public Law 93-502.

Compliance with the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383) as to delayed effective date is unnecessary in this instance because the amendments to § 103.7(b) and 103.10 are in implementation of the Act of November 21, 1974 (P.L. 93-502; 88 Stat. 1561), which becomes effective on February 19, 1975.

Effective date. The amendments contained in this order shall become effective on February 19, 1975.

Dated: February 14, 1975.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc.75-4606 Filed 2-18-75;8:45 am]

Title 12—Banks and Banking

CHAPTER IV—EXPORT-IMPORT BANK OF THE UNITED STATES

PART 404—DISCLOSURE OF INFORMATION

Notice of Amended Regulations

Notice is hereby given that the Export-Import Bank (Eximbank) has revised Part 404 of Title 12 of the Code of Federal Regulations which sets forth Eximbank's regulations governing the disclosure of information under the Freedom of Information Act. The revision implements the provisions of Public Law 93-502 of November 21, 1974 effective February 19, 1975, which amends the Freedom of Information Act, 5 U.S.C. 552.

On January 13, 1975, Eximbank published (40 FR 2449) a proposed revision of § 404.6 which sets forth the schedule of fees for search and duplication of records under the Freedom of Information Act and invited public comment thereon.

The amendments to the regulations, including the revised fee schedule set forth in § 404.6, become effective on February 19, 1975.

Part 404 is revised as set forth below.

Issued in Washington, D.C. on February 10, 1975.

WARREN W. GLICK,
Acting Executive Vice President.

Sec.

404.1 Purpose and policy.
404.2 Scope.
404.3 Information and records available to the public and exempt from disclosure.
404.4 Public access to information and records.
404.5 Administrative appeal of refusal to disclose.
404.6 Fees.
404.7 Annual Report to Congress.
404.8 Appearances and testimony by Eximbank officers and employees.

AUTHORITY: 5 U.S.C. 552 and 12 U.S.C. 635.

§ 404.1 Purpose and policy.

(a) This part establishes policy and procedures governing public access to information contained in the files, documents, and records of the Export-Import Bank of the United States (Eximbank). In keeping with the spirit as well as the letter of Public Law 90-23, which codified and repealed Public Law 89-487, amending 5 U.S.C. 552, formerly section 30 of the Administrative Procedure Act, 60 Stat. 236, 5 U.S.C. 1002 (1964 Ed), and Public Law 93-502, further amending 5 U.S.C. 552, it reflects Eximbank policy that disclosure is the general rule rather than the exception. It is in addition a recognition that this policy in favor of disclosure extends in many instances to information technically exempt from disclosure under the law where such disclosure would not adversely affect some legitimate public or private interest intended to be protected by law, would not otherwise violate law or other authority, and would not impose an unreasonable burden upon Eximbank.

(b) This part is also a recognition that the soundness of many Eximbank programs, e.g. loans, guarantees and insur-

ance, depends in large measure upon the reliability of commercial, technical, financial and business information relating to the affairs of applicants for Eximbank assistance. Since the release of such information would jeopardize the credit and competitive business position of an applicant it is essential that applicants be assured that confidential commercial or financial information which is submitted to Eximbank will not be disclosed to the public. By this assurance, applicants will be encouraged to make complete disclosure of material bearing upon an application.

§ 404.2 Scope.

This part applies to all files, documents, records, and information obtained or produced by officers and employees of Eximbank in the course of their official duties as well as all files, documents, records and other information in the custody or control of any Eximbank officer or employee. It does not purport to describe or set forth every file, document, record, or item of information which may or may not be disclosed or to incorporate every exemption from disclosure provided by law. Material described is illustrative rather than exclusive.

§ 404.3 Information and records available to the public and exempt from disclosure.

(a) *General.* All Eximbank information and records in existence which are not exempt by law are available for public inspection and copying in the manner specified in § 404.4. In addition, certain materials technically qualifying for exemption from disclosure will be made available where disclosure would not adversely affect some legitimate public or private interest, would not otherwise violate law or other authority, and would not impose an unreasonable burden on Eximbank. Reasonable requests for material not in existence may also be honored where their tabulation or compilation will not unduly interfere with Eximbank activities, programs and operations. As provided in § 404.6, a fee will be charged for Eximbank's expenses incurred in searching for, duplicating, tabulating or compiling such information and records.

(b) Information and records which are available to the public.

The following kinds of records and information are available to the public in the manner specified in § 404.4:

(1) Names of recipients of loans, guarantees, insurance and other assistance,

(2) The kind and amount of assistance,

(3) The purpose of the approved assistance in general terms,

(4) The extent of outside participation, if any, and

(5) Statistical data on Eximbank programs.

(c) Information which is generally not available to the public. The following kinds of information are generally not available to the public:

(1) Information on declined, withdrawn, or cancelled applications for assistance,

(2) Trade secrets obtained from applicants for Eximbank assistance,

(3) Privileged or confidential commercial or financial information obtained from any person, including, for example, such information contained in individual case files relating to such activities as loans, guarantees and insurance,

(4) Loan agreements, insurance policies and bank guarantee agreements relating to individual borrowers or foreign buyers receiving Eximbank assistance,

(5) Information concerning losses, delinquencies and defaults in individual cases, and

(6) Names of participating lending institutions and the terms of their participation without their consent.

(d) Minutes of the meetings of the Board of Directors. These are available for inspection and copying in Eximbank's Public Affairs Office in Room 1267, 811 Vermont Avenue NW., Washington, D.C. 20571.

(e) Personnel and similar files. Exempt from disclosure are personnel, medical and other files containing private or personal information. The names, position titles, and duty stations of Eximbank employees are public information but their home addresses are not. The disclosure of private or personal information contained in other files, for example, in the files relating to members of Eximbank's Advisory Board and to applicants for Eximbank assistance, also would be exempt.

(f) *Eximbank staff directives and other instructions to staff.* All staff directives are considered public information except (1) those relating to audits and investigations, internal financial management and fiscal operations, and (2) portions of directives containing confidential standards and instructions, as, for example, instructions concerning processing loan, guarantee or insurance applications, negotiations or bargaining in connection with the disposition and liquidation of loans, and loan collateral held by Eximbank.

(g) *Litigation materials.* Copies of pleadings, motions, orders, transcripts of testimony, and documentary evidence introduced in pending or closed litigation are available once such items are a matter of public record.

(h) *Internal communications.* Interagency or intraagency communications not routinely available to a party to litigation with Eximbank are exempt from disclosure. These would include, among other things, drafts, memoranda between officials or agencies, Eximbank staff memoranda, opinions and interpretations prepared by Eximbank attorneys or consultants for use of Eximbank, research studies performed internally or under contract for internal management purposes, and internal management reports.

§ 404.4 Public access to information and records.

(a) *Facilities.* Eximbank facilities are available to the public during normal business hours for requesting, inspecting and copying information and records. Reproduction machines will also be available in or through such facilities. The Public Affairs Office is located in Room 1267, 811 Vermont Avenue NW., Washington, D.C. 20571.

(b) *Materials available in Public Affairs Office.* (1) For the convenience of the public, certain Eximbank materials will be maintained and readily available in the public information office. These will include:

(i) All Eximbank directives and manuals not exempt from disclosure,

(ii) Eximbank Rules and Regulations (including Interpretations), and

(iii) Index of Eximbank materials, including lists of staff directives, forms, reports, and Eximbank official actions.

(2) The public affairs office will, in addition to the above, have normally available, among other things:

(i) Pamphlets describing Eximbank Programs,

(ii) Press releases,

(iii) Names of recipients of Eximbank support and related information not exempt from disclosure,

(iv) Eximbank's Annual Report to the President and the Congress,

(v) Routine statistical reports on Eximbank activities,

(vi) Minutes of Meetings of the Board of Directors, and

(vii) Blank Eximbank forms.

(c) *Requests for information and records.* Requests for information, records and other materials not readily available at the Public Affairs Office are to be submitted and processed in accordance with the following procedures:

(1) *Form of request.* Each request shall be addressed to the Export-Import Bank of the United States, Attention: Senior Vice President—Public Affairs and Export Expansion, 811 Vermont Avenue, NW., Washington, D.C. 20571. The envelope and the letter containing the request must be clearly marked in capital letters as follows: FREEDOM OF INFORMATION ACT REQUEST. EIB Form 73-5, described in paragraph (d) below, may be used in lieu of a letter for purposes of making the request. A request submitted in an envelope which is not addressed to the Senior Vice President—Public Affairs and Export Expansion will not be deemed to have been received by Eximbank until such time as the request is forwarded to such officer. All requests must be in writing and must be marked and addressed as specified in this section.

(2) *Description of material requested.* Each request shall reasonably describe the document or information with respect to names, dates and subject matter to permit it to be located among the records maintained by Eximbank. A request that does not substantially comply with this subparagraph (ii) will not be deemed to have been received by Exim-

bank until such time as the requester has clarified his request to meet this standard. Eximbank will make every reasonable effort by telephone or by letter to assist the person making the request to be more specific in describing the document or information.

(3) *Notification of Eximbank action.* The person making the request normally will be notified of the availability of the material within 10 working days after the date of receipt of the request. If Eximbank determines to comply in whole or part with a request for records, the information or records shall be made available promptly provided the requirements of subparagraph (vi) regarding payment of fees are satisfied. Any denial of a request in whole or in part shall be made in writing by the Senior Vice President Public Affairs and Export Expansion. The letter shall set forth the reasons for the denial. Any person whose request for information has been denied may appeal from such determination in accordance with § 404.5.

(4) *Extension of time.* In certain unusual circumstances, as set forth below, the period of time within which Eximbank will respond to an initial request (10 working days) may be extended by an additional 10 working days. A determination that an extension of time to respond to a request is appropriate will be made by the Senior Vice President—Public Affairs and Export Expansion by giving written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be made. Unusual circumstances which could necessitate the extension are the following:

(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(5) *Fees.* A fee will be imposed for Eximbank expenses incurred in searching for, duplicating, tabulating, or compiling the record or information in accordance with the schedule set forth in § 404.6. A letter requesting a document or information should specifically state that all costs involved will be paid or, alternatively, thatt hey will be paid up to a specified limit. If the letter makes no reference to anticipated fees, and the request is expected to involve fees in excess of $25, or it is estimated by Eximbank that the fee will exceed the dollar limit specified in the request, Eximbank will notify the requester of the estimated fee promptly upon receipt of the request. The request will not be deemed to have been received until Eximbank receives a reply from the requester stating his willingness to pay the estimated fee.

(6) *Method of payment.* Where the anticipated fee exceeds $25 an advance deposit of 25 percent of the anticipated fee or $25, whichever is greater, will be required within 5 working days of Eximbank's advising the requester. Payment of the balance of the fee will be due before Eximbank furnishes the information, records, or material to the requester. All payments to Eximbank, including the deposit, shall be in the form of cash, check or money order payable to the Export-Import Bank of the United States.

(7) *Waiver of fees.* The Senior Vice President—Public Affairs and Export Expansion may waive or reduce the fees if such officer determines that such waiver or reduction would be in the public interest because furnishing the information can be considered as primarily benefiting the public.

(8) *Deletions.* If it is determined that a portion of a record is exempt from disclosure, any reasonably segregable portion of the record will be provided the requester after deletion of the exempt portions.

(d) *Forms for requesting information.* (1) EIB Form 73–5, "Request for Eximbank Forms, Documents, Records and Other Information," may be used for submitting requests to Eximbank.

(2) EIB Form 73–6, "Answer to Request," is a form letter or notice which may be used to advise the requester of the availability of the material, any charges involved, or the referral of the request to another office or agency.

(3) EIB Form 73–7, "Invoice," will be used to bill the requester for the appropriate fee and a copy thereof will be served as a receipt to the requester.

§ 404.5 Administrative appeal of refusal to disclose.

(a) *Who may appeal.* Any person whose request for information or records has been denied in whole or in part shall be entitled to submit a written appeal to Eximbank.

(b) *Time for appeal.* An appeal from a denial may be filed with Eximbank anytime following the date of receipt of the initial determination, in cases of denials of an entire request, or from the date of receipt of any records being made available under an initial determination, in cases of partial denials.

(c) *Form of appeal.* An appeal shall be in a letter addressed to the Export-Import Bank of the United States, Attention: Executive Vice President, 811 Vermont Avenue, Washington, D.C. 20571. The envelope and the letter setting forth the appeal shall be clearly marked in capital letters: FREEDOM OF INFORMATION ACT APPEAL. The letter shall reasonably describe the information or records requested, the name and title of the Eximbank official or employee who denied the request, and such other pertinent facts and statements as the appellant may deem appropriate. An appeal submitted in an envelope which is not addressed to the Executive Vice President will not be deemed to have been received until such time as the appeal is forwarded to such officer.

(d) *Eximbank decision.* Final Eximbank decision on appeals from denials of requests for information or records shall be made in writing by the Executive Vice President within 20 working days after the date of receipt of the request, unless an extension of up to 10 working days has been deemed necessary in accordance with the procedures set forth in § 404.4(c)(iv) above. The 10-day extension may be applied to the response to the initial request or to the appeal, or to both, but in no event shall the extension exceed a total of 10 working days. If the decision upholds the denial of the request, the appellant shall be notified in writing, which notice shall set forth the reasons for upholding the previous denial. The notification shall also refer to the provisions for judicial review of Eximbank's determination. 5 U.S.C. 552. If the Executive Vice President acts favorably on the appeal, the information or records requested shall be made available promptly provided the requirements of subparagraph (vi) regarding payment of fees are satisfied.

§404.6 Schedule of Fees.

(a) *Basis.* Factors taken into account in establishing fees for the search and duplication of Eximbank's records and the tabulation or compilation of information on record in Eximbank's files are the direct costs of duplication, the cost of transportation of records, and the salary of employees based on actual time spent for performing search and duplication services and any other services necessary to tabulate or compile the information.

(b) *Fees.* (1) For any brochure or publication readily available in the Public Affairs Office, there is no charge.

(2) For the transportation of the records to Eximbank offices, the charge will be computed at the rate of $5 per hour for the messenger service.

(3) For requests requiring a manual search of Eximbank records and duplication by Eximbank employees, there will be a charge of 10 cents per page for duplication and a charge based upon employee time required for the search and duplication. The charge will be computed at the rate of $4.75 per hour for clerical time and $9 per hour for supervisory or professional time. The rates of compensation are based on Eximbank's average hourly rate for each of the two classifications of personnel. Clerical employees will normally perform the search and duplication but the time of supervisory or professional personnel may be utilized if necessary to perform the search.

(4) For requests requiring a computer search of Eximbank records, there may be a charge based upon use of the computer and the computer operator's time. The charge will be $100 per hour. In the event a new program must be prepared for the computer search, there may be an additional charge of $30 per hour to cover the cost of the programming and testing. These charges will normally be in lieu of the charge for an employee

search but will be in addition to the fee for any duplication.

(5) While there is no obligation on the part of Eximbank to tabulate or compile records or data, Eximbank will make every effort to comply with reasonable requests for these services, provided such requests do not unduly interfere with normal operations or program activities. The charge for information which has to be tabulated or compiled will include the cost of employee time and cost of computer runs or other equipment use and other overhead expense allocable thereto. The fees for tabulation or compilation services will be fair and equitable in accordance with the federal user charge statute; See 31 U.S.C. 483a.

(6) Persons may inspect and copy specifically requested documents in the Eximbank facilities which are not exempt under § 404.3 without charge except for search, duplication, tabulation, or compilation fees which may otherwise be payable.

(7) No fee will be charged in connection with any record which is not made available because it is found to be exempt from disclosure under § 404.3. A fee will be charged, however, for employee time spent attempting to locate any record which, after reasonable search, cannot be located.

(8) Eximbank will waive or reduce the fees where it determines that such waiver or reduction would be in the public interest because furnishing the information can be considered as primarily benefiting the public.

§ 404.7 Annual Report to Congress.

On March 1 of each calendar year, Eximbank will report to Congress on the administration of the public requests for information and records during the prior calendar year.

§ 404.8 Appearances and testimony by Eximbank officers and employees.

Whenever an officer or employee of Eximbank is served with a subpoena demanding the disclosure of the information or the production of files, documents, and records described in this part, or is requested by court, committee or other body to disclose such information, the officer or employee shall promptly inform his superior of the requirements of the subpoena or request and shall ask for instructions from the Executive Vice President with respect thereto. Such officer or employee shall appear before the court, committee or body and, if the Executive Vice President has not authorized disclosure, the employee shall respectfully decline to disclose the information or produce the files, documents, and records demanded or requested, basing such refusal upon this part.

[FR Doc.75-4213 Filed 2-18-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-142, Amdt. 6]

PART 310—INSPECTION AND COPYING OF BOARD OPINIONS, ORDERS AND RECORDS

Amendment of Part To Reflect Changes to the Board's Schedule of Fees for Document Search and Duplication (Part 389)

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., February 12, 1975.

By Notice of Proposed Rule Making PDR-38/ODR-10, dated January 13, 1975, Docket 27378, the Board proposed, inter alia, to amend Part 389 of the Organization Regulations (14 CFR Part 389) to revise its schedule of fees for document searches and duplication, and to amend Part 310 of its Procedural Regulations to make certain editorial changes relating to the proposed revisions of Part 389. For reasons set forth in OR-94, published contemporaneously herewith, the Board has decided to adopt the proposed amendments to Parts 310 and 389.

Since the amendments herein relate only to agency procedure and practice, the Board finds that the amended rule may become effective on less than 30 days' notice, and that the rule should be made effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 310 of the Procedural Regulations (14 CFR Part 310) as set forth below, effective February 19, 1975.

1. Amend the table of contents so as to revise the caption of § 310.5, as follows:

Sec.

* * * * *

310.5 Fees for locating and copying records.

* * * * *

2. Revise § 310.5 to read as follows:

§ 310.5 Fees for locating and copying records.

Appropriate fees for locating and copying Board records are prescribed in Part 389 of this chapter.

(Sec. 204(a), Federal Aviation Act of 1958, as amended; 72 Stat. 743, (49 U.S.C. 1324 (a)); Title V of the Act of August 31, 1951, 65 Stat. 290, (5 U.S.C. 140); (5 U.S.C. 552, as amended by Public Law 93-502, 88 Stat. 1561)).

By the Civil Aeronautics Board.

Effective: February 19, 1975.

Adopted: February 12, 1975.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.75-4335 Filed 2-18-75;8:45 am]

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Regulation OR-93, Amdt. 45]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Amendment of Part To Reflect Changes to the Board's Schedule of Fees for Document Search and Duplication (Part 389)

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., February 12, 1975.

By Notice of Proposed Rulemaking PDR-38/ODR-10, dated January 13, 1975, Docket 27378, the Board proposed inter alia, to amend Part 389 of the Organization Regulations (14 CFR Part 389) to provide for waivers or modifications of photocopying fees established therein, and to amend Part 385 of its Organization Regulations to delegate to the Managing Director the authority to process requests for such waivers or modifications. For reasons set forth in OR-94, published contemporaneously herewith, the Board has decided to adopt the proposed amendments to Parts 385 and 389.

Since the amendments herein relate only to agency procedure and practice, the Board finds that the amended rule may be made effective on less than 30 days' notice, and that the rule should be made effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 385 of the Organization Regulations (14 CFR Part 385) as set forth below, effective February 19, 1975.

1. Amend § 385.12, by adding a new paragraph (d), to read as follows:

§ 385.12 Delegation to the Managing Director.

* * * * *

(d) Receive and determine applications for waiver or modification of prescribed fees for search and duplication services when such applications accompany requests for such services pursuant to § 389.14 of this chapter.

(Section 204(a) of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 49 U.S.C. 1324(a); Title V of the Act of August 31, 1951 (65 Stat. 290, 5 U.S.C. 140); and 5 U.S.C. 552, as amended by Public Law 93-502, 88 Stat. 1561.)

By the Civil Aeronautics Board:

Effective: February 19, 1975.

Adopted: February 12, 1975.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.75-4333 Filed 2-18-75;8:45 am]

[Reg. OR-94, Amdt. 20]

PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

Amendment of Fee Schedule for Document Search and Duplication

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., February 12, 1975.

By Notice of Proposed Rule Making PDR-38/ODR-10, dated January 13, 1975, Docket 27378, the Board proposed to amend Part 389 of its Organization Regulations (14 CFR Part 389) in several respects and to modify related provisions of Part 310 of the Procedural Regulations and Part 385 of the Organization Regulations (14 CFR Parts 310 and 385) to reflect the proposed changes to Part 389. Part 389 establishes a system of fees for filings, licenses, and special services, including fees for searches for documents and their duplications. In pertinent part, the proposed amendments relate to fees for document searches and duplications, and are designed to bring the Board's regulations into conformity with recent amendments made by Pub. L. 93-502 to the Freedom of Information Act (5 U.S.C. 552). Specifically, the proposed amendments would (1) eliminate all existing charges for services performed in connection with searches for documents requested by members of the public; (2) reduce the present fee for photocopying to 15 cents per page; (3) eliminate minimum charges for copying services; (4) provide for waivers or modifications of photocopying fees; and (5) provide for advance payment of photocopying fees in certain prescribed circumstances.

No comments have been filed in response to the Board's notice.

The Board has decided to adopt the amendments as proposed for the reasons stated in its notice. Since the amended rule is one of agency procedure and practice, the Board finds that it may be made effective on less than 30 days' notice, and that the rule should be made effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 389 of the Organization Regulations (14 CFR Part 389), effective February 19, 1975, as set forth below:

1. Amend the table of contents, so as to revise the caption of § 389.14 as follows.

Sec.

* * * * *

389.14 Locating and copying records and documents.

* * * * *

2. Amend § 389.11, by revising paragraph (a), to read as follows:

§ 389.11 Services available.

* * * * *

(a) Locating and copying records and documents.

* * * * *

3. Revise § 389.14 to read as follows:

§ 389.14 Locating and copying records and documents.

Public records and documents on file with the Civil Aeronautics Board will be located, and such copies thereof as may be practicable to furnish will be provided, upon request therefor and payment of fees as set forth below:

(a) There shall be no charge in connection with searches for records or documents under this chapter.

(b) Copies of records or documents are made by Board facilities, or by non-Government contractors.

(1) The fee for photocopying will be at the rate of 15 cents per page.

(2) The fee for copying by non-Government contractors will be that established in the contracts with the Board and will be billed directly by such contractors.

(c) Where the fee for service requested hereunder will exceed $100.00, the service will not be performed until payment has been received. In such cases, the requester will be notified promptly of the amount of the fee, and the requested service will be performed as expeditiously as practicable following receipt of such payment.

(d) Applications may be filed requesting waivers or modifications of any fees required to be paid under this section in accordance with the following:

(1) Each applicant shall set forth briefly and succinctly the relief that it seeks and the reasons why such relief should be granted. Waivers or modifications of stated fees shall be granted only where it is demonstrated that such action is in the public interest because furnishing of the information requested can be considered as primarily benefiting the general public.

(2) Applications requesting waivers or modifications of fees under this section shall be addressed to the Managing Director, who has been delegated authority by the Board to decide such applications in § 385.12 of this chapter, and shall accompany the request for service under this section.

(3) The Managing Director shall either rule on the application or, at his discretion, pass the matter on to the Board for its determination. In acting upon such applications the Managing Director and the Board, where applicable, shall be guided by the procedures and requirements of § 310.9(d) of this chapter.

(4) A decision by either the Managing Director or the Board pursuant to paragraph (d)(3) of this section is final and will not be subject to petitions for reconsideration.

(Section 204(a), Federal Aviation Act of 1958, as amended; 72 Stat. 743 (49 U.S.C. 1324(a)); Title V of the Act of August 31, 1951, 65 Stat. 290 (5 U.S.C. 140); (5 U.S.C. 552, as amended by Public Law 93-502, 88 Stat. 1561)).

By the Civil Aeronautics Board.

Effective: FEBRUARY 19, 1975.

Adopted: FEBRUARY 12, 1975.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.75-4334 Filed 2-18-75;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER P—RECORDS

PART 286a—AVAILABILITY OF INFORMATION TO THE PUBLIC

PART 297—OFFICE OF THE SECRETARY OF DEFENSE/ORGANIZATION OF THE JOINT CHIEFS OF STAFF IMPLEMENTATION OF THE DEPARTMENT OF DEFENSE FREEDOM OF INFORMATION PROGRAM

The Deputy Secretary of Defense approved Part 297. This Part 297 implements the provisions of 32 CFR Part 286 pursuant to Title 5, United States Code, section 552, as amended by Pub. L. 93-502, assigns responsibilities, and sets forth procedures for the effective administration of the Freedom of Information Program within the Office of the Secretary of Defense including the Organization of the Joint Chiefs of Staff. Part 286a is superseded and cancelled as noted in § 297.2.

Part 297 is added to read as follows:

Sec.

297.1 Purpose.
297.2 Cancellation.
297.3 Applicability and scope.
297.4 Policy.
297.5 Responsibilities and functions.
297.6 Procedures.
297.7 Effective date.

AUTHORITY: The provisions of this Part 297 issued under 5 U.S.C. 552, as amended by Pub. L. 93-502.

§ 297.1 Purpose.

This Part implements the provision of 32 CFR 286 pursuant to Title 5, United States Code, section 552, as amended by Pub. L. 93-502, assigns responsibilities, and sets forth procedures for the effective administration of the Freedom of Information Program within the Office of the Secretary of Defense, including the Organization of the Joint Chiefs of Staff.

§ 297.2 Cancellation.

Part 286a of this subchapter is hereby superseded and cancelled.

§ 297.3 Applicability and scope.

(a) The provisions of this Part apply to the Office of the Secretary of Defense (Director, Defense Research and Engineering, Assistant Secretaries of Defense, Assistants to the Secretary of Defense, or equivalent), the Organization of the Joint Chiefs of Staff, and other activities assigned to OSD for administrative support (hereinafter referred to collectively as "OSD Components").

(b) The provisions of this Part apply to the release of records to the general public and are not applicable to requests

from Members of Congress, the General Accounting Office, and other Federal, State and local governmental organizations.

§ 297.4 Policy.

(a) It is the policy of the Department of Defense, consistent with the letter and spirit of Title 5, U.S.C., section 552, the Freedom of Information Act, to make available to the public the maximum amount of information concerning its operations and activities.

(b) Unclassified information, documents and forms which have heretofore been provided to the public as part of normal service will continue to be made available in accordance with previously established criteria.

(c) Authority to deny an initial request for a record resides in the heads of OSD Components.

(d) Materials required by the Freedom of Information Act for public inspection will be maintained, published, and made available in a public reading room located in room 2C757, the Pentagon.

(e) Fees will not be charged for access by the public to the public reading room or to the records provided for inspection therein, but fees in accordance with a schedule published in the FEDERAL REGISTER may be charged for furnishing copies.

§ 297.5 Responsibilities and functions.

(a) The Assistant Secretary of Defense (Public Affairs) shall:

(1) Direct and administer the Department of Defense Freedom of Information Program for OSD Components.

(2) Establish standards and procedures to assure compliance with and implementation of title 5, United States Code, section 552, as amended by Pub. L. 93–502 and 32 CFR 286.

(3) Develop and submit the consolidated OSD Component Annual Report as required by title 5, United States Code, section 552, as amended by Pub. L. 93–502 and 32 CFR 286.

(4) Serve as the central contact office for the receipt of all requests for records from OSD Components.

(5) Forward requests for records from the public to the OSD Component having proprietary responsibility for the record, and maintain records control procedures that insure action within time limits established in title 5, United States Code, section 552, as amended by Pub. L. 93–502.

(6) Respond to requesters and collect for deposit with the Assistant Secretary of Defense (Comptroller) fees entailed in the search and reproduction of records.

(7) Establish a facility where the public may inspect and copy records as provided for in 32 CFR Part 286.

(8) Provide for educational programs on the requirements and implementation of the Freedom of Information Act.

(9) Evaluate and decide, in coordination with the General Counsel, appeals from denial of records by OSD Components.

(10) Maintain data on Freedom of Information activity in a format that meets the requirements of 32 CFR 286.15 and in a manner that affords rapid retrieval.

(b) The Assistant Secretary of Defense (Comptroller) shall:

(1) Maintain, publish, and make available for public inspection current OSD Component indices of materials as required by title 5, United States Code, section 552, as amended by Pub. L. 93–502.

(2) Coordinate and arrange for information to be published in the FEDERAL REGISTER pursuant to title 5, United States Code, section 552, as amended by Pub. L. 93–502, 32 CFR 286 and 296.

(c) The General Counsel shall:

(1) Coordinate, as appropriate, with the Department of Justice on all final denials of appeals for requests for records when litigation is likely.

(2) Provide advice and assistance to the ASD(PA) as may be required in the discharge of his appellate responsibilities.

(d) Heads of OSD Components shall:

(1) Designate the official authorized to deny initial requests for records and designate an office as the point-of-contact for Freedom of Information matters.

(2) Provide to the ASD(PA), when the request for a record is granted, a copy of the record and a statement of search and reproduction charges.

(3) Provide to the ASD(PA), when a record is denied in whole or in part, the justification for denial.

(4) Provide to the ASD(C) quarterly updates of indices as required by 32 CFR 286.11.

(5) Coordinate with the Office of the General Counsel on all proposed denials of records.

(6) Consult with other OSD and DoD Components which have a significant interest in the requested record prior to a final determination. When consultation with an agency outside DoD is appropriate because of their interest in the requested record, a procedure for effecting that consultation shall be developed in cooperation with the ASD(PA).

(7) Refer cases to the ASD(PA) for review and evaluation when the issues raised are of unusual significance, precedent setting, or otherwise require special attention or guidance.

(8) Provide the record to the ASD (PA), when the initial denial of such record has been appealed by the requester, or at the time of initial denial when appeal seems likely.

(9) Establish procedures to mark record copies and notify holders of classified records that have been declassified as a result of review under this program.

(10) Instruct employees, who act in Freedom of Information matters, in the provisions of this part and 32 CFR Part 286.

§ 297.6 Procedures.

(a) *General.* A request for a record under the Freedom of Information Act may be denied only upon determining that:

(1) The record is subject to one or more of the exemptions set forth in 32 CFR 286.5, and a significant and legitimate governmental purpose is served by withholding.

(2) The record cannot be found because it has not been described with sufficient particularity to enable a responsible authority to locate it with a reasonable amount of effort.

(3) The requester has unreasonably failed to comply with the procedural requirements imposed by this Part.

(b) *Instructions to a requester.* A request for a record from an OSD Component can be made in person or in writing.

(1) Indices of current records will be made available for public inspection in Room 2C757, the Pentagon, between 9 a.m. and 4 p.m., except weekends and government holidays. Persons not authorized access to the Pentagon will be escorted to the public reading room and will not be permitted to visit other areas of the building.

(2) Copies of records which are listed in these indices will be provided upon payment of any search and copying fees. A copy of the standard schedule of fees previously published in the FEDERAL REGISTER will be posted in the public reading room. Checks are payable to the Treasury of the United States.

(3) A written request for a record should be addressed to: Directorate for Freedom of Information, Office of the Assistant Secretary of Defense (Public Affairs), Room 2C757, Pentagon, Washington, D.C. 20301. The record should be described as completely as possible to facilitate its retrieval from the gross file of Defense Department records and to reduce search fees, which may be borne by requester.

(4) A requester will state his intention to pay fees that may be charged for search and reproduction of a record. Time spent to assure willingness to pay fees will be in addition to the time allotted to provide a record.

(5) A record will not be released prior to receipt of fees. Failure to pay fees may be cause not to accept a subsequent request for a record from the same person.

(6) Not more than ten working days after notification that a request has been accepted, normally the requester will be notified that his request has been granted or denied. In unusual circumstances, however, such notification may convey that additional time, not to exceed ten working days, is required to make a determination.

(7) Notification of denial will cite the exemption under which the request was denied, will detail the supporting reasons, will identify the denial authority, and will set forth the course of action to be followed for an administrative appeal.

(8) Administrative appeals of initial denials should be addressed to: Assistant Secretary of Defense (Public Affairs), ATTN: Freedom of Information Appeal Board, Pentagon, Washington, D.C. 20301. Such an appeal should offer justification for a reversal of the initial denial.

(9) Not more than twenty working days after notification that an administrative appeal has been accepted, nor-

mally the requester will be notified that his appeal has been sustained or denied. In unusual circumstances, however, such notification may convey that additional time, not used in an extension of time to repsond to the initial request and not to exceed ten working days, is required to make a determination.

(10) Notification of a final denial will cite supporting reasons, will set forth a course of action that may be followed to seek judicial relief, and will be signed by the official exercising final denial authority.

(c) *Instructions to OSD components.* The Directorate for Freedom of Information, Office of the Assistant Secretary of Defense (Public Affairs, hereinafter referred to as the Directorate, will be the office of record and point of contact for OSD Components in matters pertaining to the Freedom of Information Act.

(1) The Directorate will deliver a request for a record to the OSD Component having proprietary responsibility. Redirect without delay any request for a record that originates from a source other than the Directorate.

(2) A request for a record will be delivered to the office of contact, together with a letter of instruction and a cover sheet. The cover sheet, of distinctive design and overprinted with instructions vital to Freedom of Information requests, *will not* be separated from the request packet to which it is attached.

(3) A request for a record from the Directorate may not be declined, except, when proprietary responsibility is challenged, it may be returned by a memorandum signed by the denial authority which fixes the proprietary responsibility with a specific OSD Component or other agency of the government. A lack of specificity by the requester that suggests records of other components or agencies may also fit the broad category of the request, will not be sufficient cause to challenge proprietary responsibility.

(4) A suspense will be assigned to each request that must be met by either a decision to grant the request in whole or in part, a decision to deny, or by a petition from the denial authority stating the specific number of additional days required and the reason, provided such petition is made to the Directorate three working days prior to the suspense. Extension of time will be granted on a case by case basis depending upon the ability to justify "unusual circumstances," and will normally not exceed five working days.

(5) When a request is granted a copy of the record and a completed statement of fees will be delivered to the Directorate. When a copy of the record cannot be made available in the time allotted, a statement explaining the delay and establishing the date of its availability will accompany the statement of fees. In every case where a request for a record is granted, a statement of fees will be provided in the time allotted.

(6) When a request is denied in part, an excised copy of the record, a statement of fees, and a letter explaining the reasons for denial and summarizing the coordination/consultation history, will be delivered to the Directorate. When denial is based on classification in the interest of national defense or foreign policy, the explanation shall convey that a current review of the record supports continued classification according to the criteria and rationale of DoD Regulation 5200.1-R[1] for specifically stated reasons that logically support those specific criteria and rationale in the context of the record. Letters of denial will be signed by the denial authority.

(7) When a record is denied in its entirety, all procedures set out in subparagraph (6) of this paragraph apply except, a statement of fees and a copy of the record are not provided.

(8) Cases referred to the Directorate in accordance with § 297.5(d)(7), will be transmitted by memorandum establishing the unusual or precedent setting conditions. Unless notified to the contrary, Public Affairs review and evaluation action will not relieve the OSD Component of any responsibility to reach an initial decision in the time originally allotted. Public Affairs action will, however, be accomplished so as to provide timely recommendation and guidance.

(9) Components are urged to use the direct lines of communication that have been established by the formation of OSD Component offices to focus on Freedom of Information matters and the Directorate for Freedom of Information. Early in the time allotted, any problems associated with a request that contact with the requester or agencies outside the DoD might resolve, should be presented to the Staff Director, Directorate for Freedom of Information. Direct contact between OSD Components and requesters, or between OSD Components and agencies outside the DoD, is not authorized.

§ 297.7 Effective date.

This part is effective February 19, 1975.

MAURICE W. ROCHE,
Director Correspondence and Directives OASD (Comptroller).

FEBRUARY 12, 1975.

[FR Doc.75-4299 Filed 2-18-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1206—AVAILABILITY OF AGENCY RECORDS TO MEMBERS OF THE PUBLIC

Freedom of Information Regulations

The purpose of this revision of Part 1206 of the National Aeronautics and Space Administration Regulations is to implement the Freedom of Information Act, 5 U.S.C. 552, as amended on November 21, 1974, by Pub. L. 93-502.

Subpart 7 of this Part 1206 is the same, except for minor editorial changes, as the proposed Subpart 7 which was published as a Notice of Proposed Rulemaking in the FEDERAL REGISTER, Vol. 40, No. 10, January 15, 1975, and on which written comments were solicited. Comments received on the Proposed Rulemaking have been considered.

Part 1206 of Title 14 of the Code of Federal Regulations is revised in its entirety as follows:

Subpart 1—Basic Policy

Sec.
1206.100 Scope of part.
1206.101 Definitions.
1206.102 General Policy.

Subpart 2—Records Available

1206.200 Types of records to be made available.
1206.201 Records which have been published.
1206.202 Deletion of segregable portions of a record.
1206.203 Creation of records.
1206.204 Records of interest to other agencies.
1206.205 Incorporation by reference.
1206.206 Availability for copying.
1206.207 Copies.
1206.208 Release of exempt records.

Subpart 3—Exemptions

1206.300 Exemptions.
1206.301 Limitation of exemptions.

Subpart 4—Location for Inspection and Request of Agency Records

1206.400 Information centers.
1206.401 Location of NASA information centers.
1206.402 Documents available for inspection at NASA information centers.
1206.403 Duty hours.

Subpart 5—Responsibilities

1206.500 Assistant Administrator for Public Affairs.
1206.501 General Counsel.
1206.502 Field and component installations.
1206.503 NASA Headquarters.
1206.504 Delegation of authority.

Subpart 6—Procedures

1206.600 Requests for records.
1206.601 Mail requests.
1206.602 Requests in person.
1206.603 Procedures and time limits for initial determinations.
1206.604 Request for records which exist elsewhere.
1206.605 Appeals.
1206.606 Request for additional records.
1206.607 Action on appeals.
1206.608 Time extensions in unusual circumstances.
1206.609 Litigation.

Subpart 7—Search and Duplication Fees

1206.700 Schedule of fees.
1206.701 Advance estimate or deposit before incurring costs.
1206.702 Waiver of fees.
1206.703 Certification.
1206.704 Form of payment.

Subpart 8—Failure To Release Records to the Public

1206.800 Failure to release records to the public.

Subpart 9—Annual Report

1206.900 Requirements for annual report.

AUTHORITY: Sec. 203, National Aeronautics and Space Act of 1958, as amended, 72 Stat. 429, 42 U.S.C. 2473 and 5 U.S.C. 552 as amended by Pub. L. 93-502, 88 Stat. 1561.

Subpart 1—Basic Policy

§ 1206.100 Scope of part.

This Part 1206 establishes the policies, responsibilities, and procedures for the release to members of the public of

[1] Filed as part of original.

agency records which are under the jurisdiction of the National Aeronautics and Space Administration. This part applies to information and agency records located at NASA Headquarters, at NASA Field Installations, and at NASA component installations, as defined in Part 1201 of this chapter.

§ 1206.101 Definitions.

For the purposes of this part, the following definitions shall apply:

(a) The term "agency records" or "records" includes all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by NASA in pursuance of Federal law or in connection with the transaction of public business and preserved by NASA as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities or because of the informational value of data contained therein. It does not include tangible objects or articles, such as structures, furniture, paintings, sculptures, exhibits, models, vehicles or equipment; library or museum material made or acquired and preserved solely for reference or exhibition purposes; or records of another agency, a copy of which may be in NASA's possession.

(b) The term "initial determination" means a decision by a NASA official, in response to a request by a member of the public for an agency record, on whether the record described in the request can be identified and located after a reasonable search and, if so, whether the record (or portions thereof) will be made available under this part or will be withheld from disclosure under Subpart 3 of this part.

(c) The term "appeal" means a request by a member of the public to the Administrator or his designee for reversal of any adverse initial determination the requester has received in response to a request for an agency record.

(d) The term "final determination" means a decision by the Administrator or his designee on an appeal.

(e) The term "working days" means all days except Saturdays, Sundays and legal public holidays.

(f) As used in § 1206.608, the term "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of a particular request for agency records—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the NASA Information Center processing the request (see Subpart 6 of this part for procedures for processing a request for agency records);

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of NASA having substantial subject-matter interest therein.

§ 1206.102 General policy.

(a) In accordance with section 203 (a)(3) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(a)(3)), it has been and continues to be NASA policy to provide for the "widest practicable and appropriate dissemination of information concerning its activities and the results thereof."

(b) In compliance with the "Freedom of Information" amendments to the Administrative Procedure Act (5 U.S.C. 552, as amended by Public Laws 90–23 and 93–502), a positive and continuing obligation exists for NASA to make available upon request by members of the public to the fullest extent practicable all agency records under its jurisdiction, as described in Subpart 2 of this part, except to the extent that they may be exempt from disclosure under Subpart 3 of this part.

Subpart 2—Records Available

§ 1206.200 Types of records to be made available.

(a) Records required to be published in the FEDERAL REGISTER. The following records are required to be published in the FEDERAL REGISTER, for codification in Title 14, Chapter V, of the Code of Federal Regulations.

(1) Description of NASA Headquarters and field organization and the established places at which, the employees from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

(2) Statements of the general course and method by which NASA's functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by NASA;

(5) Each amendment, revision, or repeal of the foregoing.

(b) *Agency opinions, orders, statements, and manuals.* (1) Unless they are exempt from disclosure under Subpart 3 of this part, or unless they are promptly published and copies offered for sale, NASA shall make available the following records for public inspection and copying or purchase:

(i) All final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, such as opinions of the NASA Board of Contract Appeals;

(ii) Those statements of NASA policy and interpretations which have been adopted by NASA and are not published in the FEDERAL REGISTER;

(iii) Administrative staff manuals (or similar issuances) and instructions to staff that affect a member of the public.

(2) In connection with all records required to be made available or published under this paragraph (b), identifying details shall be deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. However, in each case the justification for the deletion shall be explained fully in writing. A copy of such justification shall be attached to the front of the portion of the record made available to the requester.

(3) In connection with all records required to be made available or published under this paragraph (b) which are issued, adopted, or promulgated after July 4, 1967, except to the extent they are exempt from disclosure under Subpart 3 of this part, current indexes providing identifying information will be maintained and made available for public inspection and copying or purchase (see § 1206.402).

(c) *Other agency records.* In addition to the records made available or published under paragraphs (a) and (b) of this § 1206.200, NASA shall, upon request for other records made in accordance with this part, make such records promptly available to any person, unless they are exempt from disclosure under subpart 3 of this part, or unless they may be purchased from other readily available sources, as provided in § 1206.201.

§ 1206.201 Records which have been published.

Publication in the FEDERAL REGISTER is a means of making certain agency records available to the public. Also, the Commerce Business Daily, Synopsis of U.S. Government Proposed Procurement, Sales and Contract Awards (Department of Commerce) is a source of information concerning agency records or actions. Various other NASA publications and documents, and indexes thereto, are available from other sources, such as the U.S. Superintendent of Documents, the National Technical Information Service (Department of Commerce), and the Earth Resources Observation Systems (EROS) Data Center (Department of the Interior). Such publications and documents are not required to be made available or reproduced in response to a request therefor unless they cannot be purchased readily from available sources. If a publication or document is readily available from a source other than NASA, the requester shall be informed of the procedures to follow to obtain the publication or document.

§ 1206.202 Deletion of segregable portions of a record.

If a record requested by a member of the public contains both information required to be made available and that which is exempt from disclosure under Subpart 3 of this part, and the portion of the record that is required to be made available is reasonably segregable from the portion that is exempt, the portion that is exempt from disclosure shall be deleted and the balance of the record shall be made available to the requester.

If the non-exempt portion of the record appears to be unintelligible or uninformative, the requester shall be informed of that fact, and such non-exempt portion shall not be sent to the requester unless he thereafter specifically requests it.

§ 1206.203 Creation of records.

Records will not be created by compiling selected items from the files at the request of a member of the public, nor will records be created to provide the requester with such data as ratios, proportions, percentages, frequency distributions, trends, correlations, or comparisons.

§ 1206.204 Records of interest to other agencies.

If a NASA record is requested and another agency has a substantial interest in the record, such an agency shall be consulted on whether the record shall be made available under this part (see § 1206.101(f)(3)). If a record is requested that is a record of another agency, the request shall be returned to the requester, as provided in § 1206.604(c).

§ 1206.205 Incorporation by reference.

Matter which is reasonably available to the members of the public affected thereby shall be deemed published in the FEDERAL REGISTER when incorporated by reference in material published in the FEDERAL REGISTER (pursuant to the FEDERAL REGISTER regulation on incorporation by reference, 1 CFR Part 51).

§ 1206.206 Availability for copying.

Except as provided in § 1206.201, the availability of a record for inspection shall include the opportunity to extract information therefrom or to purchase copies.

§ 1206.207 Copies.

The furnishing of a single copy of the requested record will constitute compliance with this part.

§ 1206.208 Release of exempt records.

If a record which has been requested is exempt from disclosure under Subpart 3 of this part, the record may nevertheless be made available under the procedures of Subpart 6 of this part if it is determined by an official authorized to make either an initial determination or a final determination that such action would not be inconsistent with a purpose of the exemptions set forth in Subpart 3 of this part.

Subpart 3—Exemptions

§ 1206.300 Exemptions.

(a) Under 5 U.S.C. 552(b) agency records falling within the exemptions of paragraph (b) of this section are not required to be made available under this part. Such records may nevertheless be made available if it is determined that such actions would not be inconsistent with a purpose of the exemption (see § 1206.208).

(b) The requirements of this part to make agency records available do not apply to matters that are—

(1)(i) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (ii) are in fact properly classified pursuant to such Executive order;

(2) Related solely to the internal personnel rules and practices of NASA;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intraagency memorandums or letters which would not be available by law to a party other than an agency in litigation with NASA;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

§ 1206.301 Limitation of exemptions.

(a) This Part 1206 does not authorize the withholding of information or the availability of records to the public, except as specifically stated in this part.

(b) Nothing in this Part 1206 shall be construed as authority to withhold information from Congress.

Subpart 4—Location for Inspection and Request of Agency Records

§ 1206.400 Information centers.

NASA will maintain Information Centers as set forth in this subpart.

§ 1206.401 Location of NASA information centers.

NASA will maintain the following Information Centers, at which agency records may be inspected, from which copies of agency records may be requested and at which copies of agency forms may be obtained:

(a) NASA Headquarters Information Center, National Aeronautics and Space Administration, Washington, DC 20546.

(b) NASA Information Center, Ames Research Center, Moffett Field, CA 94035.

(c) NASA Information Center, Flight Research Center, Post Office Box 273, Edwards, CA 93523.

(d) NASA Information Center, Goddard Space Flight Center, Greenbelt, MD 20771.

(e) NASA Information Center, John F. Kennedy Space Center, Kennedy Space Center, FL 32899.

(f) NASA Information Center, Langley Research Center, Langley Station, Hampton, VA 23365.

(g) NASA Information Center, Lewis Research Center, 21000 Brookpart Road, Cleveland, OH 44135.

(h) NASA Information Center, Lyndon B. Johnson Space Center, Houston, TX 77058.

(i) NASA Information Center, George C. Marshall Space Flight Center, Huntsville, AL 35812.

(j) NASA Information Center, Michoud Assembly Facility, Post Office Box 29300, New Orleans, LA 70126.

(k) NASA Information Center, National Space Technology Laboratories, Bay St. Louis, MS 39520.

(l) NASA Information Center, Pasadena Office (JPL), 4800 Oak Grove Drive, Pasadena, CA 91103.

(m) NASA Information Center, Wallops Flight Center, Wallops Island, VA 23337.

§ 1206.402 Documents available for inspection at NASA information centers.

(a) Each NASA Information Center will have available for inspection, as a minimum, a current version of the following documents:

(1) The Freedom of Information Act (5 U.S.C. 552, as amended by Pub. L. 90–23 and Pub. L. 93–502);

(2) Title 14, Chapter V, and Title 41, Chapter 18, Code of Federal Regulations, and material published in the FEDERAL REGISTER for codification but not yet included in the Code of Federal Regulations;

(3) A master list and index of NASA Issuances, and a copy of all such Issuances;

(4) A list and index of the management issuances of the NASA installation at which the Information Center is located, and a copy of such issuances;

(5) NASA's Scientific and Technical Aerospace Reports (STAR) and current indexes thereto;

(6) Cumulative Index to Selected Speeches and News Releases issued by NASA Headquarters;

(7) Index/Digest of Decisions, NASA Board of Contract Appeals;

(8) Decisions of the NASA Contract Adjustment Board and a current index thereto;

(9) NASA Handbook NHB 5500.1A containing an index to decisions of the NASA Inventions and Contributions Board on Petitions for Patent Waivers;

(10) Copies of Environmental Impact Statements filed by NASA under the National Environmental Policy Act of 1969;

(11) Collection of all issues of "NASA Activities"; and

(12) List of licenses granted under NASA-owned patents.

(b) Because the indexes listed in paragraph (a) of this section are voluminous and because current versions thereof will be available for inspection at NASA Information Centers, from which copies of the indexes may be requested under § 1206.603, it is determined and so ordered that publication of the indexes quarterly in the FEDERAL REGISTER would be unnecessary and impractical.

§ 1206.403 Duty hours.

The NASA Information Centers listed in § 1206.401 shall be open to the public during all regular workdays, from 9:00 a.m. to 4:00 p.m.

Subpart 5—Responsibilities

§ 1206.500 Assistant Administrator for Public Affairs.

The Assistant Administrator for Public Affairs is responsible for the following:

(a) Providing overall supervision and coordination of the implementation of the policies and procedures set forth in this Part 1206;

(b) After consultation with the General Counsel, making final determinations under § 1206.607, within the time limits specified in Subpart 6 of this part;

(c) Providing consultation on whether unusual circumstances exist under § 1206.608 as would justify the extension of the time limit for an initial determination;

(d) Determining whether unusual circumstances exist under § 1206.608 as would justify the extension of the time limit for a final determination; and

(e) Preparing the annual reports required by § 1206.900, including establishing reporting procedures throughout NASA to facilitate the preparation of such report.

§ 1206.501 General Counsel.

The General Counsel is responsible for the interpretation of 5 U.S.C. 552 and this part, and for the handling of litigation in connection with a request for an agency record under this part.

§ 1206.502 Field and component installations.

(a) The Director of each NASA Field Installation or the Official-in-Charge of each Component Installation is responsible for the following:

(1) After consultation with the Chief Counsel or the Counsel charged with providing legal advice to a Field or a Component Installation, making initial determinations under §§ 1206.603 and 1206.604;

(2) After consultation with the Assistant Administrator for Public Affairs, determining whether unusual circumstances exist under § 1206.608 as would justify the extension of the time limit for an initial determination; and

(3) Insuring that requests for agency records under the cognizance of his respective installation are processed and initial determinations made within the time limits specified in Subpart 6 of this part.

(b) If so designated by the Director or Official-in-Charge of the respective installation, the principal Public Affairs Officer at the installation may perform the functions set forth in paragraphs (a) (1) and (2) of this section.

§ 1206.503 NASA Headquarters.

(a) The Director of Headquarters Administration is responsible for the following:

(1) After consultation with the Office of General Counsel, making initial determinations under §§ 1206.603 and 1206.604;

(2) After consultation with the Assistant Administrator for Public Affairs, determining whether unusual circumstances exist under § 1206.608 as would justify the extension of the time limit for an initial determination; and

(3) Insuring that requests for agency records under the cognizance of Headquarters are processed and initial determinations made within the time limits specified in Subpart 6 of this part.

(b) The functions set forth in paragraphs (a) (1) and (2) of this section may be delegated by the Director of Headquarters Administration to a Public Affairs Officer designated by the Assistant Administrator for Public Affairs.

§ 1206.504 Delegation of authority.

Authority necessary to carry out the responsibilities specified in this subpart is delegated to the officials named in this subpart.

Subpart 6—Procedures

§ 1206.600 Requests for records.

A member of the public may request an agency record by mail or in person from the Information Center having cognizance over the record requested or from the NASA Headquarters Information Center.

§ 1206.601 Mail requests.

In view of the time limits under 5 U.S.C. 552(a)(6) for an initial determination on a request for an agency record (see § 1206.603), a request by mail must meet the following requirements:

(a) The request must be addressed to an appropriate NASA Information Center (see § 1206.401) or otherwise be clearly identified on the envelope and in the letter as a request for an agency record under the "Freedom of Information Act".

(b) The request must identify the record requested or reasonably describe it in such a manner as to enable a professional NASA employee who is familiar with the subject area of the request to identify and locate the record with a reasonable amount of effort. NASA need not comply with a blanket or categorical request (such as "all matters relating to" a general subject) where it is not feasible reasonably to determine what is sought. NASA will in good faith endeavor to identify and locate the record sought and will consult with the requester when necessary and appropriate for that purpose. However, as provided in § 1206.203, NASA will undertake no obligation to compile or create information or records not already in existence at the time of the request.

(c) If a fee is chargeable under Subpart 7 of this part for search or duplication costs incurred in connection with a request for an agency record, and the requester knows the amount of the fee at the time of the request, the request should be accompanied by a check or money order payable in that amount to "Treasury of the United States." Cash or stamps should not be sent by mail. If the amount of the fee chargeable is not known at the time of the request, the requester will be notified in the initial determination (or in a final determination) of the amount of the fee chargeable (see § 1206.603(c)). For circumstances in which an advance estimate of fees shall be provided to the requester, see § 1206.701.

§ 1206.602 Requests in person.

(a) A member of the public may request an agency record in person at a NASA Information Center (see § 1206.401) during the duty hours of the center.

(b) A request at an Information Center must identify the record requested or reasonably describe it as provided in § 1206.601(b).

(c) If the record requested is located at the Information Center or otherwise readily obtainable, it shall be made available to the requester upon the payment of any fees that are chargeable (see Subpart 7 of this part), which fees may be paid in cash or by a check or money order payable to the "Treasury of the United States." If the record requested is not located at the Information Center or otherwise readily obtainable, the request will be docketed at the Information Center and processed in accordance with the procedures of §§ 1206.603 and 1206.604, with any fee chargeable being handled in accordance with § 1206.601 (c).

§ 1206.603 Procedures and time limits for initial determinations.

(a) Except as provided in § 1206.608, an initial determination on a request for an agency record, addressed in accordance with § 1206.601(a) or made in person at a NASA Information Center, shall be made, and the requester shall be sent notification thereof, within ten working days after receipt of the request, as required by 5 U.S.C. 552(a)(6).

(b) An initial determination on a request for an agency record by mail not addressed in accordance with § 1206.601 (a) shall be made, and the requester shall be sent notification thereof, within ten working days after the correspondence is recognized as a request for an agency record under the "Freedom of In-

formation Act" and received by the appropriate NASA Information Center. With respect to such a request, unless an initial determination can reasonably be made within ten working days of the original receipt, the request will be promptly acknowledged and the requester notified of the date the request was received at that Information Center and that an initial determination on the request will be made within ten working days of that date.

(c) If it is determined that the requested record (or portions thereof) will be made available and the fee chargeable is $25.00 or less, a copy of the record requested (or portions thereof) shall be sent to the requester with the initial determination or, if that is not feasible, promptly after the initial determination is made. If the fee chargeable exceeds $25.00 (unless the requester has indicated a willingness to pay a higher fee), the requester will be informed of the fee in the initial determination, and the requested record will be sent to the requester promptly upon receipt of the required fee.

(d) Any notification of an initial determination that does not comply fully with the request for an agency record shall include a statement of the reasons for the adverse determination, include the name and title of the person making the initial determination, and notify the requester of his right to appeal to the Administrator under § 1206.605.

§ 1206.604 Request for records which exist elsewhere.

(a) If a request for an agency record is received by an Information Center not having cognizance of the record (for example, where a request is submitted to one NASA installation or Headquarters and the requested record exists only at another NASA installation), the Information Center receiving the request shall promptly forward it to the NASA Information Center having cognizance of the record requested. That center shall acknowledge the request and inform the requester that an initial determination on the request will be sent within ten working days from the date of receipt by such center.

(b) If a request is received for agency records which exist at two or more centers, the center receiving the request shall undertake to comply with the request, if feasible, or to forward the request (or portions thereof) promptly to a more appropriate center for processing. The requester shall be kept informed of the actions taken to respond to the request.

(c) If a request is received by a NASA Information Center for a record of another agency, the requester shall promptly be informed of that fact, and the request shall be returned to the requester, with advice as to where the request should be directed.

§ 1206.605 Appeals.

(a) A member of the public who has requested an agency record in accordance with §§ 1206.601 or 1206.602, and who has received an initial determination which does not comply fully with the request, may appeal such an adverse initial determination to the Administrator under the procedures of this section.

(b) The appeal must:

(1) Be addressed to the Administrator, NASA, Washington, D.C. 20546;

(2) Be identified clearly on the envelope and in the letter as an "Appeal under the Freedom of Information Act";

(3) Include a copy of the request for the agency record and a copy of the adverse initial determination;

(4) To the extent possible, state the reasons why the requester believes the adverse initial determination should be reversed; and

(5) Be sent to the Administrator within 30 calendar days of the date of receipt of the initial determination.

(c) An official authorized to make a final determination may waive any of the requirements of paragraph (b) of this section, in which case the time limit for the final determination (see § 1206.607 (a)) shall run from the date of such waiver.

§ 1206.606 Request for additional records.

If, upon receipt of a record (or portions thereof) following an initial determination to comply with a request, the requester believes that the materials received do not comply with the request, he may elect either to request additional records under the procedures of §§ 1206.601 or 1206.602, or to file an appeal under the procedures of § 1206.605, in which case the appeal must be sent to the Administrator within 30 days of receipt of the record (or portions thereof), unless good cause is shown for any additional delay.

§ 1206.607 Actions on appeals.

(a) Except as provided in § 1206.608, the Administrator or his designee shall make a final determination on an appeal, and notify the requester thereof, within twenty working days after receipt of the appeal.

(b) If the final determination reverses in whole or in part the initial determination, the record requested (or portions thereof) shall be made available promptly to the requester, as provided in the final determination.

(c) If the final determination sustains in whole or in part an adverse initial determination, the notification of the final determination shall:

(1) Explain the basis on which the record (or portions thereof) will not be made available;

(2) Include the name and title of the person making the final determination;

(3) Include a statement that the final determination is subject to judicial review under 5 U.S.C. 552(a)(4); and

(4) Enclose a copy of 5 U.S.C. 552(a)(4).

§ 1206.608 Time extensions in unusual circumstances.

(a) In "unusual circumstances" as that term is defined in § 1206.101(f), the time limits for an initial determination (see §§ 1206.603 and 1206.604) and for a final determination (see § 1206.607) may be extended, but not to exceed a total of ten working days in the aggregate in the processing of any specific request for an agency record.

(b) If an extension of time under this section would be required, the requester shall be promptly notified of the reasons therefor and the date when a determination will be sent.

(c) If a record described in a request cannot be located within the ten-working-day time limit for an initial determination, after consultation with a professional NASA employee who is familiar with the subject area of the request, that fact normally will justify an initial determination that the record requested cannot be identified or located, rather than a decision that an extension of time under this section would be appropriate.

(d) In exceptional circumstances, if it would be impossible to complete a search for or review of agency records within the ten-working-day period for an initial determination, an official authorized to make an initial determination or his designee may seek an extension of time from the requester. If such an extension of time can be agreed upon, that fact should be clearly documented and the initial determination made within the extended time period; if not, an initial determination that the record cannot be identified or located, or reviewed, within the ten-working-day time limit shall be made under § 1206.603.

§ 1206.609 Litigation.

In any instance in which NASA is sued in connection with a request for an agency record under this part, the matter shall promptly be referred to the General Counsel together with a report on the details and status of the request. In such a case, if a final determination with respect to the request has not been made, such a determination shall be made as soon as possible, under procedures prescribed by the General Counsel in each case.

Subpart 7—Search and Duplication Fees

§ 1206.700 Schedule of fees.

The fees specified in this section shall be charged for searching for or duplicating an agency record made available in response to a request under this part.

(a) *Copies.* For copies of documents, such as letters, memoranda, statements, reports, contracts, etc., $0.10 per copy of each page. For copies of oversize documents, such as maps, charts, blueprints, etc., $0.15 for each reproduced copy per square foot. These charges for copies include the time spent in duplicating the documents.

(b) *Clerical searches.* For each one quarter hour spent by clerical personnel in searching for an agency record in response to a request under this part, $1.00.

(c) *Nonroutine, nonclerical searches.* Where a search cannot be performed by clerical personnel, for example, where the task of determining which records fall within a request and collecting them requires the time of professional or managerial personnel, and where the amount of time that must be expended in the search and collection of the requested

records by such higher level personnel is substantial, charges for the search may be made at a rate in excess of the clerical rate, namely for each one quarter hour spent by such higher level personnel in searching for a requested record, $2.50.

(d) *Computerized records.* Because of the diversity in the types and configurations of computers which may be required in responding to requests for agency records maintained in whole or in part in computerized form, it is not feasible to establish a uniform schedule of fees for search and printout of such records. In most instances, records maintained in computer data banks are available also in printed form and the standard fees specified in paragraph (a) of this section shall apply. If the request for an agency record required to be made available under this part requires a computerized search or printout, the charge for the time of personnel involved shall be at the rates specified in paragraphs (b) and (c) of this section. The charge for the computer time involved and for any special supplies or materials used, such as magnetic tape or Hollerith cards, shall not exceed the direct cost to NASA. Before any computer search or printout is undertaken in response to a request for an agency record, the requester shall be notified of the applicable unit costs involved and the total estimated cost of the search or printout.

(e) *Other search and duplication costs.* Reasonable standard fees, other than as specified in paragraphs (a) through (d) of this section, may be charged for additional direct costs incurred in searching for or duplicating an agency record in response to a request under this part. Charges which may be made under this paragraph include, but are not limited to, the transportation of NASA personnel to places of record storage for search purposes or freight charges for transporting records to the personnel searching for or duplicating a requested record.

(f) *Unsuccessful or unproductive searches.* Search charges, as set forth in paragraph (b) and (c) of this section, may be made even when an agency record which has been requested cannot be identified or located after a diligent search and consultation with a professional NASA employee familiar with the subject area of the request, or if located, cannot be made available under Subpart 3 of this part. Ordinarily, however, fees will not be charged in such instances unless they are substantial and the requester has consented to the search after having been advised that it cannot be determined in advance whether any records exist which can be made available (see § 1206.701) and that search fees will be charged even if no record can be located and made available.

(g) *Examination and related tasks in screening records.* No charge shall be made for the time spent in resolving legal or policy issues in connection with a request for an agency record under this part, in examining records to determine whether they will be made available to the requester, or in monitoring the inspection of requested records by a member of the public.

§ 1206.701 Advance estimate or deposit before incurring costs.

(a) In the circumstance specified in subparagraphs (1) through (4) of this paragraph, before NASA undertakes to search for an agency record and thereby subjects the requester to a fee under this subpart, NASA will promptly notify the requester of the estimated fees chargeable for searching for and duplicating the requested record. Such an advance estimate shall be provided in the following circumstances:

(1) If the requester specifically requests an estimate;

(2) If the search involves computerized records (see § 1206.700(d));

(3) If the search and duplication would involve transportation costs (see § 1206.700(e)); or

(4) If the estimated cost of the search for an agency record exceeds $25.00 and it cannot be determined in advance if the record requested can be identified or located and made available to the requester.

(b) In appropriate cases, an advance deposit may be required before NASA will undertake to search for and duplicate an agency record.

(c) A notice of estimated fees or request for advance deposit shall also extend an offer to the requester to confer with knowledgeable NASA personnel in an attempt to reformulate the request in a manner which will reduce the fees and meet the needs of the requester.

(d) If an estimate is provided under this section, the request for the record shall not be deemed to have been received until the requester agrees to bear the estimated cost or, if an advance deposit is requested, provides such a deposit.

§ 1206.702 Waiver of fees.

(a) The NASA official making an initial or final determination on a request for an agency record may waive all or part of a fee which would be chargeable under this subpart if the official determines that such action is in the public interest because making the record available can be considered as primarily benefiting the general public.

(b) Ordinarily, fees will not be charged where they would amount in the aggregate, for a request or series of related requests, to less than $3.00.

§ 1206.703 Certification.

In accordance with the provisions of 31 U.S.C. 483a, a charge of $1.00 shall be made for each certification of true copies of agency records.

§ 1206.704 Form of payment.

Payment by mail shall be made by check or money order payable to the "Treasury of the United States" and sent to the NASA Information Center which processed the request.

Subpart 8—Failure To Release Records to the Public

§ 1206.800 Failure to release records to the public.

(a) Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the FEDERAL REGISTER under § 1206.200(a) and not so published.

(b) A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied upon, used, or cited as precedent by NASA against any member of the public only if it has been indexed and either made available or published as provided by § 1206.200(b) or if the member of the public has actual and timely notice of the terms thereof.

(c) Failure to make available an agency record required to be made available under this part could provide the jurisdictional basis for a suit against NASA under 5 U.S.C. 552(a)(4) (B) through (G), which provides as follows:

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Civil Service Commission shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Commission, after investigation and consideration of the evidence submitted, shall submit its findings

and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

Subpart 9—Annual Report

§ 1206.900 Requirements for annual report.

On or before March 1 of each calendar year, NASA shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include the following information:

(a) The number of determinations made by NASA not to comply with requests for records made to the Agency under Subpart 6 of this part and the reasons for each such determination;

(b) The number of appeals made by persons under Subpart 6 of this part, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(c) The names and titles or positions of each person responsible for the denial of records requested under this part, and the number of instances of participation for each;

(d) The results of each proceeding conducted pursuant to 5 U.S.C. 552(a)(4)(B) through (G) (see § 1206.800(c)), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(e) A copy of the current version of this Part 1206 and any other rules or regulations made by NASA regarding 5 U.S.C. 552;

(f) A copy of the current fee schedule and the total amount of fees collected by NASA for making records available under this Part 1206; and

(g) Such other information as indicates efforts by NASA to administer fully this part.

Effective date: This Part 1206 shall become effective on February 19, 1975.

JAMES C. FLETCHER,
Administrator.

[FR Doc.75-4449 Filed 2-18-75;8:45 am]

CHAPTER III—NATIONAL TRANSPORTATION SAFETY BOARD

[NTSB Reg. OR-1 Amdt. 4]

PART 401—PUBLIC AVAILABILITY OF INFORMATION

Fee Schedule

On January 13, 1975, a notice was published in the FEDERAL REGISTER (40 FR 2446) stating that the National Transportation Safety Board was proposing an amendment to 14 CFR Part 401, which would add Appendix A—Fee Schedule, applicable to copying and other special services relating to requests for records of the Board.

Interested persons were given 30 days to submit written comments. No comments or objections have been received, and the following amendment is hereby adopted without change:

APPENDIX A—FEE SCHEDULE

1. *Special Services Fees* (pursuant to 31 U.S.C. 483a). Upon request, services relating to public documents are available at the following fees:

(a) Subscriptions (calendar year)

(1) Initial decisions of the Administrative Law Judges—$40.00

(2) Board safety enforcement opinions and orders—$20.00

(3) Board aircraft accident (probable cause) reports, brief format—$40.00 (U.S.) and $50.00 (foreign)

(4) Aircraft accident reports, narrative—$27.50 (U.S.) and $34.50 (foreign).

(5) Surface accident reports, narrative—$27.50 (U.S.) and $34.50 (foreign).

NOTE.—Subscripton orders for (a)(3), (4) and (5) above, should be forwarded to the National Technical Information Service, P.O. Box 1551, Springfield, Virginia 22151.

(b) Document certification under the Board's seal—$4.00.

(c) Computer tapes and services for aviation accidents. Duplication of computer tapes (or a fraction thereof)—$40.00.

NOTE.—Computer tape requests should be addressed to the Chief, Information Systems Branch, Bureau of Aviation Safety, National Transportation Safety Board, Washington, D.C. 20591.

(d) The basic fees set forth provide for ordinary first-class postage prepaid. If registered, certified, air, or special delivery mail is used, postal fees therefor will be added to the basic fee. Also, if special handling or packaging is required, such costs will be added to the basic fee.

(e) Subscription fees for (a) above are waived for qualifying foreign countries, international organizations, nonprofit public safety entities, State and Federal transportation agencies, and colleges and universities, after approval by the Board's General Manager.

2. *Commercial Reproduction Fees and Search Fees.* Pursuant to 5 U.S.C. 552, as amended, reproduction of the documents listed below is accomplished by commercial contract, and the reproductions are mailed from the contractor together with a billing for the costs. Requests must be forwarded to the Accident Inquiry Unit, National Transportation Safety Board, Washington, D.C. 20591, together with an agreement to pay the reproduction cost. The search fee (if required) must be enclosed. Fees are subject to change depending upon the Board's annual contract award.

Current fees are:

(a) Photocopy:

Size:	Per page
8½"x11"	$0.12
8½"x14"	.24
10"x14"	.30
14"x18"	.60
18"x24"	.90

(b) Photographic prints:

Size:	Unit price
8"x10" black/white	$1.05
5"x7" color	3.25
8"x10" color	6.50
2"x2" color slide	1.50
2"x2" black/white slide	1.25
4"x10" X-ray	6.50

(c) *Minimum charge for reproduction*—$4.00.

(d) *Special expedite service*—80 percent surcharge for 24-hour service and 50 percent surcharge for 48-hour service.

(e) *Document search fee*—The Board has determined that it is in the public interest to limit search fees to documents which require commercial reproduction. Further, the fee has been reduced to the labor cost for a minimum time-search. Therefore, a $4.00 search fee is required only for:

(1) Factual accident investigation reports, statements, photographs, and other material contained in the Board's accident investigation files.

(2) Accident investigation information not in the Board's public files.

NOTE.—The $4.00 search fee will be included in the commercial reproduction firm's invoice.

(f) *Documents requiring commercial reproduction for copies:*

(1) Transcripts of public hearings.

(2) Factual accident investigation reports and information (see (e)(1) and (2) above).

3. *Reproduction fees for the public reading room.* All documents in the Board's public files may be examined, without charge, in the Board's public reading room, located in the Accident Inquiry Unit. There is a self-service duplicator in the reading room, which is available to the public for reproduction at a nominal cost.

4. *Documents available without commercial reproduction cost until limited supplies are exhausted:*

(1) Press releases

(2) Aviation accident reports, narrative, and brief format probable cause reports (on request for specific accidents)

(3) Surface accident reports

(4) Special studies

(5) Safety Board regulations (14 CFR 400 through 440)

(6) Indices to initial decisions, Board opinions and orders, and staff manuals and instructions

(7) Statistical data published by the Board

(8) Safety recommendations

5. *Documents for sale by the Government Printing Office:*

(1) Board's annual report

(2) Volume I, National Transportation Safety Board Decisions (1967–1972)

Effective date: This fee schedule is effective February 19, 1975, as Appendix A to 14 CFR 401, and supersedes any

provision of subpart C which may be in conflict therewith.

JOHN H. REED,
Chairman.

FEBRUARY 14, 1975.

[FR Doc.75-4499 Filed 2-18-75;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

PART 4—MISCELLANEOUS RULES

Schedule of Fees for Document Search, Duplication and Certification

On page 2450 of the FEDERAL REGISTER of January 13, 1975, there was published a notice of initiation of a proceeding for the amendment of § 4.8(c) of its miscellaneous rules to establish a uniform schedule of fees applicable to all constituent units of the Federal Trade Commission. The proceeding was initiated as the result of recent amendments to the Freedom of Information Act (Administrative Procedure, 5 U.S.C. 552) which made significant changes to the law pertaining to the fees an agency may charge for search and duplication services performed for those requesting records. The fees proposed for certification services were in accordance with 31 U.S.C. 483(a). The proposal set forth fees for single copies of paper reproduction, microfilm services, duplication of microfilm, information retrieval by computer service, and clerical, paraprofessional, and professional search fees. The proposal also set forth instances under which charges or a portion thereof would not be made. Interested persons were given 30 days in which to submit written comments concerning the proposed amendment.

No written comments were received, and the proposed amendment of § 4.8(c) is hereby adopted without change and is set forth below. Minor changes were made in paragraph (b) to provide for a written request and to delete the references to identifiable records. Paragraph (b) as amended is also set forth below:

In § 4.8, paragraphs (b) and (c) are revised as follows:

§ 4.8 Availability of public information.

* * * * *

(b) Reasonable facilities for copying and for producing copies are provided at each of the offices of the Commission. Subject to appropriate limitations and the availability of facilities, any person may copy without charge any of the public records available for inspection at each of those offices, or reproductions of any such records will be provided by the Commission to any person upon request in person or upon written request and the payment of the prescribed duplication fees. All written requests for reproductions of public records should be addressed to the Secretary of the Commission, and should specify as clearly and accurately as reasonably possible the records desired. With respect to records which cannot be specified with complete clarity and particularity, identification requirements will be met by descriptions sufficient to enable qualified Commission personnel to locate the requested records. In any instance the Commission, the Secretary of the Commission, or the official in charge of each office may restrict the use of the Commission's facilities to providing only one reproduction of any public record, or may refuse to permit the use of those facilities for copying and producing copies of records which are published or are publicly available at places other than the offices of the Commission, or may supply to any person only one reproduction of any record when copies thereof may be obtained from the Commission without charge.

(c)(1) User fees pursuant to 31 U.S.C. 483(a) and 5 U.S.C. 552(a), as amended by Sec. (b)(1) of Public Law 93-502, shall be charged according to the schedule contained in paragraph (2) of this section for services rendered in responding to requests for Commission records under this subpart unless the Secretary initially or the Commission on appeal determines, in conformity with the provisions of 5 U.S.C. 552(a) amended by Public Law 93-502 and 31 U.S.C. 483(a), that such charges or a portion thereof are not in the public interest. Such a determination will ordinarily not be made unless the service to be performed will benefit primarily to the public as opposed to the requester, or unless the requester is a government agency or indigent. Fees shall not be charged for a request where they would amount, in the aggregate, to less than $10.00. Ordinarily, fees will not be charged if the requested records are not found, or if all the records found are withheld as exempt. However, if the time expended in processing such a request is substantial, or if the requester has been notified of the estimated cost, pursuant to § 4.11 of the Rules, or has been advised that it cannot be determined in advance whether any records will be made available, fees may be charged. The Secretary, with the approval of the Commission, shall establish such fees.

(2) The following uniform schedule of fees applies to all constitutent units of the Commission, each requesting party being limited to one copy:

REPRODUCTION

Paper copy	10 cents per page.

MICROFILM SERVICES—PRODUCTION OF MICROFILM

16 mm	4 cents per frame.
Microfiche 4" x 6"	5 cents per frame.

DUPLICATION OF MICROFILM

16 mm	$3.75 per 100-ft roll.
Microfiche 4" x 6"	15 cents each.
3-M cartridge	$1.15 each.
Load cartridge	45 cents each.

COMPUTER SERVICES—INFORMATION RETRIEVAL

Use of terminal (each request).	25 cents.
Hard copy (paper) of each request.	30 cents.
Programer	$6.50 per hour.

SEARCH FEES

Clerical	1st hour, free.
2d and subsequent hours	$4.20 per hour.
Paraprofessional	1st hour, free.
2d and subsequent hours	$5.20 per hour.
Professional	1st hour, free.
2d and subsequent hours	$11 per hour.
Certification	$2.75 each.

(3) Payment should be made by check or money order payable to the Treasury of the United States.

(Authority: 15 U.S.C. 41, et seq. (5 U.S.C. 552, 31 U.S.C. 483(a)))

Effective date. February 19, 1975.

By direction of the Commission dated February 14, 1975.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.75-4507 Filed 2-18-75;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket No. RM75-15; Order 524]

PART 1—RULES OF PRACTICE AND PROCEDURE

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS; MISCELLANEOUS CHARGES; ETHICAL STANDARDS

Freedom of Information Act Regulations

FEBRUARY 10, 1975.

On January 2, 1975, the Commission issued a notice proposing certain changes in its general rules governing requests for public information. The notice was published in the FEDERAL REGISTER on January 6, 1975 (40 FR 1077). The changes involve, among other things, specific timetables and procedures to be followed in the event the Commission withholds requested information, the procedure to be followed for the search and duplication of requested documents, and rules governing the maintenance and dissemination of a current index of public information. The purpose of the amendments is to conform the Commission's procedures to the requirements of the Freedom of Information Act, 5 U.S.C. 552, as amended by the passage of H.R. 12471, Pub. L. No. 93-502.

The Commission received one response to the notice on January 20, 1975, from the Salt River Project, Phoenix, Arizona. Ted. B. Hardy, Manager, Power Resource Development, writing on behalf of the Project, questioned whether the $2 fee for a certified copy means $2 per document or $2 per page. The language of Section 3.102(b) will be revised accordingly to clarify the Commission's intent to charge

$2 per document for certification. A conference was not requested.

The Commission finds:

(1) The notice and opportunity to participate in this rulemaking proceeding with respect to the matters presently before this Commission through the submission, in writing, of data, views, comments, and suggestions are in accordance with the procedural requirements prescribed by 5 U.S.C. 553.

(2) In view of the intent of Pub. L. No. 93–502 that the amendments adopted herein become effective on February 19, 1975, good cause exists for making them effective on that date.

(3) The amendments of the Commission's General Rules as prescribed herein are in the public interest and are necessary and appropriate for the administration of the Federal Power Act and the Natural Gas Act.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly Section 309 (49 Stat. 858–859; 16 U.S.C. 825h), the Natural Gas Act, as amended, particularly Section 16 (52 Stat. 830; 15 U.S.C. 717o), and Pub. L. No. 93–502 (88 Stat. 1561, amending 5 U.S.C. 552) orders:

§ 1.36 [Amended]

A. Section 1.36 in Part 1, Subchapter A of Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. Paragraph "(c) Public records" is amended as follows:

a. The introductory portion is revised to read:

(c) *Public records.* The public records of the Commission, available for inspection and copying upon a request reasonably describing the document, during regular business hours in the public reference room maintained by the Office of Public Information, include:

b. Paragraph (c)(14)(i) is revised to read:

(i) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order;

c. Paragraph (c)(14)(vii) is revised to read:

(vii) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would interfere with enforcement proceedings, deprive a person of a right to a fair trial or an impartial adjudication, constitute an unwarranted invasion of personal privacy, disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, disclose investigative techniques and procedures, or endanger the life or physical safety of law enforcement personnel; or

d. Paragraph (c)(15), and all references thereto, is redesignated as paragraph (c)(16) and immediately after paragraph (c)(14)(viii) the following new paragraph (c)(15) is inserted:

(15) Any reasonably segregable portion of a record after deletion of the portions which are exempt under this section.

2. Paragraph (f), and all references thereto, is redesignated as paragraph (g), and two new paragraphs (e) and (f) are inserted immediately after paragraph (d). As so revised, the amended portions read as follows:

(e) *Index of Commission actions.* The Office of Public Information will maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this section to be made available or published. The index will be published quarterly and copies or supplements thereto will be distributed by sale or otherwise.

(f) *Timetables and procedures in event of withholding of public records.* (1) The Director of Public Information will determine within ten days (except Saturdays, Sunday, and legal public holidays) after receipt of a request for public records whether to comply with such request and will immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the Chairman any adverse determination by petition filed pursuant to § 1.7.

(2) The Chairman, in his capacity as administrative head of the agency pursuant to Section 1 of Reorganization Plan No. 9 of 1950, will make a determination with respect to any appeal within twenty days (except Saturdays, Sundays, and legal public holidays after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the Chairman will notify the person making such request of the provisions for judicial review of that determination.

(3) In unusual circumstances, the time limits prescribed in this section may be extended by the Secretary by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice will specify a date that would result in an extension for more than ten working days. "Unusual circumstances" as used in this paragraph means, but only to the extent reasonably necessary to the proper processing of the particular request:

(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) the need for consultation, which will be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(4) If the Commission fails to comply with the applicable time limit provisions of this section, the Commission can request the court for additional time to complete its review of the records by showing that exceptional circumstances exist and that it is exercising due diligence in responding to the request.

(5) Any notification of denial of any request for records under this section will set forth the names and titles or positions of each person responsible for the denial of such request.

(6) Upon any determination to comply with a request for records, the records will be made promptly available to such person making such request.

(g) *Procedure in event of subpoena* * * *

* * * * *

B. Section 3.102 in Part 3, Subchapter A of Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. Paragraph (b) is revised to read:

§ 3.102 Public information requests, and assistance; miscellaneous charges.

* * * * *

(b) During the Commission's regular business hours, the public may examine in the Office of Public Information in Washington, D.C., copies of public information filed with the Commission. Pursuant to the competitive advertised procurement procedure of the Federal Power Commission, responsibility for the search and duplication of public documents is contracted out each year, and a new schedule of fees is prescribed. Any person may obtain a copy of the schedule of fees by coming in person to the Office of Public Information, by telephone, or by mail. Where practicable, self-service duplication of requested documents may also be made in the Office on duplicating machines by the person requesting the documents. Where data has been extracted from the Commission's public records on magnetic tape computer files, copies of the tape files may be secured on a reimbursable basis, upon a written request to the Office of Public Information. The fee will vary for each requirement, depending on size and complexity. Documents will be furnished without charge or at a reduced charge where the Secretary determines that waiver or reduction of the fee is in the public interest. Except for requests made by Government agencies certification of copies of any official Commission record shall be accompanied by a fee of $2.00 per document Inquiries and orders may be made to that office personally, by telephone, or by mail.

* * * * *

C. The amendments ordered herein are effective as of February 19, 1975.

D. The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-4503 Filed 2-18-75;8:45 am]

CHAPTER VI—WATER RESOURCES COUNCIL

PART 701—COUNCIL ORGANIZATION

Freedom of Information Act Regulations

Part 701, Subpart D of Chapter VI, Title 18 of the Code of Federal Regulations is hereby amended by deleting the current Subpart D entirely and substituting therefor a new Subpart D as shown below. This rulemaking is done by authority of 5 USC 552, as amended by the Freedom of Information Act Amendments of 1974 (the "1974 Amendments") (Pub. L. 93-502, 88 Stat. 1561 (5 USC 552)) and 42 USC 1962d-1.

The Water Resources Council (WRC) regulations implementing the Freedom of Information Act (the "Act") (5 USC 552) were published on pages 40761 and 40762 of the FEDERAL REGISTER of November 20, 1974 (39 FR 40761). On November 21, 1974, the Congress passed over the veto of President Ford a series of Amendments to the Act which go into effect on February 19, 1975. The 1974 Amendments render the current WRC Freedom of Information regulations anachronistic and necessitate extensive revision, which is expedited by the deletion of the current Subpart D and substitution of a new Subpart D that reflects the changes in the Act by the 1974 Amendments. These changes include three provisions whose nature is "substantive" in the sense that they affect what records are subject to compulsory disclosure under the Act, as well as "procedural" provisions affecting how requests for records shall be processed or litigated.

The substantive changes are a revision of the 1st exemption (pertaining to documents classified under an Executive order for reasons of defense or foreign policy), a revision of the 7th exemption (investigating law enforcement records), and a provision on the availability of "reasonably segregable" portions of records from which exempt matter has been deleted. These substantive changes are reflected in § 701.201 of the proposed regulations.

The procedural changes include provisions for: how and to whom requests for information are made (§ 701.202 (a), (b), (c), (d), and (e)); a uniform schedule of fees and when they will or will not be charged (§ 701.203); time limits for initial determinations (§ 701.204), appeals (§ 701.205), and final determinations (§ 701.206), regarding requests for information; administrative extensions of time limits in unusual circumstances (§ 701.207); and judicial extension of time limits in exceptional circumstances (§ 701.208).

As in the previous regulations (§ 701.204), the new § 701.209 encourages WRC river basin commissions and Field Committees to establish procedures for public availability of information consistent with 5 USC 552, as amended, and the new subpart D.

The policy of the WRC with regard to availability of information (previous and new § 701.200) has not changed. WRC records and informational materials are available to the fullest extent possible consistent with the Act and will be promptly furnished to any member of the public.

This subpart is intended to be consistent with, but separate from, the public participation provisions of the Council's principles and standards (38 FR 174) and subsequent implementing procedures.

Notice and public procedure on this amendment are deemed unnecessary and impracticable since they merely conform to the requirements of the 1974 Amendments.

Dated: February 13, 1975.

Effective date: February 19, 1975.

WARREN D. FAIRCHILD,
Director,
U.S. Water Resources Council.

Part 701, Subpart D, of Chapter VI, Title 18 of the Code of Federal Regulations is hereby amended by deleting the current Subpart D entirely and substituting therefor a new Subpart D as set forth below:

Subpart D—Availability of Information

Sec.

701.200 Statement of policy.
701.201 Availability of records and informational materials.
701.202 Procedure for requests for information.
701.203 Schedule of fees.
701.204 Time limits for WRC initial determinations regarding requests for information.
701.205 Time limit for requester to appeal an initial adverse determination.
701.206 Time limits for WRC final determinations regarding requests for information appealed by the requester from an initial adverse determination.
701.207 Extension of time limits for WRC initial and final determinations.
701.208 WRC petition for judicial extension of time.
701.209 River Basin Commissions and Field Committees.

AUTHORITY: 5 U.S.C. 552 as amended by Pub. L. 93-502, 88 Stat. 1561; 42 U.S.C. 1962d-1.

§ 701.200 Statement of policy.

Water Resources Council records and informational materials are available to the fullest extent possible consistent with 5 U.S.C. section 552, as amended, and will be promptly furnished to any member of the public.

§ 701.201 Availability of records and informational materials.

(a) Except for records and materials exempted from disclosure pursuant to paragraph (b) of this section, any person may inspect and copy any document in the possession and custody of the Water Resources Council in accordance with the procedure provided in § 701.202.

(b) The provisions of 5 U.S.C. section 552 which require that agencies make their records available for public inspection and copying do not apply to matters which are:

(1) (a) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (b) are in fact properly classified pursuant to such Executive order;

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory records compiled for law enforcement purposes but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.

§701.202 Procedure for requests for information.

(a) A member of the public who requests records or materials from the Water Resources Council must provide a reasonable description of the records or materials sought so that such records or materials may be located without undue search or inquiry.

(b) Requests which reasonably describe the records or materials sought should be directed to the Public Infor-

mation Officer, Water Resources Council, Suite 800, 2120 L Street NW., Washington, D.C. 20037.

(c) To insure that requests for information are processed as expeditiously as possible, all Freedom of Information Act (FOIA) requests should be clearly identified by the requester as such on the envelope and in the letter.

(d) Records or materials will be available for inspection and copying in person during normal business hours or by mail.

(e) Requests for records which originate in or concern matters which originate in another department or agency may be forwarded to the department or agency primarily concerned and the requester so notified.

§ 701.203 Schedule of fees.

(a) The Public Information Officer will to the extent practicable, encourage the widest possible distribution of information by permitting requests for inspection or copies of records or materials to be met without cost to the person making the request.

(b) Fees will be charged in the case of requests which are determined by the Public Information Officer to involve a burden on staff or facilities significantly in excess of that normally accepted by the Council in handling routine requests for information.

(c) In all instances where the Public Information Officer determines that a request for information can be considered as primarily benefiting the general public (despite a § 701.203 determination of burden), such request shall be met either without cost wherever practicable or at a reduced cost to the requester. Any such reduction shall be determined by the Public Information Officer on the basis of the balance between the benefit to the general public and the cost to the Water Resources Council.

(d) Fees shall be limited to recovery of only direct costs of search and duplication but in no event shall the fee for search and duplication exceed $2.50 per half hour, nor shall the fee for copying exceed $0.25 per page (maximum per page dimension of 8x14 inches).

(e) Unless a request for information specifically states that whatever cost is involved will be acceptable, or acceptable up to a specified limit that covers anticipated costs, a request that is expected to involve an assessed fee in excess of $50.00 will not be deemed to have been received until the requester is advised promptly upon physical receipt of the request of the anticipated cost and agrees to bear it.

(f) When anticipated fees exceed $50.00, a deposit for 25% of the amount must be made within 10 days of the notice to the requester of the initial determination.

(g) The Council reserves the right to limit the number of copies of any document that will be provided to any one person.

§ 701.204 Time limits for WRC initial determinations regarding requests for information.

(a) An initial determination to grant or deny each request for information will be made within ten (10) working days of receipt of such request.

(b) The requester shall be notified immediately of the initial determination and the reasons therefor.

(c) The Public Information Officer will make initial determinations to grant requests for information.

(1) In those instances where the initial determination by the Public Information Officer is to grant the request and the information is immediately supplied such action will serve as both notice of determination and compliance with the request.

(2) In those instances where the initial determination by the Public Information Officer is to grant the request, but the information is not immediately available, the Public Information Officer will send immediate notice of the determination to comply, and the approximate date the information will be forwarded.

(d) The Public Information Officer will make initial determination to deny the requests only with the concurrence of the General Counsel. The requester shall be notified immediately of the initial adverse determination, the reasons therefor, and the right to appeal the initial adverse determination to the Director.

§ 701.205 Time limit for requester to appeal an initial adverse determination.

(a) The requester shall have thirty (30) calendar days to file with the Director an appeal from an initial adverse determination. The appeal must be in writing.

(b) The thirty (30) day period of appeal shall run from receipt of the initial adverse determination (in cases of denials of an entire request) and from receipt of any records being made available pursuant to the initial adverse determination (in cases of partial denials).

§ 701.206 Time limit for WRC final determinations regarding requests for information appealed by the requester from an initial adverse determination.

The Director shall make a final determination with respect to any appeal within twenty (20) working days after receipt of such appeal. If the initial adverse determination is in whole or in part upheld by the Director, the requester shall be notified of the final adverse determination and the provisions for judicial review of that determination as stated in the Freedom of Information Act, as amended (see 5 U.S.C. 552(a)(4) et seq.; as amended by Pub. L. 93-502).

§ 701.207 Extension of time limits for WRC initial and final determinations.

(a) In unusual circumstances, as specified in this section, the time limits prescribed in either § 701.203 or § 701.204 may be extended by written notice from the responsible WRC official (i.e., the Public Information Officer in instances of initial requests and the Director in instances of appeals) to the requester setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten (10) working days, and in no event shall the total extended time exceed ten (10) working days with respect to a particular request.

(b) As used in this section, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

§ 701.208 WRC petition for judicial extension of time.

The provisions of § 701.206 notwithstanding, the Director may petition for judicial extension of time when exceptional circumstances warrant such action.

§ 701.209 River basin commissions and field committees.

(a) River basin commissions established pursuant to Title II of the Water Resources Planning Act are encouraged to establish, pursuant to section 205(c) of that Act, procedures for public availability of information that are consistent with 5 U.S.C. 552, as amended, and this subpart.

(b) Field committees will be governed by the procedures adopted by the lead Federal agency to implement 5 U.S.C. 552, as amended; except that if the lead agency of a field committee is a non-Federal entity, the standards of this subpart shall apply.

(c) Requests for documents and informational materials may be made to the chairmen of the field committees and river basin commissions at the following addresses.

(1) River Basin Commissions:

Great Lakes Basin Commission, P.O. Box 999, Ann Arbor, Michigan 48106;

New England River Basins Commission, 55 Court Street, Boston, Massachusetts 02108;

Ohio River Basin Commission, 36 East 4th Street, Suite 208-220, Cincinnati, Ohio 45202;

Pacific Northwest River Basins Commission, P.O. Box 908, Vancouver, Washington 98660;

Upper Mississippi River Basin Commission, Federal Office Building, Room 510, Fort Snelling, Twin Cities, Minnesota 55111;
Missouri River Basin Commission, 10050 Regency Circle, Suite 403 Omaha, Nebraska 68114.

(2) Field Committees:

Arkansas-White-Red Inter-Agency Committee, Room 4030, Federal Building, Albuquerque, New Mexico 87101;
Pacific Southwest Inter-Agency Committee, 630 Sansome Street, Room 1216, San Francisco, California 94111;
Southeast Basins Inter-Agency Committee, 402 Walton Building, Columbus, Georgia 30303.

[FR Doc.75-4576 Filed 2-18-75;8:45 am]

Title 20—Employees' Benefits

CHAPTER II—RAILROAD RETIREMENT BOARD

PART 200—PROCEDURES AND FORMS

Freedom of Information Act Regulations

The Railroad Retirement Board has determined that it would be impractical and unnecessary for it to publish an index of all records and documents in its custody. Such an index is maintained by the Railroad Retirement Board at its headquarters and copies of the index may be obtained for a fee equivalent to the costs of reproduction. Requests for such indexes should comply with the form for requests for information as described in § 200.3(h).

Pursuant to the general authority provided by section 7 of the act of October 16, 1974 (88 Stat. 1338; 45 U.S.C. 231f) and by section 12 of the act of June 25, 1938 (52 Stat. 1107, as amended; 45 U.S.C. 362), paragraphs (c), (e)(1), (f), (g), and (h) of § 200.3 of 20 CFR Part 200 of the regulations under such acts are revised and paragraphs (i), (j), (k), (l), and (m) are added to such section by Board Order 75-19, dated February 7, 1975, to read:

§ 200.3 Availability of information to public.

* * * * *

(c) There shall be maintained in the Board's library a current index of the materials referred to in paragraph (a) of this section which will have been issued, adopted, or promulgated subsequent to July 4, 1967. This index shall be available for public inspection and copying at the Board's headquarters offices located at 844 Rush Street, Chicago, Illinois, during the normal business hours of the Board. Copies of the index or any portion thereof may be obtained for a fee equivalent to the costs of reproduction by submitting a written request therefor. Such request should comply with the form for requests as described in paragraph (h) of this section.

* * * * *

(e) The copies of manuals and instructions made available for public copying and inspection shall not include:

(1) Confidential statements, standards, and instructions which do not affect the public, and

* * * * *

(f) With the exception of records specifically excluded from disclosure by section 552(b) of Title 5, United States Code, or other applicable statute, any records of or in the custody of this agency, other than those made available under paragraphs (a), (c), and (d) of this section, shall, upon receipt of a written request reasonably describing them, promptly be made available to the person requesting them.

(g) The Chief Executive Officer may charge the person or persons making a request for records under paragraph (f) of this section a fee in an amount not to exceed the costs actually incurred in complying with the request. After February 21, 1975, any such fees charged by the Chief Executive Officer shall be in accordance with the following schedule.

(1) The fee for copies shall be $.10 per copy per page.

(2) The charge for making a manual search for records shall be $6.00 per man hour.

(3) The maximum computer search charge shall be $268.00 per hour ($4.50 per minute).

(4) Any or all fees may be waived or reduced by the Chief Executive Officer whenever he or she determines that it is in the public interest to do so.

(5) All fees shall be paid to the Board's Director of Budget and Fiscal Operations.

(h) Any person or organization requesting records pursuant to this section shall submit such request in writing to the Chief Executive Officer, Railroad Retirement Board, Room 536, 844 Rush Street, Chicago, Illinois 60611. All such requests should be clearly and prominently identified as requests for information under the Freedom of Information Act. If submitted by mail or otherwise submitted in an envelope or other cover, requests should be clearly and prominently identified as such on the envelope or cover.

(i) The Chief Executive Officer, or any other individual specifically authorized to act on behalf of the Chief Executive Officer, shall have the authority to grant or deny a request for information submitted under this section. The Chief Executive Officer or such authorized representative shall, within 10 working days following the receipt of a request, except as provided in subparagraph (1) of paragraph (j) of this section, make a determination granting or denying the request and notify the requester of his or her decision and if a denial, the reasons therefor. The requester shall be further advised that a total or partial denial may be appealed to the Board as provided in paragraph (j) of this section.

(j) In cases where a request for information is denied, in whole or in part, by the Chief Executive Officer or his or her authorized representative, the party who originally made the request may appeal such determination to the Board by filing a written appeal with the Secretary of the Board within 20 working days following receipt of the notice of denial. The Board shall render a decision on an appeal within 20 working days following receipt of the appeal except as provided in subparagraph (1) of this paragraph. The requester shall promptly be notified of the Board's decision and, in cases where the denial is upheld, of the provisions for judicial review of such final administrative decisions.

(1) In unusual circumstances, as enumerated in § 552(a)(6)(B) of Title 5, United States Code, the time restrictions of paragraphs (i) and (j) of this section may be extended in the aggregate by no more than 10 days by notice to the requester of such extension, the reasons therefor, and the date on which a determination is expected to be dispatched.

(2) For purposes of paragraphs (i) and (j) of this section, a request shall be received by the Chief Executive Officer of the Board when it arrives at the Board's headquarters. *Provided, however,* That when the estimated fee to be assessed for a given request exceeds $30.00, such request shall be deemed not to have been received by the Chief Executive Officer until the requester is advised of the estimated cost and agrees to bear it. *Provided further,* That a request which does not fully comply with all the provisions of paragraph (h) of this section shall be deemed to have been received by the Chief Executive Officer on the day it actually reaches his or her office.

(k) Any person in the employ of the Railroad Retirement Board who receives a request for any information, document or record of this agency, or in the custody thereof, shall advise the requester to address such request to the Chief Executive Officer. If the request received is in writing, it shall be immediately referred for action to the Chief Executive Officer.

(l) The Chief Executive Officer shall maintain records of

(1) The total amount of fees collected by this agency pursuant to this section;

(2) The number of initial denials of requests for records made pursuant to this section and the reason for each;

(3) The number of appeals from such denials and the result of each appeal, together with the reason(s) for the action upon each appeal that results in a denial of information;

(4) The name(s) and title(s) or position(s) of each person responsible for each initial denial of records requested and the number of instances of action on a request for information for each such person;

(5) The results of each proceeding conducted pursuant to section 552(a)(4)(F) of Title 5, United States Code, including a report of any disciplinary action against an official or employee who was determined to be primarily responsible for improperly withholding records, or an explanation of why disciplinary action was not taken;

(6) Every rule made by this agency affecting or in implementation of section 552 of Title 5, United States Code;

(7) The fee schedule for copies of records and documents requested pursuant to this regulation; and

(8) All other information which indicates efforts to administer fully the letter and spirit of section 552 of Title 5, United States Code.

(m) The Board shall, prior to March 1 of each year, prepare and submit a report to the Speaker of the House of Representatives and the President of the Senate covering each of the categories of records maintained in accordance with the foregoing for the preceding calendar year.

Dated: February 12, 1975.

By authority of the Board,

[SEAL] R. F. BUTLER,
Secretary of the Board.

[FR Doc.75-4571 Filed 2-18-75;8:45 am]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER A—GENERAL

[Departmental Reg. 108.711]

PART 6—FREEDOM OF INFORMATION POLICY AND PROCEDURES

Miscellaneous Amendments

In accordance with the 1974 amendments to the Freedom of Information Act 5 U.S.C. 552 (Pub. L. 93-502), the following amendments and revisions are made to Part 6 of Title 22 of the Code of Federal Regulations.

Sec.
6.1 Definitions.
6.2 Availability of records.
6.3 Executive Order 11652.
6.4 Records which may be exempt from disclosure.
6.5 Classified records and information from other agencies.
6.6 Authority to release and certify; authority to withhold records.
6.7 Time limits.
6.8 Appeals.
6.9 Public reading room.
6.10 Manner of requesting records.
6.11 Requests addressed to Foreign Service posts.
6.12 Closing requests.
6.13 Subsequent requests for same records.
6.14 Schedule of fees and method of payment for services rendered.
6.15 Opening of records for nonofficial research.
6.16 Activities of advisory committees.

AUTHORITY: Sec. 4 of the Act of May 26, 1949, as amended (63 Stat. 111) (22 U.S.C. 2658); E.O. 11652, 37 FR 5209 (5 U.S.C. 552) (Pub. L. 93-502).

As used in this Part, the following definitions shall apply:

§ 6.1 Definitions.

(a) The term "identifiable" means, in the context of a request for a record, a description which reasonably identifies a particular record sought. Such a description, if possible, should include date, format, subject matter, country concerned, office or mission originating or receiving the record, and the name of any person to whom the record is known to relate.

(b) The term "record" includes all books, papers, maps, photographs, or other documentary material, or copies thereof, regardless of physical form or characteristics, made in or received by the Department of State (including Foreign Service posts abroad) and preserved as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Department or the Foreign Service. It does not include copies of the records of other Government agencies (except those which have been expressly placed under the control of the Department of State upon termination of another agency), foreign governments, international organizations, or non-governmental entities unless they evidence organization, functions, policies, decisions, procedures, operations, or activities of the Department of State. It does not include records in the Berlin Document Center.

§ 6.2 Availability of records.

(a) All identifiable records of the Department of State shall be made available to the public upon compliance with the procedures established in this Part, except to the extent that a determination is made to withhold a record exemptable under 5 U.S.C. 552(b). That determination shall be made in accordance with § 6.6(b).

(b) Unclassified information, documents, and forms which have previously been provided to the public as part of the normal services of the Department of State will continue to be made available on the same basis as before. Any Departmental officer who receives a request for records through normal channels of contact with the public, media, or the Congress which would not normally be made available shall advise the requester that, if the requester so wishes, the request will be referred to the Director, Freedom of Information Staff, Bureau of Public Affairs (hereinafter the FOI Director). If the Departmental officer has reason to believe that the request is intended to be one under the Freedom of Information Act (see § 6.10), the officer shall refer it immediately to the FOI Director and so advise the requester.

§ 6.3 Executive Order 11652.

A request for classification review under Executive Order 11652 (37 FR 5209) which is identified as specifically and exclusively so intended will be processed in accordance with that Order and the implementing National Security Council Directive (37 FR 10053).

§ 6.4 Records which may be exempt from disclosure.

(a) The following categories of records maintained by the Department of State may be exempted from disclosure:

(1) Records specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to such executive order.

(2) Records related solely to the internal personnel rules and practices of an agency.

(3) Records specifically exempted from disclosure by statute, included in this category are records relating to the officers and employees of the Foreign Service, including efficiency records (§ 612 of the Foreign Service Act of 1946, as amended, 22 U.S.C. 986), the records of the Department of State or of diplomatic and consular officers of the United States pertaining to the issuance or refusal of visas or permits to enter the United States (§ 222(f) of the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1202(f)), "Restricted Data" under section 224 of the Atomic Energy Act (42 U.S.C. 2274), and records subject to section 102(d) of the National Security Act of 1947 (61 Stat. 498).

(4) Records of trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(5) Records which are inter-agency or intra-agency memorandums, letters, telegrams, or airgrams which would not be available by law to a party other than an agency in litigation with the agency.

(6) Records such as personnel and medical files and similar files the public disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would: (i) Interfere with enforcement proceedings; (ii) deprive a person of a right to a fair trial or an impartial adjudication; (iii) constitute an unwarranted invasion of personal privacy; (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; (v) disclose investigative techniques and procedures; or (vi) endanger the life or physical safety of law enforcement personnel.

(8) Records contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(9) Geological or geophysical information and data, including maps, concerning wells.

(b) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under paragraph (a) of this section. Normally a portion of a record shall be considered reasonably segregable when segregation can produce an intelligible record which is not distorted out of context and does not contradict the record being withheld.

§ 6.5 Classified records and information from other agencies.

(a) The applicability of the exemption for classified information (§ 6.4(a)(1))

requires a determination that the record in question is specifically authorized under the criteria established by Executive Order 11652 to be kept classified and is in fact properly classified pursuant to that order. This determination shall be made whenever possible before the initial denial under § 6.6(b). It must in any case be made prior to the decision of an appeal under § 6.8. No denial should be based solely on the existence of a classification marking on the record, and there shall be a substantive review of the validity of the classification to the maximum extent feasible within the time limits for a denial under § 6.7.

(b) When a request for a Departmental record encompasses classified information originated by another department or agency, the request for that information shall be referred to the originator. The requester should be advised of the date and the addressee of the referral. Classified information involving intelligence sources and methods is subject to the control of the Director, Central Intelligence Agency; FBI information (whether or not classified) is subject to the control of the FBI; "Restricted Data" is subject to the control of the Energy Research and Development Administration or the Nuclear Regulatory Commission, as the case may be; and National Security Council documents are subject to the control of the Council. The Bureau of Intelligence and Research shall be consulted on records which appear to be in the first category; the Office of Security shall be consulted on records which appear to be in the second category; and the Executive Secretariat of the Department shall be consulted on records which appear to be in the last category.

(c) Requests for documents of other departments or agencies in the files of the Department of State which are not records of the Department (such as FBI reports) shall be referred to the appropriate department or agency whether or not classified. The requester shall be advised of the date and the addressee of the referral.

§ 6.6 Authority to release and certify; authority to withhold records.

(a) Except as provided in § 6.15, the FOI Director is authorized to furnish copies of any record requested under these regulations which is not the subject of a denial letter under paragraph (b) of this section, and this authority shall include the authority to declassify any such record. The FOI Director is also authorized upon request to provide certified copies of any such record in accordance with Part 131 of this Chapter. In order to determine whether a record requested under this Part may be furnished, the FOI Director shall refer the request to the bureau, office, or other unit of the Department of State which he believes has primary responsibility, normally the originating office, or, in the case of documents originated elsewhere, the office with action responsibility for that document. If the office to which the request is referred does not accept responsibility, it shall immediately inform the FOI Director which Departmental office should have responsibility. The office which recommends referral to another office is required to send the request by hand, if possible, to that office. Whichever office accepts responsibility shall examine the requested record and, in consultation with the Assistant Legal Adviser designated to provide legal advice to the responsible office, determine which, if any, of the exemptions in § 6.4(a) are applicable and determine whether to claim an applicable exemption. If there is no applicable exemption, or it is determined not to exercise an exemption, the responsible office shall advise the FOI Director, who will, in turn, so advise the requester of the record and be responsible for collection of any fees and release of the record.

(b) If the responsible office believes that one or more exemptions is applicable and should be exercised, it shall so advise the FOI Director immediately. The responsible office shall also complete whatever coordination within the Department or with other departments or agencies is required under normal Departmental practice. After informing the FOI Director of its intention to recommend denial of a requested record, the responsible office shall send its recommendation in writing to the designated Freedom of Information officers of the bureau with supervisory responsibility over the responsible office. (The designated Freedom of Information Officer shall be at the Deputy Assistant Secretary level or equivalent rank.) The designated Freedom of Information Officer shall consult with the FOI Director before making his decision on the recommendation to deny a record. If the Freedom of Information Officer decides to deny a record requested under this Part, he shall directly advise the requester in writing. This shall be considered the initial denial by the Department of State, and the initial denial letter must be sent within 10 working days from the date actually received by the FOI Director, unless the FOI Director grants an extension of time under § 6.7 (b). The denial letter shall state that the denial may be appealed to the Council on Classification Policy, the exemption or exemptions claimed, and the reason for doing so; it shall also enclose a copy of the regulation on appeals (§ 6.8). If a request is denied in whole or part but the responsible office is prepared to give further consideration to release of the requested record, the letter shall also state this fact and indicate the date by which this further consideration is expected to be completed. Whenever it is not possible to complete substantive review of the classification of classified records within the time allocated by the FOI Director, the letter should so state and indicate that this review is continuing and when it will be completed. If the designated Freedom of Information Officer decides that the requested record will not be denied, he shall so inform the FOI Director; this decision must be made also within the time allocated by the FOI Director.

§ 6.7 Time limits.

(a) An initial denial under § 6.6(b) shall be made within 10 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of a request for a record under this Part by the FOI Director. An appeal under § 6.8 shall be decided within 20 days (excepting Saturdays, Sundays and legal public holidays) after the receipt of such an appeal by the Assistant Secretary of State for Public Affairs.

(b) In unusual circumstances as specified in this paragraph, the FOI Director may extend the time limits in paragraph (a) by written notice to the person requesting a record under this Part, which notice shall set forth the reasons for such extension and the date on which a determination or appeal decision is expected to be dispatched. No such notice shall specify a date which would result in an extension of either the initial determination period, or the appeal period, or both, for a total of more than 10 working days. As used in this paragraph "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request—

(1) The need to search for and collect the requested records from overseas posts or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the Department of State having substantial subject matter interest therein.

(c) Where the responsible office believes that further consideration of a request may result in the release of additional records or portions thereof, the expiration of the time period allocated by the FOI Director does not require the termination of that consideration, and it should be continued with a view to maximum disclosure of requested records within a reasonable period of time.

§ 6.8 Appeals.

(a) Review of an initial denial under § 6.6(b) may be requested by the person who submitted the original request for a record. The review (hereinafter the appeal) must be requested in writing within 60 days of the date that the requester is informed either: (1) that the request is denied completely, or (2) that all records which are being furnished in response to his request have been released and he has been so informed.

(b) The appeal must be sent by certified mail to the Assistant Secretary of State for Public Affairs, Chairman, Council on Classification Policy, Department of State, Washington, D.C. 20520. The time for decision on appeal begins on the date the appeal is actually received in

the Office of the Assistant Secretary. The request shall include a statement of the circumstances, reasons, or arguments advanced for insistence upon disclosure of the originally requested record and a copy of the initial denial letter.

(c) The Council on Classification Policy shall decide the appeal; there shall be a written record of the reasons for the decision and the views of each member. The decision shall be communicated in writing to the requester by a letter from the Assistant Secretary for Public Affairs. If the decision is to withhold, the letter shall identify the exemption or exemptions exercised under § 6.4, the reason, and, if the Council is prepared to give further consideration notwithstanding expiration of the time allocated for decision, the letter shall so state and indicate when that consideration is expected to be completed.

§ 6.9 Public reading room.

A public reading room or area where records may be made available is located in the Department of State, 2201 C Street, N.W., Washington, D.C. 20520. The receptionist will refer the applicant to the proper room. Fees will not be charged for access by the public to this room or the records contained therein, but fees, in accordance with § 6.14, will be charged for furnishing copies thereof. The Assistant Secretary of State for Public Affairs, in his or her discretion, may authorize persons to utilize their own portable copying equipment. Any arrangements for the use of such equipment must be consistent with security regulations of the Department of State and are subject to the availability of personnel to monitor such copying.

§ 6.10 Manner of requesting records.

(a) Identifiable records may be requested by the public in person from 10 a.m. to 4 p.m., Department of State, 2201 C Street, N.W., Washington, D.C., where the receptionist will refer the applicant to the proper office for service and the necessary forms for making a request. Requests by mail and referrals from other agencies should be addressed to the Director, Freedom of Information Staff, Bureau of Public Affairs, Department of State, Washington, D.C. 20520.

(b) A request will not be considered as a request under this Part until actually received by the FOI Director either under paragraph (a) of this section or by referral under § 6.2(b) or § 6.11.

(c) Original or record copies of records will not be permitted to leave the custody of the lawful custodian thereof. Copies, duly certified upon request, will be furnished in lieu thereof in accordance with established fees.

(d) The burden of adequately identifying the record so requested lies with the requesting person. Such person may seek appropriate assistance from the FOI Director or a member of his or her staff, in identifying the record sought.

§ 6.11 Requests addressed to Foreign Service posts.

As indicated in § 6.10(b), requests for records will not be considered under this Part until actually received by the FOI Director. This is true of requests addressed directly to overseas posts of the Department and Foreign Service. Accordingly, any such post receiving a request for records which it has reason to believe is intended to be a request under this Part shall send that request by the fastest means available to the FOI Director and shall so inform the requester. In the case of a request for a record which is available only at that post, the post shall forward a copy of the requested record, together with its recommendation and a copy of the request, to the FOI Director. The post may submit its recommendations in any case and, in that event, shall do so as soon as possible. A post receiving such a request, however, may review the requested record and, if it is unclassified and the post believes it should be released, the post may forward the record to the requester on its own authority and so advise the FOI Director.

§ 6.12 Closing requests.

(a) The FOI Director is authorized to consider a request closed if, within 60 working days after he has sent a letter to a requester advising the latter either of a complete denial or that some or all of the requested records have been released and are available upon payment of fees, the requester fails to respond.

(b) The Assistant Secretary of State for Public Affairs is authorized to refuse to initiate a search for records requested by any person who has previously made a request under this Part and who, upon being informed by letter that some or all of the requested records are available and the fees for services performed, refused to pay or failed to respond within 60 working days from the date of the letter.

§ 6.13 Subsequent requests for same records.

When, pursuant to request under this Part, records are released to any person, any other person subsequently requesting the same records will also receive the records unless there would be an unwarranted invasion of privacy as to one but not to the other. In such cases, search costs for subsequent requests would normally be minimal.

§ 6.14 Schedule of fees and method of payment for services rendered.

(a) The following specific fees shall be applicable with respect to services rendered to members of the public under this part:

(1) Searching for records, per hour or fraction thereof	$5.00
(2) Other facilitative services and index assistance—minimum charge, per hour or fraction thereof	5.00
hour or fraction thereof	5.00
(3) Copies made by photostat or otherwise (per page) maximum of 5 copies will be provided	0.10
(4) Certification of each record as a true copy	1.00
(5) Certification of each record as a true copy under official seal	1.50
(6) For each signed statement of negative result of search for record	1.00
(7) For each signed statement of non-availability of record—no fee	
(8) Duplication of architectural photographs and drawings	2.00

(b) If records requested under this Part are stored elsewhere than the headquarters of the Department of State at 2201 C Street NW., Washington, D.C., the special costs of returning such records to the headquarters shall be included in the search costs. These costs will be computed at the actual cost of transportation of either a person or the requested record between the place where the record is stored and Departmental headquarters when, for time or other reasons, it is not feasible to rely on Government mail service or diplomatic pouch. The most economical means of transportation available and consistent with the purpose of incurring special costs shall be utilized. Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made, or if the Department determines that a record which has been requested, but which is exempt from disclosure under this Part, is to be withheld.

(c) Where it is anticipated that the fees chargeable under this section will amount to more than $25 and the requester has not indicated in advance his willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In appropriate cases, an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to confer with knowledgeable Departmental personnel in an attempt to reformulate the request in a manner which will reduce the fees and meet the needs of the requester. Dispatch of such a notice or request shall suspend the running of the period for response by the Department until a reply is received from the requester.

(d) The Assistant Secretary of State for Public Affairs, or an officer designated by the Assistant Secretary, may waive all or part of any fee provided for in this section when the Assistant Secretary or the designated officer considers it appropriate to do so.

(e) Fees for services performed other than under this Part, as described in § 6.2(b), will be charged in accordance with Parts 21 and 22 of this chapter.

(f) When no specific fee has been established for a service, or the request for a service does not fall under one of the above categories due to the amount or size or type thereof, the Assistant Secretary for Public Affairs is authorized to establish a appropriate fee, pursuant to the criteria established in Bureau of Budget Circular No. A–25, entitled "User Charges."

(g) Fees must be paid in full prior to issuance of requested copies.

(h) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, a postal money order, or cash. Remit-

tances shall be made payable to the order of the Treasury of the United States and mailed to the Director, Freedom of Information Staff, Bureau of Public Affairs, Department of State, Washington, D.C. 20520. The Department will assume no responsibility for cash which is lost in the mail.

(i) A receipt for fees paid will be given only upon request. Refund of fees paid for services actually rendered will not be made.

(j) Notwithstanding the foregoing, materials may be furnished without charge to foreign governments, other governmental agencies or units, nonprofit educational organizations, or any other applicant whenever the Assistant Secretary for Public Affairs determines that such action would further the performance of the functions of the Department of State.

§ 6.15 Opening of records for nonofficial research.

(a) General policy. The Department will open its records on an equitable basis to all individuals engaged in nonofficial research as soon as such action may be taken without adversely affecting the national security, the maintenance of friendly relations with other nations, and the efficient operation of the Department. The opening of departmental records to nonofficial researchers will ordinarily not take place until after the records have been transferred to the custody of the National Archives and Records Service. The opening of records for nonofficial research will generally take place on the basis of large blocks of records defined by years and/or major subject categories.

(b) Open records. (1) The records of the Department, with the exceptions stated in subparagraph (2) of this paragraph, shall be automatically declassified and opened to research when such records are 30 years old. The records for an entire year shall be opened normally on the first of January each year.

(2) Certain categories of records falling within the exemptions and specified in § 6.4 and requiring continuing protection under Executive Order 11652 or otherwise, as defined in restriction statements issued by the National Archives and Records Service, are not open for unofficial research purposes until they are 50 or 75 years old.

(3) When, in the opinion of the Director of the Historical Office, it is administratively feasible and consistent with the national security to open blocks of records less than 30 years old, he shall so recommend to the Council on Classification Policy. On approval by the Council, such records shall be declassified and treated administratively as if they were open records as defined in subparagraph (1) of this paragraph, except that classified papers which have been identified as requiring special handling shall not be opened to researchers until they are declassified either by specific action of the Department in each case or by the automatic declassification after 30 years, as provided for in subparagraph (1) of this paragraph.

(c) Restricted records. (1) Records of the Department other than those declassified and opened in accordance with procedures set forth above are not available to access by nonofficial researchers except to the limited extent that may be permitted under §§ 9.22 and 9.25 of this chapter.

(2) Nothing in this subsection affects the rights of persons to request and to receive copies of identifiable foreign policy documents of any age, unclassified or declassified, in accordance with the procedures set forth in §§ 6.1 through 6.14.

(d) Information on administration of this section. Correspondence with regard to open records of the Department should be addressed to the Chief, Diplomatic Branch, Civil Records Division, National Archives and Record Service, Washington, D.C. 20400. Correspondence with regard to the availability of other records of the Department under this section should be addressed to the Director, Historical Office, Bureau of Public Affairs, Department of State, Washington, D.C. 20520.

§ 6.16 Activities of advisory committees.

Any determination under section 10 (d) of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) that activities of an advisory committee are concerned with matters listed in section 552(b) of Title 5 of the United States Code and that the Public interest requires such activities to be withheld from disclosure shall be made by the Deputy Under Secretary for Management. This determination shall be in writing and is final.

Public notice. In view of the imminence of the present compliance date, and since these amendments relate to Departmental organization, procedure and practices, notice and public procedure thereon (except with respect to § 6.14) are found impractical and unnecessary, and they may be made effective in less than 30 days after publication in the FEDERAL REGISTER. On January 13, 1975 (40 FR 2443), the Department published in the FEDERAL REGISTER a "notice of proposed rulemaking with respect to Freedom of Information Fees". Public comments have been received and carefully considered, and the regulation (then § 6.8) described in that notice, subject only to a change in paragraph (b) to more specifically describe fees for special costs, is set forth above as § 6.14. Public comment is invited for consideration in connection with possible further amendments. Such comments may be addressed to the Assistant Legal Adviser for Management, Department of State, Washington, D.C. 20520. Any comments received on or before March 21, 1975, will be considered; comments received after that time may be considered.

Effective date. These amendments are effective February 19, 1975.

Amendments to 22 CFR 6 (Departmental Regulation 108.698) published in the FEDERAL REGISTER on April 22, 1974 (39 FR 14195) are cancelled.

Dated: February 13, 1975.

For the Secretary of State,

LAWRENCE S. EAGLEBURGER,
Acting Deputy Under Secretary for Management.

[FR Doc.75-4587 Filed 2-18-75;8:45 am]

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY

[Docket No. R-75-194]

PART 15—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Interim Rule

The Department of Housing and Urban Development is amending Part 15 of Subtitle A of Title 24 of the Code of Federal Regulations in order to effectuate the amendments to section 552 of Title 5, United States Code, known as the Freedom of Information Act, enacted November 21, 1974, as Public Law 93–502.

Section 15.21(a)(7) is revised and expanded to specifically recite those classes of investigatory records compiled for law enforcement purposes production of which is exempted. This revision follows the express wording of section 2(b) of the statute.

In accordance with section 2(c) of the statute, § 15.21(b) expressly states the Department's presently implicit policy of providing reasonably segregable portions of a record after deletion of exempt portions.

In addition, certain time limits have been decreased and other proposed technical changes are set forth principally to comply with the new statutory requirements.

The public interest dictates that these amendments be made effective as soon as possible and, therefore, are being issued as an interim rule which will become effective on February 19, 1975, the effective date of Public Law 93–502. However, interested persons are invited to submit such written relevant comments or suggestions as they may desire. Communications should be filed, using the above docket number and title, with the Rules Docket Clerk, Office of General Counsel, Room 10245, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. All relevant material received on or before April 4, 1975, will be considered by the Secretary before adoption of a final rule. Copies of comments submitted will be available during business hours, both before and after the specified closing date, at the above address, for examination by interested persons.

It should be noted that the Department has presently in effect a uniform schedule of fees for document search and duplication (24 CFR 15.14). It is intended that this fee schedule remain in effect unchanged.

Part 15 is amended as follows:

1. In § 15.1 the first sentences of paragraphs (a) and (d) are revised to read as follows:

§ 15.1 Definitions.

As used in this Part—

(a) "Act" means section 552 of Title 5, United States Code, as amended by Public Law 90–23, 81 Stat. 54, June 5, 1967, and Public Law 93–502, 88 Stat. 1561, November 21, 1974. * * *

* * * * *

(d) "Organizational unit" means any one of the several offices, staffs, divisions, or administrations of the Department including the Government National Mortgage Association (GNMA), the Federal Insurance Administration (FIA), the Office of Interstate Land Sales Registration, the Community Development Corporation, and the Federal Disaster Assistance Administration. * * *

* * * * *

§ 15.3 [Amended]

2. The second sentence of § 15.3 is deleted.

3. Section 15.12(c) is revised to read as follows:

§ 15.12 Materials not published in Federal Register.

* * * * *

(c) The Department shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this section to be made available or published. The Department shall promptly publish, quarterly and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the FEDERAL REGISTER that the publication would be unnecessary and impracticable, in which case the Department shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication.

4. Section 15.13 is amended by revising the heading and by revising paragraph (b) as follows:

§ 15.13 Records produced upon request when reasonably described.

* * * * *

(b) When a request is made which reasonably describes a record of the Department which has been stored in the National Archives or other record centers of the General Services Administration, such record will be requested by the Department if it otherwise would be available under this part.

* * * * *

5. Section 15.14 is amended by adding an undesignated paragraph at the end to read as follows:

§ 15.14 Schedule of fees.

* * * * *

Records shall be furnished without charge or at a reduced charge where the Department determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

6. Section 15.21 is amended by revising paragraphs (a)(1) and (a)(7) and by adding a new paragraph (b) as follows:

§ 15.21 Exemptions authorized by 5 U.S.C. 552.

* * * * *

(a) * * *

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

* * * * *

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel.

* * * * *

(b) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this section.

7. In § 15.31 paragraph (b) is revised to read as follows:

§ 15.31 Information centers.

* * * * *

(b) The Department also maintains an information center—

(1) In each of its Regional Offices as follows:

Region I (Boston)—Room 800, John F. Kennedy Building, Boston, Mass. 02203.
Region II (New York)—26 Federal Plaza, Room 3541, New York, N.Y. 10007.
Region III (Philadelphia)—Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106.
Region IV (Atlanta)—Room 211, Pershing Point Plaza, 1371 Peachtree Street NE., Atlanta, Georgia 30309.
Region V (Chicago—300 South Wacker Drive, Chicago, Illinois 60606.
Region VI (Dallas)—Room 1402, Earle Cabell Federal Building, U.S. Courthouse, 1100 Commerce Street, Dallas, Texas 75202.
Region VII (Kansas City)—Federal Office Building, Room 300, 911 Walnut Street, Kansas City, Missouri 64106.
Region VIII (Denver)—Federal Building, 1961 Stout Street, Denver, Colorado 80202.
Region IX (San Francisco)—450 Golden Gate Avenue Post Office Box 36003, San Francisco, California 94102.
Region X (Seattle)—Arcade Plaza Building, 1321 Second Avenue, Seattle, Wash. 98101.

(2) With respect to the mortgage loan activities of GNMA, in each FNMA Regional Office as follows:

5 Penn Center Plaza, Philadelphia, PA 19103.
100 Peachtree Street NW., Atlanta, GA 30303. 30303.
150 South Wacker Drive, Chicago, IL 60606.
2001 Bryan Tower, Suite 1200, Dallas, TX 75201.
3435 Wilshire Boulevard, Los Angeles, CA 90010.

* * * * *

8. Section 15.41 is revised to read as follows:

§ 15.41 Requests for records.

(a) Requests for copies of records may be made in person during normal business hours at information centers listed in § 15.31 or by mail addressed to such centers. Although oral requests may be honored, a requester may be asked to submit his request in writing.

(b) Each request must reasonably describe the desired record including the name, subject matter, and number or date, where possible, so that the record may be identified and located. In order to enable the Department to comply with the time limitations set forth in § 15.42, the envelope containing a written request and the letter itself should both clearly indicate that the subject is a Freedom of Information Act request.

(c) The request shall be accompanied by the fee or an offer to pay the fee as determined pursuant to § 15.14. At its discretion, the Department may refuse to furnish records prior to receipt of the required fee.

(d) Copies of available records shall be made as promptly as possible. Copying service shall be limited to not more than 10 copies of any single page. Records which are published or available for sale need not be reproduced.

9. A new § 15.42 is added to Subpart E as follows:

§ 15.42 Time limitations.

(a) Upon receipt of a request for records, the head of the appropriate organizational unit shall determine within ten days (excepting Saturdays, Sundays, and legal public holidays) whether to comply with such request and shall immediately notify in writing the requester of such determination and the reasons therefor and of the right of such person to request a review by the Secretary of any adverse determination.

(b) When a request for records is misdirected by the requester, the Department official receiving same shall promptly refer it to the head of the appropriate organizational unit and advise the requester that time of receipt for processing purposes will be the time when it is received by the appropriate official.

(c) A determination with respect to a request for review by the Secretary pursuant to § 15.61 shall be made within twenty days after receipt (excepting Saturdays, Sundays, and legal public holidays) and shall be immediately communicated to the person requesting review.

(d) Upon any determination to comply with a request for records, the rec-

ords shall be made promptly available to the requester.

(e) In unusual circumstances as specified in this paragraph, and subject to the concurrence of the General Counsel, the time limits prescribed in either paragraph (a) or (c) may be extended by written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this paragraph, "unusual circumstances" means (but only to the extent necessary to the proper processing of the particular request) that there is a need:

(1) to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more organizational units of the Department having a substantial interest in the subject matter of the request.

10. The second sentence in § 15.52 is revised to read as follows:

§ 15.52 Authority to deny requests for records.

* * * Any denial shall be made in writing, contain a simple statement of reasons for the denial, state that a review of the denial may be requested, set forth the steps for obtaining that review in accordance with § 15.61, and shall be signed by the official responsible for such denial. * * *

11. In § 15.61 paragraph (b) is revised to read as follows:

§ 15.61 Administrative review.

* * * * *

(b) The decision after review will be in writing, will constitute final action of the Department on the request, and, if the denial of the request for records is in whole or in part upheld, the decision shall notify the person making the request of his right to seek judicial review under 5 U.S.C. 552(a)(4).

(5 U.S.C. 552 and sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d); and Public Law 93-502, 88 Stat. 1561)

Effective date. These amendments shall be effective February 19, 1975.

JAMES L. MITCHELL,
Acting Secretary of Housing and Urban Development.

[FR Doc.75-4594 Filed 2-18-75;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 596-75]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Freedom of Information Act Requests Procedure and Policy

NOTE: This document is reprinted from the FEDERAL REGISTER of Wednesday, February 12, 1975 (40 FR 6494).

These amendments revise Department of Justice regulations in the light of past experience under the Freedom of Information Act and conform the regulations to the requirements of the Act as amended by Pub. L. 93-502, 88 Stat. 1561. On 13 January 1975, the Department published in the FEDERAL REGISTER (40 FR 2443) proposed fee regulations and that subject is therefore not covered by these amendments.

Present system. The present system of processing Freedom of Information requests furnishes the framework on which the amendments build. Under existing regulations requests for records are sent to the Deputy Attorney General (except that requests for records of the Immigration and Naturalization Service, the Bureau of Prisons, and the Board of Immigration Appeals are sent directly to those divisions). The Deputy Attorney General then sends the requests to the division which has primary concern with the records requested. (The term "division" includes all divisions, bureaus, offices, services, administrations, and boards of the Department, the Pardon Attorney, and Federal Prisons Industries except as otherwise provided.) That division then responds by either granting the request, denying it, or granting and denying it in part. There is a ten-day period for this initial response, with provision for extension of time. The Deputy Attorney General is specifically charged with insuring timely response and may be petitioned when a request is not answered within the applicable time limit.

Denials of initial requests may be appealed to the Attorney General within thirty days of receipt by the requester. The Attorney General then has twenty days to act on the appeal unless the time is extended. The Deputy Attorney General maintains files on all requests for information (except for requests directed to the Immigration and Naturalization Service, the Bureau of Prisons, and the Board of Immigration Appeals), and on all appeals. There is a provision for classification review of national security information more than ten years old.

Amended regulations. Discussed below are the major changes made by these amendments. There are additional minor changes, not discussed, which are either necessary under the amended Act, or are desirable in light of the experience of the Department with the present regulations.

The amended regulations establish in the Office of the Deputy Attorney General a new unit, designated the Freedom of Information Appeals Unit, which will assist the Attorney General in processing administrative appeals of initial denials of requests under the Freedom of Information Act. This assistance was formerly provided by the Office of Legal Counsel. The organizational location of this new unit is consistent with the overall responsibility of the Deputy Attorney General to supervise the processing of Freedom of Information requests. The Office of Legal Counsel will continue to process appeals in cases where the Deputy Attorney General has participated in the initial denial, and will continue its function of providing requested guidance to all divisions of the Department on difficult issues of law associated with Freedom of Information requests.

The amended regulations, while maintaining the same general system as presently exists, establish more specific requirements for the making and processing of requests. Most of these requirements are intended to insure compliance with the new time limits imposed by the amendments to the Act. Thus, the amended regulations require that requests under the Act be clearly marked, so as to enable prompt processing by the Department. The burden of forwarding misdirected requests to the appropriate office ordinarily the Office of the Deputy Attorney General) is placed on Department personnel; but time limits do not commence to run on such requests until they have been so delivered or, with the exercise of due diligence, should have been.

The amended regulations make clear that authority to deny a request lies only in the division head unless otherwise specified by regulation. Allowing delegation of this authority by regulation permits divisions with widely scattered components to decentralize the initial decision authority in order to meet the time limits of the Act.

Authority to extend (in increments of five working days) is limited to division heads. It was felt that limiting this authority still further—to the Attorney General and the Deputy Attorney General—would entail more delay than the time limits of the Act permit, while placing the authority in officials lower than division heads would not be consistent with the strict control that is necessary. This procedure may result in the use of the entire ten-day extension time at the division level, but in view of the shorter standard period available at that level this appears to be the most appropriate policy. Where the extension authority is abused, the Deputy Attorney General may remove it.

The Office of the Deputy Attorney General is required to keep records of all time extensions taken. This serves the dual purpose of insuring that time requirements are met and of monitoring extensions so that the ten-day extension limit in the Act is not exceeded.

The amended regulations provide that when the time for initial reply, including any extensions, has expired and no determination has been made, the requester must be informed that he may deem this a denial and appeal to the Attorney General. This provision assures the preservation of the twenty-day period alloted to the Attorney General for appeals. In cases of unavoidable delay such as that occasioned by requests for voluminous records, a requester may be asked to defer appeal so long as the division is making diligent efforts to process the request. When a requester who accepts such a disposition believes that a division is not making diligent efforts, immediate appeal to the Attorney General provides the opportunity for relief. For this reason, provisions in the present regulations allowing petition to the Deputy Attorney General to complain of delay are eliminated as unnecessary.

The section on responses by the divisions is amended to require the letter denying a request to include the name and title or position of the person responsible for the denial. This person would be the division head or other person authorized by regulation to issue final denials. It is possible, however, that a person from another agency or division may share that status—under the regulations and the Act—if the denial is made at the instance of that person, out of regard for the primary interest or expertise of his agency or division, and with notice to him that his judgment will be relied on.

Two new paragraphs are added to the section dealing with appeals to the Attorney General, covering extensions of time and the handling of appeals where the time limits have been exhausted. In the latter case the requester will be informed of his right to treat the failure to complete administrative review as an exhaustion of administrative remedies, enabling immediate suit for judicial review. He will also be advised, however, of the reason for the delay and of the date by which a response may be expected. When the delay is unavoidable, it is anticipated the requester will avoid unnecessary litigation expenses by foregoing judicial review until the Department completes processing of the request, since a court may and presumably would grant an extension in such circumstances. No appeal to the Attorney General is provided with respect to denials by the Special Prosecutor, who is authorized, if he wishes, to establish an appeals procedure within his Office.

Extensive changes are made in Department procedures regarding the processing of requests for classified records. The present regulations provide for classification review of records only when they are over ten years old. The amended regulations require that in all cases of requests for records classified pursuant to Executive Order 11652 or its predecessors, the Department must review the information to determine if it continues to warrant classification. This requirement applies whenever classified matter is requested, even if other exemptions are also to be asserted. Because under Executive Order 11652 national security material can ordinarily be declassified only by the originating agency, documents classified by another agency are to be treated as records of that agency for purposes of FOIA decisionmaking authority; requests pertaining to such documents are to be referred to such agency for disposition (not only as to the classified information exemption but as to all other exemptions which might be asserted); the requester is to be informed that this referral has occurred and that he may expect a reply from that other agency.

The Appeals Unit will refer classified material included in an appeal to the Attorney General to the Departmental Review Committee, established under part 17 of chapter I. The Committee will complete its review in ten working days unless that time is extended by the Deputy Attorney General.

Because the amendments pertain to matters of procedure and policy, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. In addition, since many of these changes are necessary to achieve compliance with the amendments to the Freedom of Information Act (5 U.S.C. 552) which become effective on February 19, 1975, there is not sufficient time to receive and evaluate public comment. However, in accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments on these amendments to the Office of Legal Counsel, Department of Justice, Washington, D.C. 20530, no later than March 19, 1975. Comments should identify this order (596–75). Arrangements to inspect copies of written comments may be made by calling the Office of Robert Saloschin, Chairman, Freedom of Information Committee, Department of Justice at 202–739–2069. All comments received in this manner will be evaluated and acted upon in the same manner as if this document were a proposal.

In consideration of the above, Title 28, chapter I, parts 0 and 16 are amended as set forth below.

Effective date. These amendments become effective on February 19, 1975.

EDWARD H. LEVI,
Attorney General.

1. Section 0.18 is added to read as follows:

§ 0.18 Freedom of Information Appeals Unit.

The Freedom of Information Appeals Unit is established in the Office of the Deputy Attorney General, under the supervision of the Deputy Attorney General, to assist the Attorney General in acting on Freedom of Information appeals under § 16.7 of this chapter, except that in the case of appeals from initial decisions in which the Deputy Attorney participated this assistance shall be provided by the Office of Legal Counsel.

2. The last sentence of § 16.2 is revised to read as follows:

§ 16.2 Public reference facilities.

* * * * *

Each of these public reference facilities will maintain, make available for public inspection and copying, and publish quarterly (unless the applicable division determines by order published in the Federal Register that the publication would be unnecessary or impracticable), a current index of the materials available at that facility which are required to be indexed by 5 U.S.C. 552(a)(2).

3. Section 16.3 is amended by revoking paragraph (e) and by revising paragraphs (a), (b) and (d) as follows:

§ 16.3 Requests for identifiable records and copies.

(a) *How made and addressed.* A request for a record of the Department which is not customarily made available and which is not available in a public reference facility as described in § 16.2, shall be made in writing, with the envelope and the letter clearly marked "FREEDOM OF INFORMATION REQUEST" or "INFORMATION REQUEST." All such requests shall be addressed to the Deputy Attorney General, Department of Justice, Washington, D.C. 20530, except that requests for records of the following divisions shall be addressed as follows:

Bureau of Prisons (including Federal Prison Industries)—Director, Bureau of Prisons, 320 First Street NW., Washington, D.C. 20534.

Board of Immigration Appeals—Chairman, Board of Immigration Appeals, Department of Justice, Washington, D.C. 20530.

Law Enforcement Assistance Administration—Administrator, Law Enforcement Assistance Administration, 633 Indiana Ave. NW., Washington, D.C. 20531.

Immigration and Naturalization Service—As set forth in 8 CFR Part 103.

Any request for information not marked and addressed as specified in this paragraph will be so marked by Department personnel as soon as it is properly identified, and forwarded immediately to the appropriate office as specified above. A request improperly addressed will not be deemed to have been received for purposes of the time period set forth in 5 U.S.C. 552(a)(6)(A)(i) until forwarding to the appropriate office has been effected, or until such forwarding would have been effected with the exercise of due diligence by Department personnel. On receipt of an improperly addressed request forwarded as set forth above to the appropriate office, such office shall notify the requester of the date on which the time period commenced to run.

(b) *Request should reasonably describe the records sought.* A request for access to records should sufficiently

identify the records requested to enable Department personnel to locate them with a reasonable amount of effort. Where possible, specific information regarding dates, titles, file designations, and other information which may help identify the records should be supplied by the requester. If the request relates to a matter in pending litigation, the court and its location should be identified.

* * * * *

(d) *Categorical Requests*—(1) *Records must be reasonably described.* A request for all records falling within a reasonably specific category shall be regarded as conforming to the requirement that records be reasonably described if it enables the records requested to be identified by any process that is not unreasonably burdensome or disruptive of Department operations.

(2) *Assistance in reformulating nonconforming requests.* If it is determined that a request does not reasonably describe the records sought, as specified in paragraph (d)(1) of this section, the response denying the request on that ground shall specify the reasons why the request failed to meet the requirements of paragraph (d)(1) of this section and shall extend to the requester an opportunity to confer with Department personnel in order to attempt to reformulate the request in a manner which will meet the needs of the requester and the requirements of paragraph (d)(1) of this section.

(e) [Revoked]

4. Section 16.4 is revised to read as follows:

§ 16.4 Requests referred to division primarily concerned.

(a) *Referral to responsible division.* The Deputy Attorney General shall, promptly upon receipt of a request for Department records, forward the request to the division of the Department which has primary concern with the records requested. As used in this subpart, the term "division" includes all divisions, bureaus, offices, services, administrations, and boards of the Department, the Pardon Attorney and Federal Prison Industries, except as otherwise expressly provided. As used in this subpart, the term "responsible division" means, with respect to a particular request, the division to which the Deputy Attorney General forwards the request pursuant to this paragraph or, if the request is not one which is to be addressed to the Deputy Attorney General under § 16.3(a), the division to which the request is properly addressed thereunder.

(b) *Deputy Attorney General shall assure timely response.* The Deputy Attorney General shall periodically review the practices of the divisions in meeting the time requirements set out in § 16.5, including the granting of extensions of time, and shall take such action to promote timely responses as he deems appropriate. Such action may include, but is not limited to, removal from a division of a request or class of requests or removal of the authority of a division to grant extensions, as specified in § 16.5(f).

(c) *Records to be kept by Deputy Attorney General.* The Deputy Attorney General shall retain or be furnished with a file copy of each request which is required to be addressed to him pursuant to § 16.3(a). With respect to such requests he shall maintain records to show the date of receipt by the Department (and, in the case of improperly addressed requests, the date of receipt by the appropriate office after forwarding pursuant to § 16.3(a)), the responsible division to which it was forwarded under this section, and the date of such forwarding. The Board of Immigration Appeals, the Bureau of Prisons, the Immigration and Naturalization Service and the Law Enforcement Assistance Administration, respectively, shall retain or be furnished with file copies of requests required to be addressed to them pursuant to § 16.3(a), and shall maintain records to show the date of receipt by the Department (and, in the case of improperly addressed requests, the date of receipt by the appropriate office after forwarding pursuant to § 16.3(a)).

5. Section 16.5 is revised to read as follows:

§ 16.5 Prompt response by responsible division.

(a) *Response within ten days.* Within ten days (excluding Saturdays, Sundays and legal public holidays) of the receipt of a request by the Department (or, in the case of an improperly addressed request, of its receipt by the appropriate office after forwarding pursuant to § 16.3(a)) the responsible division shall determine whether to comply with or to deny such request and dispatch such determination to the requester unless an extension is made under paragraph (c) of this section.

(b) *Authority to deny request.* Unless otherwise specified by division regulation, only the head of a division may deny a request, and is the "person responsible for the denial" within the meaning of 5 U.S.C. 552(a). When a denial is made at the request of another agency or division, and out of regard for its primary interest or expertise, the person in that agency or division responsible for the request to deny may also be a "person responsible for the denial" if, before his final recommendation is accepted, he is advised that he will be so designated under § 16.6(b)(2).

(c) *Extension of time.* In unusual circumstances as specified in this paragraph, the head of a division may extend the time for initial determination on requests up to a total of ten days (excluding Saturdays, Sundays, and legal public holidays). Extensions shall be granted in increments of five days or less and shall be made by written notice to the requester which sets forth the reason for the extension and the date on which a determination is expected to be dispatched. As used in this paragraph "unusual circumstances" means, but only to the extent necessary to the proper processing of the request—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency or another division having substantial interest in the determination of the request, or the need for consultation among two or more components of the responsible division having substantial subject matter interest therein.

(d) *Treatment of delay as a denial.* If no determination has been dispatched at the end of the ten-day period, or the last extension thereof, the requester may deem his request denied, and exercise a right of appeal in accordance with § 16.7. When no determination can be dispatched within the applicable time limit, the responsible division shall nevertheless continue to process the request; on expiration of the time limit it shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to treat the delay as a denial and to appeal to the Attorney General in accordance with § 16.7; and it may ask the requester to forego appeal until a determination is made.

(e) *Copies of extension notices and delay advisories maintained by Deputy Attorney General.* Copies of all extension notices issued under paragraph (c) of this section and delay advisories issued under paragraph (d) of this section shall be supplied to and maintained by the Deputy Attorney General.

(f) *Removal by Deputy Attorney General.* The Deputy Attorney General may remove any request or class of requests from the division to which it is referable under this part. The Deputy Attorney General may remove from a division the authority to grant extensions of time under this section. In event of such action the Deputy Attorney General shall perform the functions of the head of that division with respect to the removed requests or authority.

6. Section 16.6 is amended by revising paragraphs (b) and (d) as follows:

§ 16.6 Responses by divisions: Form and content.

* * * * *

(b) *Form of denial.* A reply denying a written request for a record shall be in writing, signed by the head of the responsible division (or other person authorized by regulation to deny requests) and shall include:

(1) *Exemption category.* A reference to the specific exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record, a brief explanation of how the

exemption applies to the record withheld, and, where relevant, a brief statement of why a discretionary release is not appropriate; and

(2) *Person responsible.* The name and title or position of the person or persons responsible for the denial under § 16.5(b), provided, that no person not an employee of the responsible division shall be so designated unless he has been advised that he will be so designated before his final recommendation is accepted; and

(3) *Administrative appeal and judicial review.* A statement that the denial may be appealed under § 16.7(a) within thirty days by writing to the Attorney General (Attention: Freedom of Information Appeals Unit), Department of Justice, Washington, D.C. 20530, that the envelope and letter should be clearly marked: "FREEDOM OF INFORMATION APPEAL" or "INFORMATION APPEAL," and that judicial review will thereafter be available in the district in which the requester resides or has his principal place of business or the district in which the agency records are situated or the District of Columbia. Provided, however, that a denial by the Office of the Watergate Special Prosecution Force shall instead of the foregoing describe any internal appeals procedure which it may establish or, in absence of such procedure, advise the requester that judicial review is available in the districts set forth above.

* * * * *

(d) *Copy of response to Deputy Attorney General.* The Deputy Attorney General shall be provided and shall maintain a copy of each denial letter; each notification under paragraph (c) of this section; and each letter advising the requester of the determination to grant the request, except such grant letters issued by the Board of Immigration Appeals, the Bureau of Prisons, the Immigration and Naturalization Service, and the Law Enforcement Assistance Administration.

7. Section 16.7 is revised as follows:

§ 16.7 Appeals to the Attorney General from initial denials.

(a) *Appeals to the Attorney General.* When a request for records has been denied in whole or in part by a head of a division or other person authorized to deny requests, the requester may, within thirty days of its receipt, appeal the denial to the Attorney General; except that no appeal to the Attorney General shall lie from a denial of a request for records of the Office of the Watergate Special Prosecution Force, which is hereby authorized to establish an internal appeals procedure. Appeal to the Attorney General shall be in writing, addressed to the Attorney General (Attention: Freedom of Information Appeals Unit), Department of Justice, Washington, D.C. 20530, and both the envelope and the letter shall be clearly marked: "FREEDOM OF INFORMATION APPEAL" or "INFORMATION APPEAL." An appeal not so addressed and marked will be so marked by Department personnel as soon as it is properly identified, and forwarded immediately to the Freedom of Information Appeals Unit. An appeal improperly addressed will not be deemed to have been received for purposes of the time period set forth in 5 U.S.C. 552(a)(6)(A)(ii) and for purposes of paragraph (b) of this section until the Appeals Unit receives the request or would have done so with the exercise of due diligence by Department personnel.

(b) *Action within twenty working days.* The Attorney General will act upon the appeal within twenty days (excluding Saturdays, Sundays and legal public holidays) of its receipt, unless an extension is made under paragraph (c) of this section.

(c) *Extension of time.* In unusual circumstances as specified in this paragraph, the time for action on an appeal may be extended up to ten days (excluding Saturdays, Sundays, and legal public holidays) minus any extension granted at the initial request level pursuant to § 16.5(c). Such extension shall be made by written notice to the requester which sets forth the reason for the extension and the date on which a determination is expected to be dispatched. As used in this paragraph "unusual circumstances" means, but only to the extent necessary to the proper processing of the appeal—

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency or another division having substantial interest in the determination o fthe request or the need for consultatio namong two or more components of the responsible division having substantial subject matter interest therein.

(d) *Treatment of delay as a denial.* If no determination on the appeal has been dispatched at the end of the twenty-day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be dispatched within the applicable time limit, the appeal will nevertheless continue to be processed; on expiration of the time limit the requester shall be informed of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to seek judicial review in the United States district court in the district in which he resides or has his principal place of business, the district in which the Department records are situated or the District of Columbia. The requester may be asked to forego judicial review until determination of the appeal.

(e) *Form of action on appeal.* The Attorney General's determination on appeal shall be in writing. An affirmance in whole or in part of a denial on appeal shall include (1) a reference to the specific exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record, a brief explanation of how the exemption applies to the record withheld, and, where relevant, a brief statement of why a discretionary release is not appropriate; and (2) a statement that judicial review of the denial is available in the district in which the requester resides or has his principal place of business, the district in which the agency records are situated or the District of Columbia.

(f) *Copies to Deputy Attorney General.* Copies of all appeals, all actions on appeal, all extension notices issued under paragraph (c) of this section, and all delay advisories issued under paragraph (d) of this section shall be supplied to and maintained by the Deputy Attorney General.

8. Section 16.8(c) is revised to read as follows:

§ 16.8 Maintenance of files.

* * * * *

(c) *Protection of privacy.* Where the release of the identity of a requester, or other identifying details related to a request, would constitute a clearly unwarranted invasion of personal privacy, the Deputy Attorney General shall delete identifying details from the copies of documents maintained in the public file established under paragraph (b) of this section.

9. Section 16.10(b) is revised to read as follows:

§ 16.10 Exemptions.

* * * * *

(b)(1) In processing requests for information classified pursuant to Executive Order 11652, the responsible division shall review the information to determine whether it continues to warrant classification under the criteria of sections 1 and 5 (B), (C), (D), and (E) of the Executive Order. Information which no longer warrants classification under these criteria shall be declassified and shall not be withheld on the basis of 5 U.S.C. 552(b)(1). No record remaining classified after such review shall be withheld by a division on the basis of any exemption other than 5 U.S.C. 552(b)(1) unless in addition to such other exemption it is also asserted that the record is exempt under 5 U.S.C. 552(b)(1).

(2) The Freedom of Information Appeals Unit shall, upon receipt of any appeal from an initial denial based in whole or in part upon 5 U.S.C. 552(b)(1), refer to the Departmental Review Committee, established in Part 17 of this chapter, any portion of the request as to which that exemption was asserted at the initial level. Within ten days (excluding Saturdays, Sundays and legal public holidays) of receipt of such referral (unless such period is extended by the Deputy Attorney General), the Committee shall advise

the Appeals Unit whether all or any portion of the material referred warrants continued classification under the criteria of Executive Order 11652.

(3) When a request for Department records encompasses information classified by another agency, or by a division of the Department other than the responsible division, the responsible division shall refer that portion of the request to the originating agency or division for determination as to all issues in accordance with the Freedom of Information Act. In the case of a referral to another agency under this paragraph, the requester shall be notified that such portion of his request has been so referred and that he may expect a determination from that agency. In the case of a referral to another division under this paragraph, the requester need not be notified, the original date of receipt of the request as established under this section shall continue to govern for purposes of all time limits, and the originating division shall advise the division receiving the request of its determination.

(5 U.S.C. 301; 5 U.S.C. 552 as amended by Public Law 93-502, 88 Stat. 1561)

[FR Doc.75-4043 Filed 2-10-75;12:38 pm]

[Order No. 599-75]

PART 16—PRODUCTION OR DISCLOSURE OF INFORMATION

Fees for the Production or Disclosure of Information

On January 13, 1975 there was published in the FEDERAL REGISTER (40 FR 2443) a notice of proposed rulemaking with proposed amendments to § 16.9 of title 28 of the Code of Federal Regulations. The proposed amendments revised Justice Department fee schedules to bring them into conformity with the 1974 amendments to the Freedom of Information Act, Public Law 93-502, 88 Stat. 1561. Three comments were received. One suggested a further change to § 16.9(a) which would incorporate the language of the 1974 amendments to the Freedom of Information Act regarding reduction or elimination of fees in the public interest. To accommodate this suggestion the phrase "because furnishing the information primarily benefits the general public" is added to the proposed language for the last sentence of § 19.9(a) directing waiver of fees when it is in the public interest.

Another comment questioned the propriety of that part of § 16.9(c) which states that where costs in excess of $25 are anticipated, and the requester has not indicated his willingness to bear such costs, the request will not be deemed received until the requester is notified of the anticipated costs and agrees to bear them. (Such notification must be given promptly and in any event within five working days.) That portion of the regulation was written to protect a requester from unexpectedly burdensome fees without placing the agency in violation of the strict time limits for initial response which the 1974 amendments provide. The actual delay involved is slight, because anticipated costs must be promptly determined. Moreover, a requester may avoid application of the provision entirely by stating in his request that he is willing to bear all costs involved, or all costs up to a specified limit which in fact is adequate to cover the anticipated fee. For these reasons, no change is made on the basis of this comment.

In response to the third comment, the provision of the present regulations requiring checks to be made payable to the Treasury of the United States, which is now correct, is left unchanged.

With the revisions discussed above, § 16.9 is hereby amended as set forth below.

Effective date. These amendments are effective February 19, 1975.

Dated: February 13, 1975.

EDWARD H. LEVI,
Attorney General.

Section 16.9 of 28 CFR Part 16 is amended as set forth below.

§ 16.9 [Amended]

1. By revising the first sentence in paragraph (a) to read as follows:

(a) *When charged.* Fees pursuant to 31 U.S.C. 483a and 5 U.S.C. 552 shall be charged according to the schedules contained in paragraph (b) of this section for services rendered in responding to requests for Justice Department records under this subpart unless the official of the Department making the initial or appeal decision determines that such charges, or a portion thereof, are not in the public interest because furnishing the information primarily benefits the general public.

2. By substituting "$1.00" for "$1.25" in paragraph (b)(2).

3. By revoking and reserving paragraph (b)(3).

4. By substituting "$2.00" for "$3.75" in paragraph (b)(6).

5. By deleting the word "ordinarily" in the second sentence of paragraph (b)(7).

6. By deleting the third and fourth sentences of paragraph (b)(7).

7. By amending and revising paragraph (b)(8) to read as follows:

(8) *Computerized Records.*

(i) *Computer time charges (includes personnel cost).*

1. Central processor charge per hour	$188.00
2. Main storage charge per 1,000 bytes per hour	.50
3. Channel charges per hour	.74
4. Card reading per 1,000 cards	.20
5. Printing per 1,000 lines	.43
6. Card punching per 1,000 cards	10.76
7. Tape mount	.50
8. Specific device charges:	
a. IBM 2260 Cathode ray tube or equivalent per hour	4.20
b. IBM 3330 Disk storage or equivalent per hour	39.72
c. IBM 2314 Disk storage or equivalent per hour	39.72
d. IBM 3420 Tape Drive or equivalent per hour	44.59

(ii) *Material charges.*

1. One-part paper per 1,000	$11.00
2. Two-part paper per 1,000	17.63
3. Three-part paper per 1,000	28.95
4. Four-part paper per 1,000	37.52
5. Five-part paper per 1,000	50.83
6. Stock Hollerith cards per 1,000	1.78
7. Magnetic tape per reel	9.50
8. Disk pack, each	775.00

8. By inserting after paragraph (b)(8), two new paragraphs (b)(9) and (b)(10) as follows:

(9) *Tape recordings and other audio records.*

(i) *Personnel charges.* Personnel charges in connection with the duplication of audio records shall be charged in accordance with paragraph (b)(2) or (b)(6) of this section, whichever is appropriate.

(ii) *Material charges.*

1. 45 minute cassette	$0.56
2. 60 minute cassette	.60
3. 90 minute cassette	.77

(10) *Other charges.* When a response to a request requires services or materials other than the common ones described in paragraphs (b)(1) through (b)(9) of this section, the direct cost of such services or materials to the government may be charged, but only if the requester has been notified of such cost before it is incurred.

9. By amending and revising paragraph (c) to read as follows:

(c) *Notice of anticipated fees in excess of $25.* Where it is anticipated that the fees chargeable under this section will amount to more than $25, and the requester has not indicated in advance his willingness to pay fees as high as are anticipated, the requester shall be notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In such cases, a request will not be deemed to have been received until the requester is notified of the anticipated cost and agrees to bear it.

Such a notification shall be transmitted as soon as possible, but in any event within five working days, giving the best estimate then available. The notification shall offer the requester the opportunity to confer with Department personnel with the object of reformulating the request so as to meet his needs at lower cost.

10. By inserting after paragraph (d) a new paragraph (e) as follows:

(e) *Advance deposit.*

(i) Where the anticipated fee chargeable under this section exceeds $25, an advance deposit of 25% of the anticipated fee or $25, whichever is greater, may be required.

(ii) Where a requester has previously failed to pay a fee under this section, an advance deposit of the full amount of the anticipated fee may be required.

11. By adding a new paragraph (f) as follows:

(f) *Other services.* Nothing in this section shall be construed to entitle any person, as of right, to any services or materials to which such person is not entitled under 5 U.S.C. 552.

(5 U.S.C. 301, 552, as amended by Pub. L. 93-502, 88 Stat. 1561)

[FR Doc.75-4463 Filed 2-18-75;8:45 am]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 70—EXAMINATION AND COPYING OF DEPARTMENT OF LABOR RECORDS

The Freedom of Information Act was amended by Pub. L. 93-502, 88 Stat. 1561, effective February 19, 1975, to clarify and liberalize the requirements for, and to expedite, the disclosure of information.

On January 15, 1975, a proposed revision of Subpart B of 29 CFR Part 70 was published at 40 FR 2705 with a request for comments on or before February 5, 1975.

One comment has been received objecting to the charge of $2.50 for each quarter hour for a search requiring the services of professional or supervisory personnel as provided in § 70.62(a)(ii) on the ground that this charge will prevent legitimate researchers from obtaining access to Department of Labor records. The fee is based upon the average hourly rate of those professional and supervisory personnel who would be conducting the search. In addition, § 70.67 of these regulations provides for the waiver or reduction of fees by disclosure officers under proper circumstances.

The amended Freedom of Information Act also necessitates a revision of Subparts A and C of 29 CFR Part 70 to bring them into conformity with the amendments made by Pub. L. 93-502. As the changes in the rules in these subparts as set forth below consist only of textual adjustments to conform to the amended language of the statute, and of interpretative rules, general statements of policy, and rules of procedure and practice to implement the amended Act, it is unnecessary that the revised Subparts A and C of Part 70 be published for notice and comment.

The more important changes made by the revision of the rules in this part, other than those made in the adoption of the revised Subpart B relating to charges for searching and copying services, give effect to the new requirements of the statute concerning publication of indexes of specified materials, to new time limitations for responding to requests for access to records and to appeals from denials of access (including procedures for expediting, noting, and acknowledging receipt of requests and appeals), to new provisions requiring identification of the persons responsible for denials of requests, and to the amendments made to the Act's exemptions protecting materials classified pursuant to executive order and investigatory records compiled for law enforcement purposes.

The general effect of these regulations is to implement the liberalized provisions of the amendments. The benefit of the reduced fees should be given immediately to the public, in accordance with the provisions of the law. Other provisions of benefit to the public are effective under the statute on February 19, 1975, and should be implemented immediately. I find the above reasons constitute good cause for making these regulations effective immediately. I further find that it is contrary to the public interest to delay these benefits for 30 days. These amendments shall be effective February 19, 1975.

Accordingly, 29 CFR Part 70 is amended as follows:

1. The part heading is amended to read as set forth above.

2. The section table and text of Part 70 are revised to read as follows:

Subpart A—General

INTRODUCTORY

Sec.
70.1 Purpose and scope of this part.
70.2 Definitions.

AVAILABILITY OF PUBLISHED INFORMATION

70.5 Information published in the FEDERAL REGISTER.
70.6 Information in Department of Labor publications.
70.7 Published indexes.

INFORMATION AVAILABLE ON REQUEST

70.11 Policy of disclosure.
70.12 Records of administrative proceedings.
70.13 Evaluation reports on external programs.
70.14 Policy statements and interpretations.
70.15 Staff manuals and instructions.
70.16 Indexes to certain records.

RESTRICTIONS ON DISCLOSURE

70.21 Records not disclosable.
70.22 Records disclosure of which may be refused.
70.23 Internal rules and practices.
70.24 Trade secrets and privileged or confidential information.
70.25 Inter-agency and intra-agency memoranda and letters.
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70.28 Well information.
70.29 Partial disclosure.
70.30 Withdrawal of originals.
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FACILITIES FOR DISCLOSURE

70.35 Where information may be obtained.
70.36 Titles and addresses of the responsible officials of various agencies.

PROCEDURE FOR DISCLOSURE

70.41 Applicability of procedures.
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70.43 To whom to direct requests.
70.44 Description of information requested.
70.45 Deficient descriptions.
70.46 Requests for categories of records.
70.47 Receipt by agency of request; acknowledgment.
70.48 Action on request.
70.49 Form of denials.
70.50 Appeals from denial of requests.
70.51 Receipt by Solicitor of appeal; acknowledgment.
70.52 Action on appeals.

TIME LIMITATIONS FOR ACTION ON REQUESTS AND APPEALS

70.53 Period within which action on request shall be taken.
70.54 Period within which action on appeal shall be taken.
70.55 Extension of period for taking action on request or appeal.

Subpart B—Copies of Records and Fees for Services

SPECIAL SEARCHING AND COPYING SERVICES

70.61 Charges for services, generally.
70.62 Search and copying charges.
70.63 Computerized records.
70.64 Payment of fees.
70.65 Standard fees not charged in certain circumstances.
70.66 Services performed without charge.
70.67 Waiver or reduction of fees by disclosure officer.

AUTHENTICATION; SPECIAL STUDIES AND COMPILATIONS

70.68 Authentication of copies.
70.69 Special studies and compilations.

Subpart C—Special Rules Applicable to Certain Specific Records

70.71 Authority of agency officials in Department of Labor.
70.72 Supplementary regulations currently in force.
70.73 Bureau of Labor Statistics.
70.74 Employment Standards Administration.
70.75 Employees' Compensation Appeals Board.
70.76 Labor-Management Services Administration.
70.77 Manpower Administration.
70.78 Occupational Safety and Health Administration.
70.79 Bureau of International Labor Affairs.

AUTHORITY: (5 U.S.C. 301, 552, as amended by Pub. L. 93-502), 88 Stat. 1561; (29 U.S.C. 9(b)); Reorganization Plan No. 6 of 1950, 64 Stat. 1263 (5 U.S.C. Appendix).

Subpart A—General

INTRODUCTORY

§ 70.1 Purpose and scope of this part.

This part contains the general rules of the Department of Labor providing for public access to information from records of the Department. These regulations implement 5 U.S.C. 552, the Freedom of Information Act, as amended.

and the policy of the Department of Labor to disseminate information on matters of interest to the public and to disclose to members of the public on request all information contained in records in its custody insofar as is compatible with the discharge of its responsibilities and consistent with law. This part sets forth generally the categories of records accessible to the public, the types of records subject to prohibitions or restrictions on disclosure, and the places at which and procedure whereby members of the public may obtain access to and inspect and copy information from records in the custody of the Department of Labor. Rules providing for the copying of records made available for inspection and for special services furnished in locating and copying records and fees therefor are set forth in Subpart B. Rules applying the general provisions of this part to requests for disclosure of particular types of records concerned with certain specific programs of the Department are set forth in Subpart C or in the titles and parts of the Code of Federal Regulations referred to in that subpart.

§ 70.2 Definitions.

As used in this part—

(a) The terms "agency," "person," "party," "rule," "rulemaking," "order," and "adjudication" have the meaning attributed to these terms by the definitions in 5 U.S.C. 551, except where the context demonstrates that a different meaning is intended, and except that for purposes of the Freedom of Information Act the term "agency" as defined in 5 U.S.C. 551 includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President) or any independent regulatory agency.

(b) Having "custody" of a Government record means having such charge of it as to be responsible for keeping it available for governmental use as required and protecting, preserving, and exercising such control over it as may be necessary for that purpose. Custody of a record is not synonymous with, and does not require, actual physical possession of the record and a record may be in the custody of an office or officer at a place other than that where the record is located.

(c) The terms "disclosure officer," "responsible officials," and "officer authorized to disclose information from Department records" refer generally to those officials in the Department of Labor to whom requests to inspect or copy record information in their custody may be addressed as provided in § 70.43 and who must pass on such requests as provided in §§ 70.46–70.49. The Solicitor of Labor, in the case of appeals as provided in §§ 70.50–70.52, and with respect to withdrawal of originals as provided in § 70.30, is the disclosure officer for such purposes, as is the Secretary of Labor when he takes action under § 70.30. As the head of the Department, the Secretary may invest any officer or employee of the Department with the authority to disclose information from particular records.

AVAILABILITY OF PUBLISHED INFORMATION

§ 70.5 Information published in the *Federal Register*.

(a) *General.* In accordance with the provisions of 5 U.S.C. 552(a)(1), basic information concerning the organization, operations, functions, substantive and procedural rules and regulations, officials, office locations, and allocation of responsibilities for functions and programs of the Department of Labor is published in the FEDERAL REGISTER for the guidance of the public. Among other things, such published information describes the central and field organization of the Department and its component units, identifies the persons in charge of its various programs and offices to whom submittals or requests may be made and from whom decisions may be obtained and the places at which they are stationed, outlines generally the course and method by which the various functions of the Department are channeled and determined, and makes plain the nature and requirements of available formal and informal procedures for official action. Indexes to the FEDERAL REGISTER are published in each daily issue and compiled currently on a monthly, quarterly, and annual basis. Copies of the FEDERAL REGISTER and its indexes are available in many libraries, may be examined in reference facilities and offices of the Department of Labor in which reference copies are maintained, and may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. No formal request to examine documents published in the FEDERAL REGISTER is necessary to inspect them at the place where they are kept. Much of the information published in the FEDERAL REGISTER is available in compiled form as stated in paragraphs (b) and (c) of this section.

(b) *Government Organization Manual.* The Government Organization Manual, published annually as a special edition of the FEDERAL REGISTER provides a compact source of information concerning the general and field organization of the Department of Labor, location of Department offices, division of functions among various component units of the Department, and the names and addresses of major officers and those in charge of particular programs or offices. Copies of the Manual may be examined without formal request in any office of the Department of Labor and are available for purchase from the Superintendent of Documents.

(c) *Code of Federal Regulations.* Titles 20, 29, and 41 of the Code of Federal Regulations, which are revised annually, contain a compilation of documents published by the Department of Labor in the FEDERAL REGISTER which set forth substantive and procedural rules and regulations of the Department and statements of general policy or interpretations of general applicability formulated and adopted by the Department. The published rules include descriptions of forms available or the places at which forms and instructions for their use may be obtained, and provide guidance as to the scope and contents of any required papers, reports or examinations. Copies of the pertinent titles of the Code of Federal Regulations are available in many libraries and may be purchased from the Superintendent of Documents. Reference copies maintained in offices of the Department of Labor are available for examination without formal request.

§ 70.6 Information in Department of Labor publications.

Copies of informational material, such as press releases, pamphlets, and other material ordinarily made available to the public without cost as part of a public information program, including reprints of individual parts of the Code of Federal Regulations relating to programs affecting substantial segments of the general public, shall be available upon oral or written request so long as an adequate supply exists. Copies of informational publications of the Department which may be purchased from the Superintendent of Documents may be inspected in those offices of the Department in which reference copies are available. Compliance with the formal procedures provided in this part for obtaining access to Department records is not necessary for access to the foregoing materials.

§ 70.7 Published indexes.

The informational publications available from the Department may include indexes to materials published or contained in its records. Pursuant to the provisions of 5 U.S.C. 552(a)(2) as amended, they will in any event include the current indexes required by the Freedom of Information Act to be maintained and made available for inspecting and copying, except as otherwise provided by published order, as noted below. These indexes provide identifying information for the public as to any matter in the following categories issued, adopted, or promulgated after July 4, 1967: Final opinions and orders made in the adjudication of cases (including concurring and dissenting opinions if any); statements of policy and interpretations adopted but not published in the FEDERAL REGISTER; and administrative staff manuals and instructions to staff that affect a member of the public. As promptly as possible after adoption of this part, such indexes will be made available in published form and offered for sale or otherwise distributed to make them readily available to members of the public. Thereafter, updated indexes or supplements shall be published not less frequently than quarterly to keep the indexes current. In the event that publication of any such index is determined to be unnecessary and impracticable, the order of the agency head so determining shall be published in the FEDERAL REGISTER. Where current indexes of the required matter in the foregoing cate-

gories are published commercially and made readily available for public use by the agency no separate publication by the Department will be necessary.

INFORMATION AVAILABLE ON REQUEST

§ 70.11 Policy of disclosure.

(a) *Records made available pursuant to Freedom of Information Act.* Upon the request of any person submitted in accordance with provisions of this part for access to records reasonably described by the requester which are records of the Department of Labor or any of its constituent agencies in the custody of any official of the Department, such records shall be made available as provided in this part for inspection and copying unless specifically exempt from disclosure under the provisions of 5 U.S.C. 552, subsection (b) thereof, and §§ 70.21 through 70.28.

(b) *Records made available notwithstanding exemption from requirements of Freedom of Information Act.* Except in the case of records of which disclosure is prohibited, as described in § 70.21, each officer of the Department authorized to disclose information from Department records under the provisions of this part shall make available for inspection and copying pursuant to the applicable procedures any document from the records in his custody if he determines that, notwithstanding the applicability or possible applicability of an exemption from disclosure, the requested inspection or copying furthers the public interest and does not impede the discharge of any of the functions of the Labor Department. (See § 70.22(b).)

(c) *Implementation of disclosure policy.* To provide for a maximum of availability of Department records under the foregoing policy, the provisions of § 70.29 of this part will be applied where appropriate. Rules to effectuate the application of this policy of disclosure to specific types of information from Department records are set forth in §§ 70.12 through 70.15.

§ 70.12 Records of administrative proceedings.

(a) *Rulemaking proceedings.* All papers and documents made a part of the official record in administrative proceedings conducted by the Department of Labor in connection with the issuance, amendment, or revocation of rules and regulations or determinations having general applicability or legal effect with respect to members of the public or a class thereof shall be made available for public inspection and copying at reasonable times during business hours by the officer responsible for their custody at the place where such records are kept. Arrangements for such inspection may be made in response to oral requests, but a register shall be kept identifying the persons who inspect the records and the times at which they do so. Official records of other rulemaking proceedings shall be made available in accordance with the policies set forth in § 70.11 and the special regulations contained or cited in Subpart C.

(b) *Adjudication proceedings.* All final opinions, including concurring and dissenting opinions, as well sa orders, made in the administrative adjudication of cases, shall be made available for inspection and copying upon request pursuant to the provisions in this part. Except where an exemption provided by 5 U.S.C. 552 must be asserted in the public interest to prevent a clearly unwarranted invasion of personal privacy or violation of law or to ensure the proper discharge of functions of the Department of Labor, all papers and documents made a part of the official record in adjudication proceedings conducted by the Department shall be made available for public inspection and copying on request as provided in this part or in specific regulations pertinent to such adjudications as referred to in Subpart C.

§ 70.13 Evaluation reports on external programs.

Except in the case of records of which disclosure is prohibited, as described in § 70.21, each officer of the Department authorized to disclose information from Department records under the provisions of this part shall make available for inspection and copying promptly after receipt thereof, any document or part thereof containing a final evaluation by an independent contractor of any external program or activity carried out by the Department of Labor, upon written request submitted as provided in this part.

§ 70.14 Policy statements and interpretations.

Statements of policy and interpretations affecting a member of the public which have been adopted by the Department of Labor or a constituent agency thereof in connection with the administration of any program of the Department and which have not been published in the FEDERAL REGISTER shall be made available for public inspection and copying in accordance with the policy set forth in § 70.11 and the provisions and procedures in this part. The policies and interpretations made available pursuant to this section shall include any policy or interpretation concerning a particular fact situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation. If the statement of policy or interpretation sought is contained in an available publication of the Department of Labor or has been placed in the public domain by release to private publishers of Government information services, it will be made available for examination in the form in which it was published or released without any formal request, at any office of the Department in which a copy or copies are kept.

§ 70.15 Staff manuals and instructions.

Any administrative staff manual or instruction to staff issued by the Department of Labor or a constituent agency thereof in connection with the administration of any program of the Department, containing matter (such as statutory interpretations) affecting a member of the public shall be made available for public inspection and copying in accordance with the policy set forth in § 70.11 and the provisions and procedures in this part. These are the manuals and instructions to staff or portions thereof which delineate the basis for administrative action affecting members of the public, and are to be distinguished from manuals, portions thereof, or instructions provided for the guidance of Government personnel engaged in such law enforcement activities as investigating, inspecting, or auditing to determine whether violations of law exist, or prosecuting law violations in courts or administrative tribunals. The criteria or guidelines for staff engaged in such procedures, with respect to such matters as the selection, handling, defense, prosecution, or settlement of cases, operational tactics, allowable tolerances, investigation or litigation techniques and strategy, are traditionally and necessarily of a confidential nature, as is recognized in the legislative history of the Freedom of Information Act, and are subject to protection under the provisions of 5 U.S.C. 552(b), which restrict the disclosure requirements by the exemptions explained in the following sections of this part. Any special provisions for access to administrative staff manuals and instructions applicable to specific programs may be ascertained by reference to Subpart C.

§ 70.16 Indexes to certain records.

(a) Current indexes identifying final opinions and orders in adjudicated cases (see § 70.12(b)), statements of policy and interpretations adopted by the agency but not published in the FEDERAL REGISTER (see § 70.14), and administrative staff manuals and instructions (see § 70.15), which have been issued, adopted, or promulgated after July 4, 1967, are normally available to the public in published form as provided in § 70.7. Such indexes, whether or not published, are made available for inspection and copying on request. If published copies of a particular index are at any time not available or if publication of such index has been determined to be unnecessary and impracticable by order published in the FEDERAL REGISTER, copies thereof will be furnished on request upon payment of the direct cost of duplication as provided in § 70.62(d).

(b) To effectuate the provisions of 5 U.S.C. 552(a)(2), § 70.7 of this part and paragraph (a) of this section, each officer identified in § 70.35 and § 70.36 shall maintain, make available for public inspection and copying, and provide for the required publication of current indexes of all materials in his custody which are subject to the indexing and publication requirements of 5 U.S.C. 552(a)(2). Each such officer shall forward a copy of each page of his index, including information as to pages which have become obsolete, to the Office of Information, Publications, and Reports in the Main Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210, which shall provide a central repository for, and make available for public inspection, all such indexes and supplements thereto compiled by

such officers, and shall provide for distribution of the published indexes and supplements.

RESTRICTIONS ON DISCLOSURE

§ 70.21 Records not disclosable.

(a) Pursuant to the provisions of 18 U.S.C. 1905, every officer and employee of the Department of Labor is prohibited from publishing, divulging, disclosing, or making known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with the Department or any agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association. No officer or employee of the Department of Labor shall disclose records in violation of this provision of law.

(b) No records of the Department of Labor with respect to matters specifically required by statute to be kept secret shall be made available for inspection or copying under the provisions of this part. By virtue of the exclusionary language in 5 U.S.C. 552(b)(3) the disclosure requirements of the Freedom of Information Act do not apply to or authorize the disclosure of records with respect to any matters specifically exempted from disclosure by statute.

(c) No records of the Department of Labor with respect to matters specifically authorized under criteria established by Executive order to be kept secret in the interest of the national defense or foreign policy and properly classified pursuant to such order shall be made available for inspection or copying under the provisions of this part. Records concerning such matters are expressly excluded from the application of the disclosure requirements of the Freedom of Information Act by the provisions of 5 U.S.C. 552(b)(1).

§ 70.22 Records disclosure of which may be refused.

(a) *Records exempt from statutory disclosure requirements.* The Freedom of Information Act, as codified in 5 U.S.C. 552, lists nine categories of records (in 5 U.S.C. 552(b)) to which the disclosure requirements of the statute do not apply. The first and third of these relate to the records described in § 70.21 which are not disclosable because protected from disclosure by the express provisions of a statute or a secret classification authorized by Executive order in the interest of national defense or foreign policy. The other seven categories of records excluded from the statutory disclosure requirements are set forth in §§ 70.23 through 70.28, inclusive. Information from records in these seven categories may, however, be made available for inspection and copying as provided in paragraph (b) of this section.

(b) *Disclosure of protected records; conditions precedent.* Although the Department of Labor is not required by the Freedom of Information Act to make available for inspection or copying any materials or documents included in its records which are within the categories described in 5 U.S.C. 552(b) (2), (4), (5), (6), (7), (8), or (9) (see §§ 70.23–70.28), under the Department's disclosure policy set forth in § 70.11 particular records requested which come within these categories, or portions thereof, shall nevertheless be made available to the extent, but only to the extent, that the appropriate officer authorized to disclose information from Department records determines that the disclosure will further the public interest and will not impede the discharge of any of the functions of the Department of Labor. Such a determination shall be made with due regard not only to the public interest in accessibility to the people of information regarding operations of their Government but also to the public interest in protecting citizens from impairment of their rights to privacy or from harassment, injury, or the dissemination of information concerning them which is privileged or has been submitted by them to the Government on a confidential basis. In determining whether access to such records will be permitted, due consideration shall also be given to the public interest in preventing disclosure of information which would handicap, obstruct, or jeopardize effective performance of the Department's functions under statutes or Executive orders, including its duties with respect to law enforcement.

§ 70.23 Internal rules and practices.

(a) Pursuant to exemption (2) set forth in 5 U.S.C. 552(b), and as provided in § 70.22, the disclosure from Department of Labor records of matters that are related solely to the internal personnel rules and internal practices of the Department may be refused. The records protected by this exemption include memoranda pertaining to personnel matters such as staffing policies and policies and procedures for the hiring, training, promotion, demotion, and discharge of employees. Also included are records concerning operating rules, practices, guidelines, and procedures for departmental investigators, inspectors, compliance officers, examiners, and attorneys, the release of which would substantially impair the effective performance of their duties.

(b) The purposes of exemption (2) include the protection from public disclosure of any record that is designed only for the guidance of Department personnel, including internal rules and practices that cannot be disclosed to the public without substantial prejudice to the effective performance of a significant Department function. A negotiator cannot bargain effectively if his instructions and limitations are known to the person with whom he is negotiating. Similarly, the effectiveness of an authorized but unannounced inspection or audit would be destroyed if the circumstances under which that inspection or audit is to be held become public knowledge.

(c) Although access to particular records concerning matters within the purview of exemption (2) may be permitted as provided in § 70.22 if the officer authorized to disclose records determines that the disclosure would serve the public interest and not impede the discharge of any function of the Department, such a determination ordinarily cannot be made in the case of internal rules and instructions relating to investigations and enforcement activities concerned with questions of compliance with or violations of provisions of law.

§ 70.24 Trade secrets and privileged or confidential information.

(a) Pursuant to exemption (4) set forth in 5 U.S.C. 552(b), and as provided in § 70.22, the disclosure from Department of Labor records of matters that are trade secrets, and of commercial and financial information obtained from a person and privileged or confidential, may be refused. Legal requirements of secrecy and prohibitions of disclosure may apply to such records as set forth in § 70.21. Disclosure shall be refused where these mandatory restrictions apply to the records sought. Even where denial of access is not required by these restrictions, access to records exempted from the disclosure requirements by exemption (4) cannot be granted under the policy expressed in §§ 70.11 and 70.22 unless the disclosure officer, in balancing the right of the public to know how the Government operates against the need of the Government to keep information in confidence and the right of the person from whom it was obtained to have privileges and confidences respected, is able to determine that disclosure will serve the public interest and not impede the discharge of any function of the Department of Labor.

(b) The intent of the exemption set forth in paragraph (a) of this section to protect privileged or confidential information is, according to the committee reports in both Houses of Congress, not restricted to the trade secrets and commercial or financial information specifically mentioned in the statue. Information the disclosur of which may be refused pursuant to this exemption is, according to the legislative history, intended to include information customarily subject to a doctor-patient, lawyer-client, or other such privilege.

(c) Information "obtained from any person" would include information obtained from a person inside as well as outside the Government. The applicability of this exemption does not depend on whether the record contains information obtained from the public at large, from a particular person, from within the Department, or from another agency. While information which is confidential in the hands of one agency retains its protected character in the hands of agencies to which it is subsequently furnished, the exemption does not sanction the rendering of documents confidential by the expedient of transferring them among agencies.

(d) Except as otherwise provided in this part (e.g., § 70.13), disclosure in certain circumstances may be refused of material such as formulae, designs, drawings, research data, and the like, which are significant not as records but as items of valuable property. These may have been developed by or for the Government for its use and at its expense. Nothing in the legislative history suggests that the Freedom of Information Act was intended to give away such valuable property to any person willing to pay the price of making a copy. Where similar property in private hands would be held in confidence, the public interest would appear to require that such property in the hands of an agency should be protected under exemption (4).

(e) This exemption is further intended to extend protection to other information in Government records which has been furnished and accepted in confidence and which would not customarily be released to the public by the person from whom the Government obtained it. See, for example, the House Report (H. Rept. 1497, 89th Cong., 2d Sess.) and the President's signing statement. Accordingly, the exemption assures the confidentiality of information thus obtained by the Department of Labor through questionnaires and required reports to the extent that the information would not customarily be made public by the person from whom it was obtained. Nothing in the Freedom of Information Act necessitates a disregard of the right of individuals or groups to rely in good faith on an understanding of confidentiality for which a Government agency has reasonably afforded a basis. Maintenance of citizens' respect for governmental fairness requires that such understandings be given due consideration. At the same time, Department representatives should be alert to discourage the development of such understandings where not clearly warranted by departmental responsibilities.

(f) Pursuant to exemption (8) set forth in 5 U.S.C. 552(b), and as provided in § 70.22, the disclosure from Department of Labor records of any matter contained in, or related to, examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, may be refused. Exemption (8) emphasizes the application to financial institutions of the protection from disclosure afforded by the exemption set forth in paragraph (a) of this section, and makes plain the intent to protect information relating to such institutions which may be prepared for or used by any agency responsible for the regulation or supervision of such institutions. Access to any such information in records of the Labor Department will be refused where disclosure is not legally permitted or where a determination to disclose is inappropriate for reasons discussed in paragraph (a) of this section. In cases where another agency is concerned with information protected by exemption (8) in 5 U.S.C. 552(b) which is sought from records of the Department, the provisions of § 70.31 are also applicable.

§ 70.25 Inter-agency and intra-agency ment of Labor.

(a) Pursuant to exemption (5) set forth in 5 U.S.C. 552(b), and as provided in § 70.22, the disclosure from Department of Labor records of matters in inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than the agency in litigation with the agency may be refused. The exemption is intended essentially to protect the full and frank exchange in writing of ideas, views, and opinions necessary for the effective functioning of the Government and the making of informed decisions by its officers.

(b) The protection from disclosure afforded by exemption (5) to the internal records of the Government described in paragraph (a) of this section is limited to those communications which, in litigation with a Government agency, would not be routinely available by law to another party to the proceeding. The legislative history and decisions of the courts make it clear that this provision is intended to insure that memoranda or letters not protected from disclosure by some other exemption would be available to the general public for inspection and copying if they "would routinely be disclosed" to such a party "through the discovery process" in such litigation. (See H. Rept. 1497, 89th Cong., 2d Sess.) The internal memoranda and letters protected from disclosure by exemption (5) are accordingly those which would not be released as a matter of course in litigation where discovery is sought by a party other than the agency under the Federal Rules of Civil Procedure. Since the granting of discovery of internal documents is typically a very extraordinary step, not normally a "routine" one, it is only in a limited category of situations that such documents would be routinely available by law to another party in litigation with the agency.

(c) Examples of the type of record information protected from disclosure by the exemption set forth in paragraph (a) of this section include opinions, advice, deliberations, or recommendations made in the course of developing official action by the Department of Labor or any of its component units, and other internal communications which would not be routinely available through the discovery process to a party in litigation with the Government.

(d) In the case of inter-agency memoranda and letters protected by this exemption, the officer authorized to disclose records shall not make a determination to allow access to such matters under the policy set forth in §§ 70.11 and 70.22 if to do so would conflict with the provisions of § 70.31.

§ 70.26 Personnel, medical, and similar files.

(a) Pursuant to exemption (6) set forth in 5 U.S.C. 552(b), and as provided in § 70.22, the disclosure from Department of Labor records of matters in "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy" may be refused. In view of the congressional concern expressed in the legislative history regarding the protection of individuals' privacy, each disclosure officer of the Department shall apply the disclosure policy set forth in §§ 70.11 and 70.22 with due regard to the apparent intent of the statutory language to characterize the invasion of personal privacy typically involved in disclosure of personnel and medical files as "clearly unwarranted." "Similar files" for which protection is provided under this exemption appear to refer to any files the disclosure of which would invade personal privacy to such a degree that the disclosure would be as "clearly unwarranted" as the disclosure of personnel or medical files.

(b) Among the records in Department files protected from disclosure by the exemption set forth in paragraph (a) of this section are (1) personnel and background records personal to any officer or employee of the Department, including his home address and telephone number; (2) medical histories and medical records concerning individuals; (3) any other detailed record containing personal information identifiable with a particular individual where it appears that such person's right to have such information protected from public dissemination is clear; and (4) private or personal information in other files which, if disclosed to the public, would amount to a clearly unwarranted invasion of the privacy of any person, including members of the family of the person to whom the information pertains. The disclosure of information about a person to that same person is not, of course, an invasion of such person's privacy.

(c) Related regulations implementing this part and the application of this exemption to personal and medical information in the files of the Employment Standards Administration relating to claims of injured employees for workmen's compensation benefits are referred to in Subpart C.

§ 70.27 Investigatory records compiled for law enforcement purposes.

(a) *Restrictions on public access authorized.* Pursuant to the provisions of exemption (7) set forth in 5 U.S.C. 552 (b), as amended by Pub. L. 93–502, 88 Stat. 1563, effective February 19, 1975, the disclosure from Department of Labor records of matters that are "investigatory records compiled for law enforcement purposes" and to which access by the public would be detrimental to such purposes or to rights of privacy as specified in the statute, may be refused. Access to such records may be refused for any one or more of several specific reasons. Thus, exemption (7) protects from the public access requirements of the Freedom of Information Act investigatory records compiled for law enforcement purposes whenever their disclosure to any person requesting them would—

(1) interfere with enforcement proceedings; and/or

(2) deprive a person of a right to a fair trial or an impartial adjudication; and/or

(3) constitute an unwarranted invasion of personal privacy; and/or

(4) disclose (i) the identity of a confidential source and (ii), in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; and/or

(5) disclose investigative techniques and procedures; and/or

(6) endanger the life or physical safety of law enforcement personnel.

Where one or more of the foregoing consequences would ensue from the disclosure of particular records to any person requesting access to investigatory records compiled for law enforcement purposes, no determination to grant access to such records may be made by the disclosure officer under the disclosure policy set forth in §§ 70.11 and 70.22 in the ordinary case because in such circumstances it would not ordinarily be possible to determine that disclosure would serve the public interest and would not impede any of the functions of the Labor Department.

(b) *"Law enforcement purposes."* The exemption set forth in paragraph (a) of this section expresses the public interest in preventing disclosure detrimental to the enforcement, whether civil or criminal in nature, of applicable laws and in assuring, to this end, that such enforcement will not be jeopardized by disclosing information which would be harmful to citizens who aid the Government in law enforcement investigations and prosecutions, would endanger the persons or handicap the essential enforcement activities of investigators and prosecutors, would violate the rights of persons who may be charged with violations, or would otherwise interfere with investigations and other proceedings to enforce the laws. "Law enforcement" as used in the statute, according to the legislative history, is used in the broadest sense to include the enforcement not only of criminal statutes, but of all laws establishing rules of conduct, whether by statute or by Executive order or by a duly promulgated regulation having the force and effect of law. Moreover, "enforcement" is not limited to enforcement by adversary proceedings, and includes other types of Government law enforcement activities as well; the work of a policeman or a compliance officer is law enforcement even if he does not participate in adversary proceedings. On the other hand, "enforcement" does not include all activities conducted in order to carry out the laws, but only those intended to counteract past, present, or future violations.

(c) *"Investigatory" records.* The protection afforded investigatory records under the exemption set forth in paragraph (a) of this section also extends, according to the legislative history, to those files related to the investigation which are prepared in connection with related Government litigation and adjudicative proceedings. One of the purposes of the exemption is to preserve the position of the Government in litigation or potential litigation, in accordance with the rules governing discovery in cases before courts and administrative agencies. It ensures that the litigant is not given any earlier or greater access to investigatory material than he would have directly in litigation or other enforcement proceedings.

(d) *Records "compiled" for law enforcement purposes.* Whenever the disclosure of investigatory records requested by any person would have any of the consequences specified in the exemption set forth in paragraph (a) of this section, access to such records may be refused if the records have been "compiled" for law enforcement purposes, irrespective of the nature of the action, if any, to carry out such purposes which may have been contemplated at the time of their compilation or may have been taken thereafter as a result of the compilation. Investigatory records shown to have been compiled for law enforcement purposes retain their status as such and continue to be protected from disclosure in the specified circumstances as provided in this exemption whether or not enforcement proceedings are contemplated at the time of investigation or are instituted thereafter or, if brought, have been completed before the request is made for the records. None of these factors negate the need, in the public interest and in the interest of persons who have been the subject of or who have furnished information to help the law enforcement activities of the Government, for continued protection against a prejudicial disclosure from such records of information which may still constitute an unwarranted invasion of personal privacy or may reveal the identity of a confidential source. The subject of an investigation which has been closed because charges of law violation could not be substantiated is entitled to protection from the opprobrium which might follow public disclosure of the record of the charges without opportunity to demonstrate their falsity in an adjudicatory proceeding. An informant whose identity as the source of confidential information furnished in aid of law enforcement activities is made public by disclosure of investigative records may be made subject to retaliatory action by others and in any event may not inform without assurance that private persons will not, through access to the agency's records, be able to identity the informant as the source of the information furnished. Even years after enforcement proceedings are concluded, the public interest may require protection of investigatory records which would identify a confidential source or would reasonably lead to such a disclosure. Any disclosure of such records would soon become a matter of common knowledge and few individuals, if any, would come forth to embroil themselves in controversy or possible recrimination by notifying the Government of something which might justify investigation. Even more important in view of the increasing concern today over the conflict between a citizen's right of privacy and the need of the Government to investigate, it is unthinkable that rights of privacy, whether of subjects or confidential sources, should be jeopardized. In addition, the disclosure of investigatory records may reveal investigative techniques and procedures or endanger the life or physical safety of law enforcement personnel. In either case, the ability of the Government to carry out its law enforcement functions effectively would be seriously impaired.

§ 70.28 Well information.

Pursuant to exemption (9) set forth in 5 U.S.C. 552(b), and as provided in § 70.22, the disclosure from Department of Labor records of matters consisting of geological and geophysical information and data, including maps, concerning wells, may be refused. This exemption supplements the exemption set forth in § 70.23 by removing any doubt that disclosure of this specific type of information is protected under the Act.

§ 70.29 Partial disclosure.

(a) *Deletions to protect personal privacy.* To the extent required to prevent a clearly unwarranted invasion of personal privacy, the officer authorized to disclose information from a record may delete identifying details when he makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction, provided that in every case the justification for the deletion is fully explained in writing.

(b) *Records containing both disclosable and nondisclosable information.* If a requested record or document contains some materials which are protected from disclosure and other materials which are not so protected, identifying details or protected matters shall be deleted whenever analysis indicates that such deletions are feasible. Any reasonably segregable portion of a record or document shall be provided after deletion of protected matter.

(c) *Deletions to protect identity of requester.* Where the identity of an applicant, or other identifying details related to a request, would constitute an unwarranted invasion of personal privacy if made generally available, as in the case of a request to examine one's own medical files, identifying details shall be deleted from copies of the request and written responses to it that are made available to requesting members of the public.

§ 70.30 Withdrawal of originals.

No document or record in the custody of the Department of Labor, or of any agency or officer thereof, shall on any occasion be taken or withdrawn by any agent, attorney, or any other person not officially connected with the Department; no exception will be made without the written consent of the Secretary or the Solicitor of Labor.

§ 70.31 Record of concern to more than one agency.

If the release of a record in custody of the Department of Labor would be of concern not only to the Department but also to another Federal agency, the record will be made available by the Department only if its interest in the record is the primary interest and only after coordination with the other interested agency. If the interest of the Department in the record is not primary, the request will be transferred promptly to the agency having the primary interest, and the applicant will be so notified. The release of information received from another agency and the release to another agency of information collected from persons outside the Government shall be subject to the conditions and restrictions imposed by 44 U.S.C. 3508.

FACILITIES FOR DISCLOSURE

§ 70.35 Where information may be obtained.

(a) Any person desiring to examine or copy records of the Department of Labor known to be situated in any office of the Department and providing information adequate to permit identification of the records sought may obtain from the head of such office information as to the availability of the derived records. Such person will be advised whether such records are available for examination under the provisions of this part and any applicable supplemental regulations (see Subpart C) without the submission of a formal request or whether such a request must be submitted for consideration by an officer responsible for custody of the records under the procedures set forth in §§ 70.42–70.52. If such a request must be submitted, information as to the name, title, and address of the officer to whom it should be addressed will also be furnished. The officers to whom such requests should be addressed are identified in general terms in § 70.43. Such officers may provide access to records at the place where they are kept or, where appropriate, at another location.

(b) If the person desiring access to particular records is in doubt as to the place where they are kept or the agency of the Department listed in paragraph (e) of this section which is responsible for their custody, the necessary information may be obtained by addressing an inquiry, identifying as specifically as possible the records sought, to the Assistant Secretary for Administration and Management, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C 20210.

(c) Indexes, normally in published form, are available to members of the public to assist them in locating records of certain types, as provided in §§ 70.7 and 70.16 of this part.

(d) Public reference facilities for examination and copying of certain Department records are maintained in some offices. Their locations and the types of records available for examination therein may be ascertained by addressing an inquiry to the chief officer of the agency of the Department listed in paragraph (e) of this section which has custody of records of the types sought to be examined, or by communicating with the nearest officer of such agency who is authorized to act on requests for its records. If the agency of the Department responsible for custody of the records is not known, the Assistant Secretary for Administration and Management will provide the necessary information on request.

(e) Offices in Washington, D.C., are maintained by the following component agencies of the Department of Labor. Field offices are maintained by some of these, as listed in the Government Organization Manual (see § 70.5(b)).

(1) Office of the Secretary of Labor.
(2) Office of the Solicitor of Labor.
(3) Office of Information, Publications, and Reports.
(4) Bureau of International Labor Affairs.
(5) Bureau of Labor Statistics.
(6) Employment Standards Administration.
(7) Labor-Management Services Administration.
(8) Manpower Administration.
(9) Occupational Safety and Health Administration.
(10) Employees' Compensation Appeals Board.
(11) Wage Appeals Board.
(12) Benefits Review Board.
(13) Board of Contract Appeals.
(14) Office of Administrative Law Judges.

The heads of the foregoing agencies shall make available for inspection and copying in accordance with the provisions of this part, records in their custody or in the custody of component units within their organizations, either directly or through their authorized representatives in particular offices and locations.

§ 70.36 Titles and addresses of the responsible officials of various agencies.

The titles of the responsible officials of the various independent agencies in the Department of Labor are listed below. Unless otherwise specified, the mailing address for these officials shall be:

U.S. Department of Labor, Washington, D.C. 20210.
Chief Administrative Law Judge.
Chairman, Employees Compensation Appeals Board.
Deputy Under Secretary for International Labor Affairs.
Associate Deputy Under Secretary for International Labor Affairs.
Associate Deputy Under Secretary for Trade and Adjustment Policy.
Director, Office of Information, Publication and Reports.
Executive Assistant for Assistant Secretary for Policy, Evaluation and Research.
Deputy Assistant Secretary for Policy Development, Office of Policy Development.
Deputy Solicitor, Office of the Solicitor.
Assistant Secretary for Administration and Management.
Office of Assistant Secretary for Administration and Management.
Associate Manpower Administrator for the Office of Administration and Management, Patrick Henry Building, Room 4000, 601 D Street NW., Washington, D.C. 20213.
Associate Manpower Administrator for the Office of Policy, Evaluation and Research, Room 9000.
Associate Manpower Administrator for the Bureau of Apprenticeship and Training, Room 5000.
Associate Manpower Administrator for the Office of Field Direction and Management, Room 10100.
Associate Manpower Administrator for the United States Employment Service, Room 8000.
Associate Manpower Administrator for the Unemployment Insurance Service, Room 700.
Associate Manpower Administrator for the Office of Manpower Development Programs, Room 600.
Assistant Regional Director for Manpower:
Region I.—Room 1703, J. F. Kennedy Federal Building, Center, Boston, Mass. 02203. (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.)
Region II.—1515 Broadway, N.Y. 10036. (New York, New Jersey, Puerto Rico, and U.S. Virgin Islands.)
Region III.—Post Office Box 8796, Philadelphia, Pa. 19101. (Gateway Building, 3535 Market St., Philadelphia, Pa. 19101. Do not use street address for mailing purposes.) (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.)
Region IV.—Room 405, 1371 Peachtree Street NE., Atlanta, Ga. 30309. (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.)
Region V.—230 South Dearborn, Chicago, Ill. 60604. (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.)
Region VI.—Federal Building, 7th Floor, 1100 Commerce Street, Dallas, Tex. 75202. (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.)
Region VII.—Room 3000, Federal Building, 911 Walnut Street, Kansas City, Mo. 64106. (Iowa, Kansas, Missouri, and Nebraska.)
Region VIII.—Room 16015, Federal Office Building, 1961 Stout Street, Denver, Colo. 80202. (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.)
Region IX.—Federal Building, 450 Golden Gate Avenue, Box 36084, San Francisco, Calif. 94102. (Arizona, California, Guam, Hawaii, and Nevada.)
Region X.—Arcade Plaza, 1321 Second Avenue, Seattle, Wash. 98101. (Alaska, Idaho, Oregon, and Washington.)
Assistant Secretary for Manpower, U.S. Department of Labor, Manpower Administration, Room 1000, 601 D Street NW., Washington, D.C. 20213.
Assistant Secretary for Occupational Safety and Health, Occupational Safety and Health Administration.
Assistant Secretary for Employment Standards, Employment Standards Administration.
Administrator, Wage-Hour Division.
Director, Office of Federal Contract Compliance.
Associate Directors, OFCC, Teams I–IV.
Associate Director, OFCC, Policies, Plans, and Programs.
Associate Director, OFCC, Construction Compliance Division.
Associate Director, OFCC, Training Administrative Support Staff.
Director, Women's Bureau.
Associate Assistant Regional Director for Wage-Hour Division, Associate Assistant Regional Director for Office of Federal Contract Compliance and Associate Assistant Regional Director for Women's Bureau.

Addresses:
JFK Building,
Government Center,
Boston, Massachusetts 02203.

Everett M. Dirksen Building,
219 South Dearborn Street,
Chicago, Illinois 60604.

1515 Broadway,
New York, New York 10036.

Federal Building, U.S. Court House,
1100 Commerce Street,
Dallas, Texas 75202.

Gateway Building,
3535 Market Street,
Philadlephia, Pennsylvania 19104.

Federal Office Building,
911 Walnut Street,
Kansas City, Missouri 64106.

1371 Peachtree Street NE.,
Atlanta, Georgia 30309.

Federal Office Building,
1961 Stout Street,
Denver, Colorado 80202.

Federal Building,
450 Golden Gate Avenue,
San Francisco, California 94102.

Smith-Tower,
506 Second Avenue,
Seattle, Washington 98104.

Area Director, OFCC,
Federal Building,
1240 East Ninth Street,
Cleveland, Ohio 44199.

Area Director, OFCC,
Federal Building,
300 North Los Angeles Street,
Los Angeles, California 90012.

Director, Office of Rehabilitation Employment Compliance and Service.
Director, Office of Program Development and Accountability.

The responsible field office for Office of Rehabilitation Employment Compliance and Service and Office of Program Development and Accountability is Assistant Regional Director for Employment Standards Administration. Requests may be made to the above addresses.

Commissioner, Bureau of Labor Statistics.
Assistant Secretary for Labor-Management Services.
Labor Management Services Administration.
Director, Office of Labor Management Standards Enforcement.
Director, Office of Federal Labor Management Petitions.
Director, Office of Labor-Management Relations Services.
Assistant Regional Directors for Labor-Management Services:

Director,
8757 Georgia Avenue,
Room 1449 Silver Spring Plaza,
Silver Spring, Maryland 20910.

Assistant Regional Director,
1371 Peachtree Street NE.,
Room 300,
Atlanta, Georgia 30309.

Assistant Regional Director,
230 S. Dearborn Street,
10th Floor, Federal Office Building,
Chicago, Illinois 60604.

Assistant Regional Director,
911 Walnut Street,
Room 2200 Federal Office Building,
Kansas City, Missouri 64106.

Assistant Regional Director,
1515 Broadway,
Room 3515,
New York, New York 10036.

Assistant Regional Director,
3535 Market Street,
Room 14120 Gateway Building,
Philadelphia, Pennsylvania 19104.

Assistant Regional Director,
450 Golden Gate Avenue,
Room 9061 Federal Office Building,
San Francisco, California 94102.

Area Directors for Labor-Management Services:

Area Director,
1371 Peachtree NE.,
Room 303,
Atlanta, Georgia 30309.

Area Director,
100 Tremont Street,
Room 211 New Studio Building,
Boston, Massachusetts 02108.

Area Director,
111 W. Huron Street,
Room 616 Federal Building,
Buffalo, New York 14202.

Area Director,
230 S. Dearborn Street,
Room 700 Federal Office Building,
Chicago, Illinois 60604.

Area Director,
1240 E. 9th Street,
Room 821 Federal Office Building,
Cleveland, Ohio 44199.

Area Director,
P.O. Box 239,
Bryan and Ervay Streets,
Room 301 Post Office Building,
Dallas, Texas 75221.

Area Director,
1961 Stout Street,
2320 Federal Office Building,
Denver, Colorado 80202.

Area Director,
234 State Street,
Room 1906, Washington Boulevard Building,
Detroit, Michigan 48226.

Area Director,
1833 Kalakaua Avenue,
Room 601,
Honolulu, Hawaii 96815.

Area Director,
911 Walnut Street,
Room 2200, Federal Office Building,
Kansas City, Missouri 64106.

Area Director,
300 N. Los Angeles Street,
Room 7731 Federal Building,
Los Angeles, California 90012.

Area Director,
18350 Northwest Second Avenue,
P.O. Box 3750, Norland Branch,
Miami, Florida 33169.

Area Director,
110 S. Fourth Street,
Room 110, Federal Courts Building,
Minneapolis, Minnesota 55401.

Area Director,
1808 West End Building,
Room 825,
Nashville, Tennessee 37203.

Area Director,
9 Clinton Street,
Room 305,
Newark, New Jersey 07102.

Area Director,
600 South Street,
Room 940, Federal Office Building,
New Orleans, Louisiana 70130.

Area Director,
26 Federal Plaza,
Room 1751,
New York, New York 10007.

Area Director,
600 Arch Street,
Room 4256, Federal Office Building,
Philadelphia, Pennsylvania 19106.

Area Director,
1000 Liberty Avenue,
Room 1436, Federal Office Building,
Pittsburgh, Pennsylvania 15222.

Area Director,
210 N. Twelfth Boulevard,
Room 570,
St. Louis, Missouri 63101.

Area Director,
100 McAllister Street,
Room 1604,
San Francisco, California 94102.

Area Director,
605 Condado Avenue,
Room 704, Condominio San Alberto,
Santurce, Puerto Rico 00907.

Area Director,
506 Second Avenue,
Room 3301, Smith Tower Building,
Seattle, Washington 98104.

Area Director,
1111 20th Street NW.,
P.O. Box 19257,
Room 509, Vanguard Building,
Washington, D.C. 20036.

Deputy Director, Office of Employee Benefits Security.

The following is a list of the offices in which the Disclosure Officers for Occupational Safety and Health Administration are located in Washington, D.C.:

Office of Executive Assistant to the Assistant Secretary.
Office of Special Assistant for Public Affairs.
Office of Federal Agency Safety Programs.
Office of Training and Education.
Office of Standards Development.
Office of Compliance Programming.
Office of State Plan Review and Operation.
Office of Field Performance Evaluation.
Office of Management Data Systems.
Office of Public Hearing Transcripts.
Office of Planning, Evaluation, and Research.
Office of Equal Employment Opportunity.
Office of Personnel Management.
Office of Administrative Management.
Office of Financial Management.
Office of Publications and Visual Aids.
Office of Committee Management.
Director, Office of Information, Publications and Reports.
Assistant Regional Director for Information, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.
Assistant Regional Director for Information, 1515 Broadway, New York, New York 10036.
Assistant Regional Director for Information, Gateway Building, 3535 Market Street, Philadelphia, Pennsylvania 19104.
Assistant Regional Director for Information, 1371 Peachtree St. NE., Atlanta, Georgia 30309.
Assistant Regional Director for Information, 300 S. Wacker Drive, 16th Floor, Chicago, Illinois 60606.
Assistant Regional Director for Information, Federal Building, U.S. Court House, 1100 Commerce Street, Dallas, Texas 75202.
Assistant Regional Director for Information, Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.
Assistant Regional Director for Information, Federal Office Building, 1961 Stout Street, Denver, Colorado 80202.
Assistant Regional Director for Information, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102.
Assistant Regional Director for Information, Room 2078 Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.
Information Officer, 300 N. Los Angeles Street, Room 7641, Los Angeles, California 90012.

The following is a list of the responsible field officials in the Occupational Safety and Health Administration:
Assistant Regional Directors:

18 Oliver Street,
Boston, Massachusetts 02110.

1515 Broadway (1 Astor Plaza),
Room 3445,
New York, New York 10036.

3535 Market Street,
Philadelphia, Pennsylvania 19104.

1375 Peachtree St. NE.,
Suite 587,
Atlanta, Georgia 30309.

32nd Floor, Room 3259,
230 S. Dearborn Street,
Chicago, Illinois 60604.

Texaco Building, 7th Floor,
1512 Commerce Street,
Dallas, Texas 75201.

911 Walnut Street, Rm. 3000,
Kansas City, Missouri 64106.

Federal Building, Room 15010,
1961 Stout Street,
Denver, Colorado 80202.

9470 Federal Building,
450 Golden Gate Avenue,
P.O. Box 36017,
San Francisco, Calif. 94102.

1808 Smith Tower Building,
506 Second Avenue,
Seattle, Washington 98104.

Area Directors:

Custom House Building,
Room 703,
State Street,
Boston, Massachusetts 02109.

Federal Building, Rm. 426,
55 Pleasant Street,
Concord, New Hampshire 03301.

Federal Building, Rm. 617B,
450 Main Street,
Hartford, Connecticut 06103.

U.S. Post Office and Courthouse Building,
Rm. 501,
436 Dwight Street,
Springfield, Mass. 01103.

370 Old Country Road,
Garden City, L.I., N.Y. 11530.

90 Church Street, Room 1405,
New York, New York 10007.

970 Broad Street, Room 1435C,
Newark, New Jersey 07102.

605 Condado Avenue, Room 328,
Santurce, Puerto Rico 00907.

Midtown Plaza, Room 203,
700 E. Water Street,
Syracuse, New York 13210.

Federal Building, Room 1110A,
Charles Center, 31 Hopkins Plaza,
Baltimore, Maryland 21201.

Charleston National Plaza,
Room 1726,
700 Virginia Street,
Charleston, West Virginia 25301.

Jonnet Building, Room 802,
4099 William Penn Highway,
Monroeville, Pennsylvania 15146.

William J. Green, Jr., Federal Building,
Room 4456,
600 Arch Street,
Philadelphia, Pa. 19106.

Room 8015,
Federal Building (P.O. Box 10186),
400 N. 8th Street,
Richmond, Virginia 23240.

Todd Mall,
2047 Canyon Road,
Birmingham, Alabama 35216.

1710 Gervais Street, Rm. 205,
Columbia, South Carolina 29201.

Bridge Building, Room 204,
3200 E. Oakland Park Blvd.,
Fort Lauderdale, Fla. 33308.

57601–55 North Frontage Rd. East,
Jackson, Mississippi 39211.

Art Museum Plaza, Suite 4,
2809 Art Museum Drive,
Jacksonville, Florida 32207.

600 Federal Place,
Suite 554–E,
Louisville, Kentucky 40202.

Riverside Plaza Shopping Ctr.,
2720 Riverside Drive,
Macon, Georgia 31204.

Commerce Building, Room 600,
118 North Royal Street,
Mobile, Alabama 36602.

1600 Hayes Street, Suite 302,
Nashville, Tennessee 37203.

Federal Office Building, Rm. 406,
310 New Bern Avenue,
Raleigh, North Carolina 27601.

Enterprise Building, Suite 204,
6605 Abercon Street,
Savannah, Georgia 31405.

650 Cleveland Street, Rm. 44,
Clearwater, Florida 33515.

Building 10, Suite 33,
La Vista Perimeter Office Park,
Tucker, Georgia 30084.

230 South Dearborn, 10th Floor,
Chicago, Illinois 60604.

Federal Office Building, Rm. 4028,
550 Main Street,
Cincinnati, Ohio 45202.

Federal Office Building,
Room 847,
1240 East Ninth Street,
Cleveland, Ohio 44199.

360 S. Third Street, Rm. 109,
Columbus, Ohio 43215.

Michigan Theatre Building,
Room 626,
220 Bagley Avenue,
Detroit, Michigan 48226.

U.S. Post Office and Courthouse, Room 423,
46 East Ohio Street,
Indianapolis, Indiana 46202.

Clark Building, Room 400,
633 West Wisconsin Avenue,
Milwaukee, Wisconsin 53203.

110 South Fourth Street, Rm. 437,
Minneapolis, Minnesota 55401.

Federal Office Building, Rm. 734,
234 North Summit Street,
Toledo, Ohio 43604.

Federal Building, Room 302,
421 Gold Avenue SW.,
P.O. Box 1428,
Albuquerque, N. Mexico 87103.

Adolphus Tower, Suite 1820,
1412 Main Street,
Dallas, Texas 75202.

2320 La Branch Street, Rm. 2118,
Houston, Texas 77004.

Federal Building, Room 421,
1205 Texas Avenue,
Lubbock, Texas 79401.

Donaghey Building, Rm. 526,
103 East 7th Street,
Little Rock, Arkansas 72201.

546 Carondelet Street, Rm. 202,
New Orleans, La. 70130.

Petroleum Building, Rm. 512,
420 South Boulder,
Tulsa, Oklahoma 74103.

1015 Jackson Keller Road,
Room 122,
San Antonio, Texas 78213.

210 Walnut Street, Room 643,
Des Moines, Iowa 50309.

1627 Main Street, Rm. 1100,
Kansas City, Missouri 64108.

113 West 6th Street,
North Platte, Nebraska 69101.

Harney & 16th Street, Rm. 803,
City National Bank Building,
Omaha, Nebraska 68102.

210 North 12th Boulevard,
Room 554,
St. Louis, Missouri 63101.

Petroleum Building, Suite 312,
221 South Broadway Street,
Wichita, Kansas 67202.

Petroleum Building, Suite 525,
2812 1st Avenue North,
Billings, Montana 59101.

Squire Plaza Building,
8527 West Colfax Avenue,
Lakewood, Colorado 80215.

U.S. Post Office Building,
Room 452,
350 South Main Street,
Salt Lake City, Utah 84101.

Court House Plaza Building,
Room 408,
300 North Dakota Avenue,
Sioux Falls, South Dakota 57102.

1100 East William Street,
Carson City, Nevada 89701.

333 Queen Street, Suite 505,
Honolulu, Hawaii 96813.

Hartwell Building, Room 401,
19 Pine Avenue,
Long Beach, California 90802.

Amerco Towers, Suite 318,
2721 North Central Avenue,
Phoenix, Arizona 85004.

100 McAllister Street, Rm. 1706,
San Francisco, California 94102.

Federal Building, Room 227,
605 West 4th Avenue,
Anchorage, Alaska 99501.

121 107th Street NE.,
Bellevue, Washington 98004.

228 Idaho Building,
216 N. 8th Street,
Boise, Idaho 83702.

Pittock Block, Room 526,
921S W. Washington Street,
Portland, Oregon 97205.

District Supervisors:

Federal Building,
Room 503A,
U.S. Courthouse,
Providence, Rhode Island 02903.

Stanwick Building, Room 111,
3661 Virginia Beach Blvd.,
Norfolk, Virginia 23502.

600 Leopard Street,
Suite 1322,
Corpus Christi, Texas 78401.

PROCEDURE FOR DISCLOSURE

§ 70.41 Applicability of procedures.

Requests for inspection or copying of information from records in the custody of the Department of Labor which are available under the provisions of this part shall be made and acted upon as provided in the following sections of this subpart. The prescribed procedure shall be followed in all cases where access is sought to official records pursuant to the provisions of the Freedom of Information Act, except with respect to records for which a less formal disclosure procedure is provided specifically in this part or in any supplemental regulation referred to in Subpart C. Officers and employees of the Department may be authorized by the Secretary, or by the head of the agency in the Department

having custody of the record, to continue to furnish to the public, informally and without compliance with these procedures, information and copies from its records which prior to enactment of the Freedom of Information Act (5 U.S.C. 552) were customarily furnished in the regular performance of their duties.

§ 70.42 Submittal of requests for access to records.

(a) Any person who desires to inspect or copy any record covered by this part, including any writing, drawing, map, recording, tape, film, photograph, or other documentary material by which information is preserved, shall submit a written request to that effect to the agency of the Department of Labor (see the listings in §§ 70.35(e) and 70.36) which has custody of the record.

(b) Standard forms for making a request are not required. However, to expedite the processing of requests submitted in accordance with paragraph (a) of this section each such request should clearly indicate on the envelope and on the request the following: F.O.I.A. request.

(c) To avoid delay in receipt of a sufficiently complete request at the agency in cases where the search and copying charges are not known or estimated and agreed upon in advance but may be substantial, the request in such a case should, as provided in § 70.64(b), state specifically that whatever costs will be involved pursuant to §§ 70.62–70.63 will be acceptable, or will be acceptable up to an amount not exceeding a named figure.

§ 70.43 To whom to direct requests.

(a) A request for records in the custody of the Bureau of Labor Statistics shall be directed to the Commissioner of Labor Statistics, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210. In the case of records in the custody of other agencies of the Department, the request shall be directed to the chief of such agency, unless the record asked for is kept in one of its field offices. If the desired record is kept in a field office, the request shall be directed to the field official having the principal responsibility to the agency for the custody of the records in that office, who may, for brevity, be referred to as the "responsible field official." The responsible field official may be identified as follows:

(1) In the case of records kept in a regional office, the chief of such office (for aid in identification, see § 70.36).

(2) In the case of records relating to compensation claims under laws providing compensation for work injuries to employees and under the War Hazards Act and Defense Base Act, the deputy commissioner of the district office in which the records are kept.

(3) In the case of records kept in any other field office, the chief of the regional office or of the highest field office which, pursuant to authority from the agency of the Department administering the program to which the record relates, is responsible for the direct supervision of operations under such program in the field office where the record is kept. If the person making the request does not know where the record is located, he may direct his request to the Assistant Secretary of Labor for Administration and Management, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, for appropriate handling.

(b) The agencies of the Department of Labor, referred to in paragraph (a) of this section, are, or are constituent units of, the agencies listed in § 70.35 (e). Heads and responsible field officials of these agencies are further identified in § 70.36. For purposes of submittals of requests for records under this section, the chief of the Office of the Secretary shall be considered to be the Assistant Secretary for Administration and Management, and the chief of the Office of the Solicitor shall be considered to be the Deputy Solicitor. The general organization of the Department of Labor, its principal officers, and addresses of its regional and other field offices may be found in the "U.S. Government Organization Manual" referred to in § 70.5(b).

§ 70.44 Description of information requested.

Each request should reasonably describe the record or records sought; i.e., in sufficient detail to permit identification and location thereof with a reasonable amount of effort. So far as practicable, the request should specify the subject matter of the record, the date or approximate date when made, the place where made, the person or office that made it, and any other pertinent identifying details.

§ 70.45 Deficient descriptions.

If the description is insufficient so that a professional employee who is familiar with the subject area of the request cannot locate the record with a reasonable amount of effort, the officer processing the request will notify the applicant and, to the extent possible, indicate the additional information required. Every reasonable effort shall be made to assist an applicant in the identification and location of the record or records sought. Records will not be withheld merely because it is difficult to find them.

§ 70.46 Requests for categories of records.

Requests calling for all records falling within a reasonably specific category will be regarded as reasonably described within the meaning of § 70.44 and the statutory requirement if the Department is reasonably able to determine which records come within the request and to search for and collect them, at least where such search can be accomplished without unduly interfering with Department operations because of staff time consumed or the resulting disruption of files. If undue disruption of agency operations would result from fulfilling the request, the officer to whom the request was submitted shall promptly give the applicant notice thereof and the opportunity to confer with him in an attempt to reduce the request to manageable proportions by reformulation and by outlining an orderly procedure for the production of the records.

§ 70.47 Receipt by agency of request; acknowledgment.

(a) Since the officer responsible for acting upon a request for access to records of the Department or a constituent agency thereof must take the necessary action promptly after receipt of the request and a determination regarding disclosure must in any event be dispatched to the requester within a prescribed period after such receipt as set forth in § 70.53, such officer shall, upon receipt of such request, have the date and time of such receipt immediately inscribed thereon and give contemporaneous notice to the requester that the request was received on such date. Such notice shall also advise the requester of the time within which it is anticipated that a response will be made. If it appears from the request that the unusual circumstances set forth in § 70.55(b) may require extension of the normal time limit for responding to the request, and if such extension is authorized pursuant to § 70.55(c), the acknowledgment of receipt shall contain the information required by § 70.53(b).

(b) Each agency of the Department of Labor shall make provision for transmittal procedures which will expedite on a priority basis the receipt by the proper disclosure officer of incoming requests for access to records on which such officer must pass but which initially come to some other office or agency of the Department. Requesters can assist the Department in this regard by proper marking of their requests as indicated in § 70.42(b).

(c) In accordance with the rules set forth in Subpart B of this part, the request by a person for access to records requiring substantial search and/or copying services must be accompanied by payment or assurance of payment of any fees therefor applicable under the statute and this part, and action thereon may not be required in the absence of such payment or assurance. As provided in § 70.64(b), and to protect requesters from an unexpected accrual of liability greater than they may wish to assume for access to requested records when they do not know or have any estimate of the applicable fees and the agency anticipates that search and/or copying charges may exceed $25, no receipt of a complete request will be deemed to have occurred (and, therefore, the provisions of paragraph (a) of this section will not be applicable) unless or until (1) the requester specifically states that whatever costs will be involved pursuant to §§ 70.62–70.63 will be acceptable or will be acceptable up to an amount not exceeding a named figure, or (2) prompt notification has been given to the requester of the agency's estimate of the costs and the requester has perfected the request by payment or assurance of payment thereof. Upon completion of the request by such payment or assurance of payment, the re-

quest will be deemed to have been made in accordance with the published rules as to fees and receipt will be acknowledged as provided in paragraph (a) of this section.

§ 70.48 Action on request.

(a) The officer responsible for determining whether a request for agency records will be complied with in whole or in part shall cause any necessary search to be made promptly upon receipt of a request made in accordance with the rules published in this part and, after location of the requested records and such examination as may be necessary, shall proceed, as expeditiously as possible and within the time limitations set forth in § 70.53, to determine whether and to what extent the request may be granted pursuant to the policy of disclosure set forth in § 70.11 and the provisions of §§ 70.21, 70.22, and 70.29, and to advise the requester immediately of such determination.

(b) When a determination to grant the request with respect to all or any portion of the records requested is made, such records shall be made available to the requester at the time he is advised of the determination or as promptly thereafter as possible.

§ 70.49 Form of denials.

A reply denying a written request for a record or portion thereof shall be in writing and shall contain a brief statement of the reasons for the denial, including (except in case of a denial for the reasons set forth in § 70.53(c)) a reference to the specific exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record and an explanation of how the exemption applies to the matter withheld. The denial shall also include the name and title or position of the person(s) responsible for the denial and an outline of the appeal procedure available.

§ 70.50 Appeals from denial of requests.

An applicant whose request for a record or portion thereof has been denied pursuant to § 70.49 may file an appeal within 90 days from the date of the denial or in the case of a partial denial, 90 days from the date the material is received by the requester. The appeal shall state, in writing, the grounds for appeal, including any supporting statements or arguments. The appeal shall be addressed to the Solicitor of Labor, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210. To expedite the processing of the appeal, each such appeal should clearly indicate on the envelope and on the appeal the following: F.O.I.A. Appeal.

§ 70.51 Receipt by Solicitor of appeal; acknowledgment.

Since action on an appeal from a denial of a request for records must be taken promptly after the receipt of the appeal by the Solicitor and in any event within the prescribed time limits following such receipt as set forth in § 70.54, each such appeal, when received by the Solicitor, shall have the date and time of such receipt inscribed thereon and the appellant shall immediately be notified of the time of receipt as so inscribed. To expedite the handling of appeals as much as possible, the Department will maintain internal procedures designed to assure transmittal to and receipt by the Solicitor of incoming appeals on a priority basis. Appellants can assist the Department in this regard by proper marking of their appeals as indicated in § 70.50.

§ 70.52 Action on appeals.

(a) As promptly as possible after receipt of an appeal and within the time limits specified in § 70.54, the Solicitor shall review the appellant's supporting papers and pass on the appeal. In his review of the matter on appeal, the Solicitor is authorized to determine de novo, in the light of the disclosure policy set forth in § 70.11, whether the denial of appellant's request for access to records was proper and in accord with the applicable provisions of the statute and the pertinent regulations. In the event that the denial appealed from is one made pursuant to the provisions of paragraph (c) of § 70.53 by reason of inability of the disclosure officer to make an informed determination within the specified time limits, the Solicitor's decision shall take into consideration any supplementary determination by the disclosure officer made pursuant to the provisions of such paragraph.

(b) The Solicitor may proceed as provided in paragraph (a) to take the necessary action on the appeal notwithstanding the pendency of any action for judicial relief against withholding of records requested pursuant to this part, unless otherwise directed by the court. The Solicitor may take such action whether the judicial relief was sought prior to any determination by the disclosure officer to grant or deny the request in whole or in part, or was applied for before or after the filing of the appeal. In the event that a requester seeks review by a court of the denial by a disclosure officer of a request for agency records without first filing an appeal to the Solicitor as provided in this part, the Solicitor may, unless otherwise ordered by the court, consider such action as the filing of an appeal and issue a decision thereon within the period specified in § 70.54 and in accordance with the provisions of paragraph (a) of this section. In any of the foregoing circumstances a final decision by the Solicitor to grant access to records would make unnecessary a ruling by the court with respect thereto.

(c) The Solicitor shall issue a decision in writing granting or denying the appeal in whole or in part and, if the appeal is granted with respect to any or all of the requested records, the Solicitor shall order such records to be made available promptly to the appellant. If the appeal is denied wholly or in part, the decision shall set forth each exemption provided in 5 U.S.C. 552 which is relied on, how it applies to the record or portion thereof which had been withheld, and the reasons for asserting it. The decision of the Solicitor shall be the final action of the Department of Labor with respect to the request. The notification to the requester of any decision upholding a denial in whole or in part of the request shall include notice of the provisions for judicial review set forth in 5 U.S.C. 552(a)(4).

(d) Copies of both grants and denials on appeal shall be collected in one file open to the public (subject to provisions of § 70.29(c)) and indexed in accordance with §§ 70.7 and 70.16.

TIME LIMITATIONS FOR ACTION ON REQUESTS AND APPEALS

§ 70.53 Period within which action on request shall be taken.

(a) As soon as possible and within a period not to exceed 10 working days after receipt (see § 70.47) of a request for agency records reasonably described and requested in accordance with the regulations published in this Part 70 and such supplementary regulations referred to in Subpart C hereof as may be pertinent, the officer responsible for acting on the request shall determine that such request will be granted or denied in whole or in part as provided in this Part 70, and shall thereupon immediately notify the requester of such determination and the reasons therefor. The provisions of paragraphs (b), (c), and (d) of this section are applicable where a final determination to grant or deny the request has not been made within the 10-day period with respect to all the records requested.

(b) As provided in § 70.55, an extension of the 10-day period for action on the request may be determined to be necessary because of unusual circumstances. If such an extension has been authorized as provided in § 70.55(c), the officer responsible for acting on the request shall notify the requester in writing within such 10-day period of the extension and the reasons therefor, specifying the date on which the determination to grant or deny the request is expected to be dispatched.

(c) If the disclosure officer is unable to grant the request as to all or any part of the records sought within the 10-day period specified in paragraph (a) or such extended period as may be specified pursuant to paragraph (b), because some or all of the records have not been located or made available for examination and consideration in time to make an informed determination, the officer may, within such period, respond to the request with respect to such records by denying access thereto at such time, with notification to the requester of such reasons and of the right to appeal such denial pursuant to the provisions of the Freedom of Information Act and this part within the 90-day period provided in § 70.50. In such event the officer shall further advise the requester that the search or examination will be continued and that the denial will be subject to withdrawal, modification, or confirmation by a supplementary determination to be made as soon as processing of the

request can be completed. If an appeal is filed from the initial denial, the Solicitor shall act thereon as provided in § 70.52.

(d) If the officer who must pass upon the request fails to make a determination to grant or deny access to requested records as provided in paragraph (a) or (c) within the 10-day period specified in paragraph (a) or an extension thereof as specified pursuant to paragraph (b), the requester shall be deemed to have exhausted his administrative remedies and may apply for judicial relief against the withholding of such records as provided in the Freedom of Information Act. In such event, however, the court may allow additional time as provided in the Act, upon a showing of exceptional circumstances and the exercise of due diligence in responding to the request. In view of this, where despite due diligence exceptional circumstances have prevented a timely determination, the disclosure officer shall so advise the requester, explaining fully the facts and circumstances and that processing of the request will continue with the expectation that a determination can be made by a stated date, and shall solicit agreement by the requester to delay any application for judicial relief until such date. Processing of the request shall continue until such determination is made, however, irrespective of whether the requester agrees to defer court action or applies for judicial relief. If it is finally determined to grant access to any such records, no judicial relief would be necessary with respect thereto.

§ 70.54 Period within which action on appeal shall be taken.

(a) After receipt (see § 70.51) of an appeal from a denial of a request for agency records, the Solicitor shall as soon as possible within a period not to exceed 20 working days or such extended period as may be authorized pursuant to § 70.55 (d) issue the decision on the appeal as provided in § 70.52.

(b) If a decision on the requester's appeal from a denial of access to agency records is not made by the Solicitor within the normal or extended period applicable under paragraph (a), the requester shall be deemed to have exhausted his administrative remedies and may apply for judicial relief against the withholding of the requested records as provided in the Freedom of Information Act. In such event, however, the court may allow additional time as provided in the Act, upon a showing of exceptional circumstances and the exercise of due diligence in responding to the request. In view of this, where despite due diligence exceptional circumstances have prevented a timely decision on the appeal, the Solicitor shall so advise the requester, explaining fully the facts and circumstances and that processing of the appeal will continue with the expectation that a decision will be made by a stated date, and shall solicit agreement by the requester to delay any application for judicial relief until such date. Processing of the appeal shall continue until a decision thereon is made, however, irrespective of whether the requester agrees to defer court action or applies for judicial relief. If it is finally determined to grant the appeal as to any of the requested records, no judicial relief will be necessary with respect thereto.

§ 70.55 Extension of period for taking action on request or appeal.

(a) *Extension in unusual circumstances, generally.* Pursuant to paragraph 6(B) of 5 U.S.C. 552(a) as amended, the maximum period of 10 working days normally allowed (see § 70.53) for making the determination in response to a request for agency records submitted as provided in this part, or the maximum period of 20 working days normally allowed (see § 70.54) for deciding an appeal from a denial of the request for any such records in whole or in part, may be extended in the unusual circumstances described in paragraph (b) of this section for an additional period by written notice from the disclosure officer or the Solicitor, as the case may be, to the requester setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. Such additional time may be provided only to the extent reasonably necessary to the processing of the particular request and no extension for more than an additional 10 working days is permitted. Such extensions shall be allowed only as provided in paragraphs (c) and (d) of this section, so that the total additional time made available thereby for determining the action to be taken on a particular request, whether by the disclosure officer or by the Solicitor in the event of appeal, or by both together, will not exceed 10 working days.

(b) *Unusual circumstances which may justify extended time.* The unusual circumstances which may justify an extension, as provided in paragraph (a), of the time for taking action on a request for records or an appeal from a denial of the request in whole or in part are:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

Consultations between an agency unit and its legal counsel, the public information staff, or the Department of Justice are not unusual circumstances within the meaning of this paragraph and should not be considered the basis for an extension as provided in paragraph (a) and paragraph (c) or paragraph (d).

(c) *Extension of period for disclosure officer to determine action to be taken on request.* The disclosure officer passing upon the request for records may, to the extent reasonably necessary to the proper processing of such request in the unusual circumstances set forth in paragraph (b), extend the period for determining the action to be taken thereon beyond the normal 10-day limit as provided in paragraph (a), but only with the prior approval of the Solicitor and for such period up to but not in excess of 10 additional working days as the Solicitor shall approve. Notification shall be given to the requester as provided in § 70.53(b).

(d) *Extension of period for Solicitor to decide appeal from denial of access to requested records.* The Solicitor may, to the extent necessary to the proper processing of an appeal from a denial of a request for agency records, extend the period for deciding such appeal beyond the normal 20-day limit by written notice to the appellant as provided in paragraph (a), but only in the unusual circumstances set forth in paragraph (b) and in no event for more than 10 additional working days or such portion thereof as remains after any extension previously made pursuant to paragraph (c).

(e) *Further provisions for extension of time for taking action.* As noted in § 70.53(d) and § 70.54(b), notwithstanding the fact that a requester is deemed to have exhausted his administrative remedies and may apply for judicial relief under the Freedom of Information Act when the disclosure officer or the Solicitor fails to take the necessary action with respect to a request for records or an appeal from a denial thereof within the normal or extended time limits prescribed in the Act, the court in any such action may, upon a showing of exceptional circumstances and the exercise of due diligence in responding to the requester, allow additional time to complete the necessary review. While any deferral of an application for judicial relief under such circumstances is within the discretion of the requester, the responsible officer will, pursuant to the rules in this part, continue to proceed to a determination of the matter before him and, if the determination is to grant access to the requested records, the necessity for judicial relief will be obviated.

Subpart B—Copies of Records and Fees for Services

Special Searching and Copying Services

§ 70.61 Charges for services, generally.

(a) Pursuant to the provisions of the Freedom of Information Act, as amended, the payment of standard charges as set forth in the fee schedule in § 70.62 will, except as otherwise provided in this subpart, be required of the requester to cover the direct costs of searching for and duplicating records requested under the Act from the Department or any of its constituent agencies. Where the direct cost to the agency of making the search is substantial, fees for searching as provided in the schedule will be charged even if the record searched for is not found or if, after it is found, it is determined that the request to inspect

it must be denied under the provisions of 5 U.S.C. 552(b) and the regulations in this part.

(b) Circumstances under which searching and copying facilities or services may be made available to the requester without charge or at a reduced charge are delineated in §§ 70.65–70.67. Recoupment of agency costs for determining whether a requested record is disclosable under the statute and this part and for making deletions of portions exempted from disclosure by the Act has been excluded from consideration in arriving at the standard charges contained in the fee schedule and no charge is made to a requester for the cost of any such services. However, where a requester desires the agency to provide such services as certification, authentication, or other special services not required under the Freedom of Information Act with respect to requested records, fees in addition to the standard charges for search and copying will be charged to cover the agency costs as indicated in §§ 70.68–70.69 and as authorized by the special provisions in Subchapter II of Title 29 of the United States Code and the general user-charge statute, section 483a of Title 31, United States Code.

§ 70.62 Search and copying charges.

(a) *Fee schedule for searching records.* Where agency records must be searched to locate a requested record, charges applicable under this subpart to the search will be made according to the following fee schedule:

(1) *Search time:* (i) Ordinary search by custodial or clerical personnel, $1.25 for each one-quarter hour or fraction thereof of employee worktime in excess of the first quarter-hour required to reach or obtain the records to be searched and to make the necessary search; and

(ii) Search requiring services of professional or supervisory personnel to locate requested record, $2.50 for each such quarter-hour of such services required.

(2) *Additional search costs.* If the search for a requested record requires transportation of the searcher to the location of the records or transportation of the records to the searcher, at a cost in excess of $5, actual transportation costs will be added to the search time cost.

(3) *Search in computerized records.* Special fees to cover direct personnel and machine time costs of such searches will be charged as set forth in the above fee schedule and § 70.63.

(b) *Fee schedule for copying of records.* The fees payable pursuant to this subpart for obtaining requested copies of records which have been made available for inspection under the Freedom of Information Act will be computed on the following basis and subject to the following conditions:

(1) *Standard copying fee:* $0.10 per page of record copies furnished. This has been determined to be a reasonable standard charge to cover direct costs to the Department of duplicating records where the volume of page copies furnished is not extraordinary. The standard fee is applicable both where the copies are reproduced by the person desiring them, using Government-furnished reproduction equipment, such as coin-operated machines, which may be made available for use by any number of the public, and where, in the absence of availability of such facilities, the copies are reproduced by agency personnel. This standard fee is also applicable to the furnishing of copies of available computer printouts as stated in § 70.63(a)(1).

(2) *Voluminous material.* If the volume of page copy desired by the requester is such that the reproduction charge at the standard page rate would be in excess of $200, the person desiring reproduction may request special rate quotation from the Office of the Assistant Secretary for Administration and Management.

(3) *Limit of service.* Not more than 10 copies of any document will be furnished.

(4) *Manual copying by requester.* No charge will be made for manual copying by the requesting party of any document made available for inspection under the provisions of this part. The Department shall provide facilities for such copying without charge at reasonable times during normal working hours.

(c) *Transcripts of proceedings.* Where pursuant to the provisions of this part there is made available for inspection and copying the transcript of a hearing or other proceeding pertaining to matters within the purview of the Department of Labor or any of its programs, constituent agencies, or advisory committees, no search charge will be made. Copies of such transcripts will normally be furnished upon payment of the actual cost of duplication as computed pursuant to the fee schedule in paragraph (b). If, however, the transcript was furnished to this Department under the provisions of a contract executed prior to January 5, 1973, the effective date of the Federal Advisory Committee Act, under contractual provisions which prohibit the Department from reproducing the transcript, copies of such transcripts prepared by persons or firms reporting the proceedings may be obtained upon application to the reporter and payment of the reporter's fees at the rate provided in the contract. The foregoing fees are not applicable to the furnishing of any copies of such transcripts to any person entitled to receive such copies without charge pursuant to a regulation or order issued by the Secretary or his authorized representative.

(d) *Indexes.* Pursuant to 5 U.S.C. 552(a)(2), copies of indexes or supplements thereto which are maintained as therein provided but which have not been published will be provided on request at a cost not to exceed the direct cost of duplication as computed pursuant to the fee schedule in paragraph (b) of this section.

§ 70.63 Computerized records.

(a) Information available in whole or in part in computerized form which is disclosable under the Freedom of Information Act is available to the public as follows:

(1) When there is an existing printout from the computer which permits copying the printout, the material will be made available at the per page rate stated in § 70.62(b)(1) for each 8½- by 11-inch page.

(2) When there is not an existing printout of information disclosable under the Freedom of Information Act, a printout shall be made provided the applicant pays the cost to the Department as hereinafter stated.

(3) Obtaining information from computerized records frequently involves a minimum computer time cost of approximately $100 per request. Multiple requests involving the same subject may cost less per request. Services of personnel in the nature of a search shall be charged for at rates prescribed in § 70.62(a). A charge shall be made for the computer time involved based upon the prevailing level of costs to Government organizations and upon the particular types of computer and associated equipment and the amounts of time on such equipment that are utilized. A charge shall also be made for any substantial amounts of special supplies or materials used to contain, present or make available the output of computers based upon the prevailing levels of costs to Government organizations and upon the type and amount of such supplies and materials that are used.

(b) Information in the Department's computerized records which could be produced only by additional programming of the computer, thus producing information not previously in being, is not required to be furnished under the Freedom of Information Act. In view of the usually heavy workloads of the computers used by the Department, such a service cannot ordinarily be offered to the public.

§ 70.64 Payment of fees.

(a) *Medium of payment.* Payment of the applicable fees as set forth in §§ 70.62 and 70.63 shall be made in cash, by U.S. postal money order, or by check payable to the Secretary of Labor. Postage stamps will not be accepted in lieu of cash, checks, or money orders as payment for fees specified in the schedule. Cash should not be sent by mail.

(b) *Advance payment or assurance.* Payment of the known and officially estimated searching and copying fees shall be made or assured to the satisfaction of the disclosure officer prior to the performance of substantial searching or copying services. Where the requester does not know and has no official estimate of the search and copying costs at the time the request is made, the request should specifically state that whatever costs will be involved pursuant to §§ 70.62–70.63 will be acceptable, or will be acceptable up to an amount not exceeding a named figure. A request made without such specific assurance of payment of fees, in an amount at least equal to the charges under §§ 70.62–70.63 which the Department anticipates will be necessary, will, if such estimated charges are in excess of $25, not be deemed to have been received by the

Department until the requester has been notified (promptly upon physical tender of the request) of the Department's cost estimate and has perfected the request by paying the estimated charges or giving satisfactory assurance that payment will be made. In the event that a request is made only for inspection of a record, advance payment or assurance of payment as set forth in this paragraph is applicable only with respect to searching fees; charges for copying will not be made unless or until copies are requested.

(c) *Adjustment of fees.* Where an estimated fee paid by the requester in advance exceeds the fee chargeable under the applicable schedule for the search or copying services actually performed, the balance will be refunded by the Department. Where the actual fees due for the services are in excess of the estimate, the requester will be required to remit the difference. In cases where the estimated costs required under the fee schedule for responding to a request are such that an advance deposit is deemed necessary, and it appears that the information sought by the requester might be made available at less cost by revision of the request, the Department's advice to the requester of the estimated costs and the need for an advance deposit will be accompanied by extension of an offer to the requester to confer with knowledgeable Department personnel with a view to reformulation of the request in a manner which will reduce the fees and meet the needs of the requester.

(d) *Post-copying costs.* The scheduled fees for furnishing copies of records made available pursuant to the Act for inspection and copying cover the costs of furnishing the copies at the place of duplication. Where requests for such copies are made by mail, no postage charge will be made for transmitting by regular mail a single copy of the requested record to the requester, or for mailing additional copies where the total postage cost does not exceed $1. However, where the volume of page copy or method of transmittal requested is such that transmittal charges to the Department are in excess of $1, the transmittal costs will be added to the copying fee specified in accordance with the schedule, unless appropriate stamps or stamped envelopes are furnished with the request, or authorization is given for collection of shipping charges on delivery.

§ 70.65 Standard fees not charged in certain circumstances.

The searching and copying fees set forth in this subpart are intended to cover agency costs of furnishing services that are special to the requester and above and beyond those which are generally provided to the public at large. Where furnishing the information requested can be considered as primarily benefiting the general public, the Freedom of Information Act provides that the agency may determine that waiver or reduction of the standard charges for searching and copying is in the public interest, in which event requested records shall be made available without charge or at a reduced charge. On this basis as well as for other reasons which have satisfied the Department that it is in the public interest to do so, the standard fees for making a requested record available will, in certain circumstances, not be charged or will be reduced as stated in the sections following. In addition, where the disclosure officer granting the request for a record determines that the waiver or reduction of the standard charge would be in the public interest because of the primary benefit to the general public of disclosure of the requested information, the disclosure officer shall advise the requester that the requested record will be made available without charge or at a reduced charge which he shall specify.

§ 70.66 Services performed without charge.

(a) No searching charge under § 70.62 (a) shall be made for routine procurement for inspection from Department records, not requiring more than one-quarter hour of personnel time, of any record required by the Freedom of Information Act to be made available for public inspection on request.

(b) The searching fees set forth in § 70.62(a) shall not be charged for the production of any requested record material maintained in a public reference facility of the Department or any of its component units, or for searching for any records available for public inspection without formal request pursuant to the rules in this part and supplemental regulations issued as provided in Subpart C, or for producing any record required by statute to be made available for inspection without charge.

(c) The fees provided for copies in § 70.62(b) do not apply to copies of materials reproduced for the purpose of distribution to the public without charge or to copies of published materials available for purchase from the Superintendent of Documents which the Department makes available in single copies or in limited quantities without charge to persons whose access to such materials may serve the public interest and assist the Department in administering statutes or carrying out programs for which it is responsible.

§ 70.67 Waiver or reduction of fees by disclosure officer.

In appropriate circumstances the disclosure officer may waive or reduce fees otherwise applicable under § 70.62 for services in searching for and copying record information. Thus, where no major expenditure of staff time or burden on reproduction facilities is involved, single copies of disclosable documents readily accessible in Departmental files may be furnished without charge to persons properly and directly concerned with the matters therein (e.g., where an individual seeks a copy of a record pertaining to Departmental action or reference material directly concerning that individual), and to persons in special circumstances where inability to pay is demonstrated and it is clear that a significant public interest would be served by providing the service free of charge. Similarly, searching and copying services may be performed at a reduced charge determined by the disclosure officer to be justified by the public interest in disclosure of a requested record (see § 70.65) or by the benefit to the public that may accrue from dissemination of information likely to assist the Department in carrying out a statutory program.

Authentication; Special Studies and Compilations

§ 70.68 Authentication of copies.

(a) *Fees.* The Freedom of Information Act does not require certification or attestation under seal of copies of records furnished in accordance with its provisions. Pursuant to provisions of the general user-charger statute, 31 U.S.C. 483a and Subchapter II of Title 29 of the United States Code, the following charges will be made where such services are requested:

(1) For certification of true copies, each $1.

(2) For attestation under the seal of the Department, each $3.

(b) *Authority and form for attestation under seal.* Authority is hereby given to any officer or officers of the Department of Labor designated as authentication officer or officers of the Department to sign and issue certificates of authentication under the seal of the Department of Labor. The form of authentication shall be as follows:

I hereby certify, that _____ who signed the foregoing attestation, is now and was at the time of signing (title) _____ and has legal custody of the official documents of the U.S. Department of Labor therein attested and that full faith and credit should be given to his act as such.

In witness whereof, I _____ duly designated by the Secretary of Labor as Authentication Officer of the Department of Labor, have hereunto subscribed my name and caused the seal of the Department of Labor to be affixed this ____ day of _____ 19__.

_____
(Authentication Officer, Department of Labor)

§ 70.69 Special studies and compilations.

Pursuant to the provisions of Subchapter II of Title 29 of the United States Code (29 U.S.C. 9–9b), the Department may, upon the written request of any person and within the discretion of the Secretary of Labor, undertake special statistical studies relating to employment, hours of work, wages and other conditions of employment, may prepare from its records statistical compilations, and may furnish transcripts of its studies, tables, and other records, upon the payment of the actual cost of such work by the person requesting it. Transcripts of existing records requested and made available under the Freedom of Information Act will be furnished subject to payment of the applicable searching and copying fees as set forth earlier in this

subpart. However, services as above described which are not within the contemplation of the Freedom of Information Act and are performed in the discretion of the Secretary of Labor will be charged for on the basis of a computation of actual total cost. Nothing in the Freedom of Information Act is construed to require the compiling of records other than the indexes prescribed by 5 U.S.C. 552(a)(2) or the preparation of documents other than those required by 5 U.S.C. 552(a)(1) to be published in the FEDERAL REGISTER.

Subpart C—Special Rules Applicable to Certain Specific Records

§ 70.71 Authority of agency officials in Department of Labor.

Each agency of the Department of Labor for which an officer or officers have authority to issue rules and regulations may through such officers promulgate supplementary regulations, not inconsistent with this part, governing the disclosure of particular or specific records which are in the custody of that departmental unit. Agencies of the Department which do not or have not promulgated special supplementary regulations governing disclosure of particular records shall disclose such records pursuant only to the provision of Subparts A and B of this Part 70.

§ 70.72 Supplementary regulations currently in force.

Duly promulgated regulations curently in force governing the disclosure of records in the custody of a subdivision of the Department shall continue to be operative insofar as such regulations are consistent with the provisions of this part. Agencies of the Department which have promulgated supplementary regulations or to which special regulations apply are listed in this subpart. Disclosure by such agencies of records not subject to such regulations shall be governed by the provisions of this Part 70.

§ 70.73 Bureau of Labor Statistics.

(a) The records described in paragraph (b) of this section are in the custody of the Bureau of Labor Statistics at the address indicated. The right of inspection and copying provided in this Part 70 may be exercised at that office. See § 70.77(b) concerning rules specially applicable to the disclosure of statistical information compiled by the Bureau pursuant to the Williams-Steiger Occupational Safety and Health Act of 1970.

(b) Collective bargaining agreements and other available agreements and actions thereunder settling or adjusting labor disputes, maintained by the Department of Labor pursuant to section 211(a) of the Labor-Management Relations Act of 1947 (61 Stat. 156; 29 U.S.C. 181); other available statistical information, tables, studies, and reports, collected, collated, and published or reported by the Bureau of Labor Statistics pursuant to the provisions of title 29, chapter I of the United States Code. As required by the governing statute and as provided in § 70.21, requests to inspect or copy any such document shall be denied with respect to any specific information submitted to the Department in confidence.

Address: U.S. Department of Labor, Bureau of Labor Statistics, General Accounting Office, 441 G Street NW., Washington, D.C. 20210.

§ 70.74 Employment Standards Administration.

(a) Records relating to compensation claims under statutes administered by the Employment Standards Administration for work injuries to employees and for detention benefits under the War Hazards Act may be made available for inspection as provided in 20 CFR 1.22, 31.22, 41.21, 51.1, 61.19, 81.1, and 91.1, and for copying as provided in Subpart B and the supplemental rules in 20 CFR 1.22.

(b) Special supplementary regulations governing the disclosure of records respecting the certification of eligibility to apply for worker assistance under the Trade Expansion Act of 1962 (76 Stat. 872; 19 U.S.C. 1801) and Executive Order 11075 (28 FR 473) may be found in §§ 90.18–19 of this title. The proceedings and reports of advisory committees established under the Trade Act (88 Stat. 1996; 19 U.S.C. 2155) may, as provided in Section 135(f)(2) of that Act, be nondisclosable whenever and to the extent it is determined in accordance with law that such meetings will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions on the negotiation of any trade agreement.

(c) The disclosure of records in the custody of the Office of Federal Contract Compliance or its Compliance Agencies shall be governed by the supplementary regulations published as new Part 60–40 of Title 41 of the Code of Federal Regulations. These will be rescinded or modified in the near future so as to conform to the Freedom of Information Act Amendments of 1974.

(d) The regulations of the Office of Workers' Compensation Programs relating to release of information, which will appear in the near future in the Federal Register under Title 20, Chapter I, Part 10, with reference to the Federal Employees' Compensation Act, as amended; at 20 CFR 702.112–702.114 with reference to the Longshoremen's and Harbor Workers' Compensation Act, as amended and extended; and at 20 CFR 715.301 with reference to the Black Lung Benefits Program.

§ 70.75 Labor-Management Services Administration.

(a) The following documents are in the custody of the Office of Labor-Management Standards Enforcement at the address indicated below, and the right of inspection and copying provided in this Part 70 may be exercised at such offices:

(1) Data and information contained in any report or other document filed pursuant to Sections 201, 202, 203, 211, and 301 of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 524–528, 530, 79 Stat. 888; 29 U.S.C. 431–433, 441, 461).

(2) Data and information contained in any report or other document filed pursuant to the reporting requirements of Part 204 of this title, which are the regulations implementing Executive Order 11491. The reporting requirements are found in Part 204, of this title, § 204.3.

Address: U.S. Department of Labor, Office of Labor-Management Standards Enforcement, Public Documents Room 8757, Georgia Avenue, Silver Spring, MD 20216.

(b) Upon request of the Governor of a State for copies of any reports or documents filed pursuant to Sections 201, 202, 203, 211 of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 524–528, 79 Stat. 888; 29 U.S.C. 431–433, 441), or for information contained therein, which have been filed by any person whose principal place of business or headquarters is in such State, the Office of Labor-Management Standards Enforcement shall:

(1) Make available without payment of a charge to the State agency designated by law or by such Governor, such requested copies of information and data, or;

(2) Require the person who filed such reports and documents, to furnish such copies or information and data directly to the State agency thus designated.

§ 70.76 Employees' Compensation Appeals Board.

In matters before the Employees' Compensation Appeals Board the Board shall make available, or deny access to, records in the proceedings to employees or their attorneys, or in case of death, to their beneficiaries or authorized representatives, in compliance with standards set out in 20 CFR 501.8.

§ 70.77 Occupational Safety and Health Administration.

(a) Supplementary regulations governing the disclosure of records in the custody of the Occupational Safety and Health Administration pursuant to the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590; 29 U.S.C. 651) have been published in Part 1913 of this title. These will be rescinded or modified in the near future so as to conform to the Freedom of Information Act Amendments of 1974.

(b) Disclosure of statistical information compiled by the Bureau of Labor Statistics pursuant to the Williams-Steiger Occupational Safety and Health Act of 1970 shall be governed by the supplementary regulations referred to in paragraph (a) of this section. These will be rescinded or modified in the near future so as to conform to the Freedom of Information Act Amendments of 1974.

Signed at Washington, D.C., this 11th day of February 1975.

PETER J. BRENNAN,
Secretary of Labor.

[FR Doc.75-4328 Filed 2-18-75;8:45 am]

CHAPTER X—NATIONAL MEDIATION BOARD

PART 1208—AVAILABILITY OF INFORMATION

Freedom of Information Regulations

Pursuant to the authority contained in 44 Stat. 577, as amended (45 U.S.C. 151–163), the National Mediation Board herein amends Part 1208 of its rules by revising § 1208.2.

These amendments revise National Mediation Board regulations to conform to the requirements of the Freedom of Information Act as amended by Pub. L. 93–502, 88 Stat. 1561.

The amendments require that requests for information be mailed to the Executive Secretary of the Board (except that requests for records of the National Railroad Adjustment Board be sent directly to its offices in Chicago). The Executive Secretary responds to the request, in writing, by either granting the request, denying it, or granting and denying it in part. There is a ten-day period for this response, with provision for extension of time. The Executive Secretary is specifically charged with insuring timely response.

In cases of a complete or partial denial by the Executive Secretary, the amendments provide for an appeal to the Chairman of the Board within thirty days of receipt of the denial. The Chairman of the Board has twenty days to act on the appeal. Provision is made for extension of the 20-day period and handling of appeals if and when time limits are exhausted.

The Executive Secretary is charged with maintaining records and files on the processing of all requests and appeals. He must also keep records of all extensions of time taken. This insures that the ten-day extension limit in the Act is not exceeded. Authority for granting extensions of time rests with the official authorized to make a decision on the request.

The amended regulations provide that when the time for initial reply, including any extensions, has expired and no determination has been made, the requester must be informed in writing that he may deem this a denial and appeal to the Chairman of the Board. This provision assures the preservation of the twenty-day period allotted to the Chairman for deciding appeals. In cases of unavoidable delay, such as that occasioned by requests for voluminous records the requester may be asked to defer appeal so long as the Board is making diligent efforts to process the request.

The amendments require that at either stage a letter denying a request must include the name and title or position of the person responsible for the denial, as well as a statement of reasons for it.

In a case where time limits have expired at the appeal level the requester will be informed of his right to treat the failure to complete administrative review as an exhaustion of administrative remedies, permitting immediate suit for judicial review. He will also be advised, however, of the reason for the delay and of the date by which a response may be expected. When the delay is unavoidable, it is anticipated the requester will avoid unnecessary litigation expenses until processing is completed, since a court may grant an extension in such circumstances.

Because the amendments pertain to matters of procedure and policy, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. In addition, since these changes are necessary to achieve compliance with the amendments to the Freedom of Information Act (5 U.S.C. 552), which become effective on February 19, 1975, there is not sufficient time to receive and evaluate public comment. However, in accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments on these amendments to the Executive Secretary, National Mediation Board, Washington, D.C. 20572 no later than March 19, 1975. All comments received by that date will be evaluated and acted upon as if this document were a proposal.

On January 13, 1975, the Board published in the FEDERAL REGISTER (40 FR 2451) proposed fee regulations (§ 1208.6). That subject is therefore not covered by these amendments.

In consideration of the above, § 1208.2 is amended in the manner set forth below.

These amendments, together with the proposed fee regulations referred to above, become effective on February 19, 1975.

ROWLAND K. QUINN, Jr.,
Executive Secretary.

Part 1208 of Title 29 of the Code of Federal Regulations is amended by revising § 1208.2 to read as follows:

§ 1208.2 Production or disclosure of material or information.

(a) *Requests for identifiable records and copies.* (1) All requests for National Mediation Board records shall be filed in writing by mailing the request or delivering it to the Executive Secretary, National Mediation Board, 1230 16th Street, NW., Washington, D.C. 20572, except that requests for records of the National Railroad Adjustment Board shall be in writing and addressed to the Administrative Officer, National Railroad Adjustment Board, 220 South State Street, Chicago, Illinois 60604.

(2) The request shall reasonably describe the records being sought in a manner which permits identification and location of the records.

(i) If the description is insufficient to locate the records, the National Mediation Board will so notify the person making the request and indicate the additional information needed to identify the records requested.

(ii) Every reasonable effort shall be made by the Board to assist in the identification and location of the records sought.

(3) Upon receipt of a request for records the Executive Secretary shall maintain records in reference thereto which shall include the date and time received, the name and address of the requester, the nature of the records requested, the action taken, the date the determination letter is sent to the requester, appeals and action thereon, the date any records are subsequently furnished, the number of staff hours and grade levels of persons who spent time responding to the request and the payment requested and received.

(4) All time limitations established pursuant to this section with respect to processing initial requests and appeals shall commence at the time a written request for records is received at the Board's offices in Washington, D.C., except for requests directed to the National Railroad Adjustment Board pursuant to § 1208.2(a)(1) in which case the time limit shall commence when the request is received at the NRAB's office in Chicago.

(i) An oral request for records shall not begin any time requirement.

(b) *Processing the Initial Request.* (1) Time limitations. Within 10 working days (excepting Saturdays, Sundays and working holidays) after a request for records is received, the Executive Secretary shall determine and inform the requester by letter whether or the extent to which the request will be complied with, unless an extension is taken under paragraph (3) of this subsection.

(2) Such reply letter shall include:

(i) A reference to the specific exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record, a brief explanation of how the exemption applies to the record withheld.

(ii) The name or names and positions of the person or persons, other than the Executive Secretary, responsible for the denial.

(iii) A statement that the denial may be appealed within thirty days by writing to the Chairman of the Board, National Mediation Board, Washington, D.C. 20572, and that judicial review will thereafter be available in the district in which the requester resides, or has his principal place of business, or the district in which the agency records are situated, or the District of Columbia.

(3) Extension of time. In unusual circumstances as specified in this paragraph, the Executive Secretary may extend the time for initial determination on requests up to a total of ten days (excluding Saturdays, Sundays, and legal public holidays). Extensions shall be granted in increments of five days or less and shall be made by written notice to the requester which sets forth the reason for the extension and the date on which a determination is expected to be dispatched. As used in this paragraph "unusual circumstances" means, but only to the extent necessary to the proper processing of the request—

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency or another division having substantial interest in the determination of the request, or the need for consultation among components of the agency having substantial subject matter interest therein.

(4) Treatment of delay as a denial. If no determination has been dispatched at the end of the ten-day period, or the last extension thereof, the requester may deem his request denied, and exercise a right of appeal, in accordance with § 1208.2c. When no determination can be dispatched within the applicable time limit, the responsible official shall nevertheless continue to process the request; on expiration of the time limit he shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to treat the delay as a denial and to appeal to the Chairman of the Board in accordance with § 1208.2(c) and he may ask the requester to forego appeal until a determination is made.

(c) *Appeals to Chairman of the Board.* (1) When a request for records has been denied in whole or in part by the Executive Secretary or other person authorized to deny requests, the requester may, within thirty days of its receipt, appeal the denial to the Chairman of the Board. Appeals to the Chairman of the Board shall be in writing, addressed to the Chairman, National Mediation Board, Washington, D.C. 20572.

(2) The Chairman of the Board will act upon the appeal within twenty working days (excluding Saturdays, Sundays and legal public holidays) of its receipt unless an extension is made under paragraph (c)(3) of this section.

(3) In unusual circumstances as specified in this paragraph, the time for action on an appeal may be extended up to ten days (excluding Saturdays, Sundays and legal public holidays) minus any extension granted at the initial request level pursuant to § 1208.2(b)(3). Such extension shall be made by written notice to the requester which sets forth the reason for the extension and the date on which a determination is expected to be dispatched. As used in this paragraph "unusual circumstances" means, but only to the extent necessary to the proper processing of the appeal—

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency or another division having substantial interest in the determination of the request or the need for consultation among components of the agency having substantial subject matter interest therein.

(4) Treatment of delay as a denial. If no determination on the appeal has been dispatched at the end of the twenty-day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be dispatched within the applicable time limit, the appeal will nevertheless continue to be processed; on expiration of the time limit the requester shall be informed of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to seek judicial review in the United States district court in the district in which he resides or has his principal place of business, the district in which the Board records are situated or the District of Columbia. The requester may be asked to forego judicial review until determination of the appeal.

(d) *Indexes of Certain Records.* (1) The National Mediation Board at its office in Washington, D.C. will maintain, make available for public inspection and copying, and publish quarterly (unless the Board determines by order published in the Federal Register that such publication would be unnecessary or impracticable) a current index of the materials available at the Board offices which are required to be indexed by 5 U.S.C. 552(a)(2).

(i) A copy of such index shall be available at cost from the National Mediation Board, Washington, D.C. 20572.

(2) The National Railroad Adjustment Board at its offices in Chicago, Illinois will maintain, make available for public inspection and copying, and publish quarterly (unless the Board determines by order published in the FEDERAL REGISTER that such publication would be unnecessary or impracticable) a current index of the materials available at the Board offices which are required to be indexed by 5 U.S.C. 552(a)(2).

[FR Doc.75-4467 Filed 2-18-75;8:45 am]

Title 32—National Defense

CHAPTER XII—DEFENSE SUPPLY AGENCY

SUBCHAPTER B—MISCELLANEOUS

[DSAR 5400.14; RCS DD-PA(A) 1365]

PART 1285—AVAILABILITY TO THE PUBLIC OF OFFICIAL INFORMATION

Freedom of Information Regulations; Revision of Part

FEBRUARY 13, 1975.

Pursuant to the provisions of Pub. L. 93-502, enacted November 21, 1974, notice is hereby given of the publication of revised DSA Regulation 5400.14 implementing 5 U.S.C. 552, as amended by Pub. L. 93-502, Freedom of Information Act. This regulation will become effective February 19, 1975. However, public comments and recommendations submitted to Defense Supply Agency, ATTN: DSAH-XA, Cameron Station, Alexandria, Virginia 22314 by April 18, 1975, will be considered in determining the need for modification of the regulation.

Effective date: February 19, 1975.

By order of the Director, Defense Supply Agency.

GEORGE W. JOHNSON, Jr.,
Colonel, USAF,
Staff Director, Administration.

Part 1285, Subchapter B, Chapter XII of Title 32 of the Code of Federal Regulations is revised to read as follows:

Sec.
1285.1 References.
1285.2 Purpose and Scope.
1285.3 Policy.
1285.4 Definitions.
1285.5 Background.
1285.6 Responsibilities.
1285.7 Procedures.
1285.8 Forms and Reports.
Appendix A

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93-502.

§ 1285.1 References.[1] [2]

(a) 5 U.S.C. 552 as amended by Pub. L. 93-502.

(b) DoD 5200.1-R, Information Security Program Regulation.

(c) DSAR 5400.12, Administration of Congressional Matters.

(d) DSAR 4185.13, Management of Technical Data.

(e) DSAR 4185.5, DSA Technical Data Management Program.

(f) 5 U.S.C. 551 (Section 2 of the Administrative Procedure Act).

(g) DSAM 5205.1, Safeguarding Classified Information.

(h) 18 U.S.C. 1905 Disclosure of Confidential Information Generally.

(i) Pub. L. 86-36 (50 U.S.C. 401 note) National Security Information Exemption.

(j) 35 U.S.C. 181-188 Secrecy of Certain Inventions and Filing Applications in Foreign Countries.

(k) Pub. L. 90-620, 44 U.S.C. 3301 Definition of Records.

(l) Pub. L. 93-579, U.S.C. 552a, The Privacy Act of 1974.

(m) 42 U.S.C. 2162 Classification and Declassification of Restricted Data Periodic Determinations.

(n) DoD Directive 5400.9, Publication of Proposed and Adopted Regulations Affecting the Public.

§ 1285.2 Purpose and scope.

To announce policy and prescribe procedures governing the release to the public of DSA documentary material or records, or information therefrom,

[1] Referenced material may be obtained from Department of Defense, Defense Supply Agency, and Superintendent of Documents.

[2] This publication supersedes Part 1285 published in Volume 38, No. 172, dated Thursday, September 6, 1973.

pursuant to the provisions of 5 U.S.C. 552 as amended by Pub. L. 93–502, and to implement DoD Directive 5400.7, Availability to the Public of Department of Defense Information. This DSAR is applicable to HQ DSA and DSA field activities.

§ 1285.3 Policy.

(a) *General.* (1) It is the policy of DSA to make available to the public the maximum amount of information concerning its operations and activities. Exceptions to the requirements for disclosure will be made in accordance with the provisions of paragraph (d) of this section and the release procedures in § 1285.7.

(2) Information exempt from public disclosure, under provisions of paragraph (d) of this section, will be made available to the public when its disclosure is not inconsistent with statutory requirements or with DSAM 5205.1 and when officials determine that no significant purpose would be served by withholding the information. The determination of whether a significant purpose is served by withholding information under provisions of paragraph (d) of this section is within the sole discretion of the DSA official authorized by this Part 1285 to deny release.

(3) Records and other documents or related material may be withheld from the public only as authorized by this Part 1285. In no event will the determination that requested information comes within any of the specific exemptions in paragraph (d) of this section, or that information has not been properly requested, be influenced by the possibility that its release might suggest administrative error or inefficiency, or might embarrass DSA or an official of DSA.

(b) *Availability of records.* (1) Subject to the exemptions in paragraph (d) of this section, and the procedural requirements of § 1285.7, any record in the possession of DSA will be made available upon the request of any person. A request for information reasonably interpretable as being made pursuant to 5 U.S.C. 552 as amended by Pub. L. 93–502 will be processed in accordance with this Part 1285. Records which are published in accordance with DoD Directive 5400.9 or made available for inspection and copying in accordance with DoD Directive 5400.9 will, when practicable, also be copied and forwarded by the custodian of the records to those who request copies.

(2) A request for a record will be honored if:

(i) The requester describes the record sought with sufficient particularity to enable DSA to locate the record with a reasonable amount of effort, and

(ii) The requester is willing and able to pay the cost associated with locating and providing a copy of the record sought, as determined by enclosure 1.

(3) In order for a record to be considered "identifiable", it must exist at the time of the request. There is no obligation to "create" a record for the purpose of satisfying a request for information. When the information requested exists in the form of several records at several locations, the activity receiving the request will normally compile the records. However, the applicant may be referred to the custodian of the records if gathering the information would be unduly burdensome on the DSA activity.

(4) When the record requested was originated by another agency, the request will be referred promptly and directly to that agency for disposition. The originating agency of a record should consult with other agencies having a significant interest in the content of a requested document before determining whether to make it available. A member of the public requesting material primarily originated by a Member of Congress or Congressional Committee will be advised to direct his request to the Member or Committee concerned.

(5) DSA activities will not create procedural obstacles when internal DSA or Department of Defense organizational questions arise, particularly where reorganization or transfer of functions contributes to an improperly directed request. DSA personnel will make all reasonable efforts to assist private persons in directing requests for information to the appropriate authorities.

(c) *Inspection and copying of opinions, orders, and manuals.* (1) Subject to the exemptions set forth in paragraph (d) of this section, DSA will make available for public inspection and copying in an appropriate facility or facilities in accordance with the procedures in § 1285.7, the following materials, unless such materials are published and copies offered for sale:

(i) All final opinions (including concurring and dissenting options) and orders in adjudication, as defined in 5 U.S.C. 551 (Section 2 of the Administrative Procedure Act) that may be cited, used, or relied upon as precedents in future adjudication.

(ii) Statements of policy and interpretations of less than general applicability affecting the public but not published in the FEDERAL REGISTER.

(iii) Administrative staff manuals and instructions, or portions of such, which establish DSA policy or interpretation of policy that is determinative of the rights of members of the public. This provision does not apply to instructions for employees on the tactics and techniques to be used in performing their duties, or to instructions relating only to the internal management of DSA. Examples of manuals and instructions not normally made available are:

(*a*) Those issued for audit and inspection purposes.

(*b*) Those which prescribe operational tactics, standards of performance, or criteria for defense, prosecution or settlement of cases.

(*c*) Operations and maintenance manuals and technical information concerning munitions, equipment, and systems.

(2) The cost to the DSA activity of copying any such opinion, order, or statement of policy or interpretation shall be imposed on the person requesting the copy in accordance with enclosure 1.

(3) When feasible, all material published in the Federal Register will be made available for inspection and copying, along with any available index of that published material, in the same facility or facilities provided for inspection and copying of opinions, orders and manuals.

(4) Identifying details which if revealed would create a clearly unwarranted invasion of personal privacy may be deleted from any final opinion, order, statement of policy, interpretation, staff manual, or instruction made available for inspection and copying. In every such case, the justification for the deletion must be fully explained in writing.

(5) No order, opinion, statement of policy, interpretation, staff manual, or instruction which is issued, promulgated, or adopted after 4 July 1967 which is not indexed and either made available or published, may be relied upon, used, or cited as a precedent against any member of the public unless he has actual and timely notice of terms. If the order, opinion, statement of policy, interpretation, staff manual, or instruction was issued, promulgated, or adopted before 4 July 1967, it need not be indexed but must be made available in accordance with paragraph (c)(1) of this section. In determining whether an order, opinion, statement of policy, interpretation, staff manual, or instruction is likely to be used or relied upon as precedent, the primary test will be whether it is intended to provide binding guidance for decisions or evaluations by subordinates or for future decisions by the same authority in adjudications of cases affecting the public, where similar facts or issues are presented.

(d) *Exemptions.* (1) Documentary material which would otherwise have to be made available under paragraphs (b) and (c) of this section may be withheld from public disclosure if it comes within a specific exemption. However, even exempted material will be made available if, in the judgment of the releasing authority, no significant purpose would be served by withholding it from the requester under an applicable exemption and its release is not inconsistent with statutory requirements or DSAM 5205.1 and DoD Directive 5200.1–R.

(2) The following types of records will be withheld from public disclosure:

(i) Those properly classified in the interest of national defense or foreign policy, as specifically authorized under the criteria established by Executive Order and implemented by regulations, such as DSAM 5205.1 and DoD Directive 5200.1–R.

(ii) Those containing rules, regulations, orders, manuals, directives, and instructions relating to the internal personnel rules or to the internal practices of the Department of Defense if their release to the public would substantially hinder the effective performance of a significant function of the Department of Defense. Examples include:

(a) Operating rules, guidelines, and manuals for Department of Defense investigators, inspectors, auditors, or examiners, and schedules or methods which cannot be disclosed to the public without substantial prejudice to the effective performance of a significant function of the Department of Defense. Some of those materials would reveal:

(1) Negotiating and bargaining techniques.

(2) Bargaining limitations and positions.

(3) Inspection schedules and methods.

(4) Audit schedule and methods.

(b) Personnel and other administrative matters such as examination questions and answers used in training courses or in the determination of the qualifications of candidates for employment, entrance to duty, advancement or promotion.

(iii) Those containing information which statutes authorize or require to be withheld from the public. The authorization or requirement may be found in the terms of the statute itself or in Executive Orders or in regulations authorized by, or in implementation of, the statute. Examples include:

(a) National Security Agency information, governed by Pub. L. 86-36 (50 U.S.C. 401 note) (National Security Agency Reporting Exemption).

(b) Any records containing information relating to inventions which are the subject of patent applications on which Patent Secrecy Orders have been issued, governed by 35 U.S.C. 181-188 (Secrecy of Certain Invention and Filing Applications in Foreign Countries).

(c) Information to be held in confidence under the Privacy Act of 1974.

(d) Information protected as restricted data, 42 U.S.C. 2162.

(iv) Those containing information which DSA receives from anyone including an individual, a foreign nation, an international organization, a State or local government, a corporation, or any other organization with the understanding that it will be retained on a privileged or confidential basis, or similar commercial or financial records which DSA develops internally, if they are in fact the kinds of records which are normally considered privileged or confidential, and when release of the record would adversely affect the competitive position of the source of the information. Such records include documents containing:

(a) Commercial or financial information received in confidence in connection with loans, bids, or proposals, as well as other information received in confidence or privileged, such as trade secrets and inventions and discoveries.

(b) Statistical data and commercial or financial information concerning contract performance, income, profits, losses, and expenditures, if received in confidence from a contractor or potential contractor.

(c) Information customarily considered privileged or confidential under the rules of evidence in the Federal Courts.

(d) Personal statements given in the course of inspections, investigations, or audits, where such statements are received in confidence from the individual and retained in confidence because they cover trade secrets or commercial or financial information normally considered confidential or privileged or because they are essential to an effective inspection, investigation, or audit and could not otherwise be obtained.

(v) Except as provided in subdivisions (a) through (d) of this subparagraph, internal communications within and among elements of Federal agencies and of the Department of Defense.

(a) Examples include:

(1) Staff papers containing staff advice, opinions, or suggestions.

(2) Information received or generated by DSA preliminary to a decision or action, including draft versions of documents, where premature disclosure would interfere with the authorized appropriate purpose for which the records were created.

(3) Advice, suggestions, or reports prepared on behalf of DSA by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed by DSA to obtain advice and recommendations or by individual consultants.

(4) Those portions of DSA activities evaluations of contractors and their products which contain recommendations or advice by Government employees about the contractor or product.

(5) Advance information on such matters as proposed plans to procure, lease or otherwise acquire and dispose of materials, real estate, facilities, or functions, when such information would provide undue or unfair competitive advantage to private personal interests.

(6) Records which are exchanged among agency personnel or within and among elements of Federal agencies and the Department of Defense preparing for anticipated legal proceedings before any Federal, State, or military court or before any regulatory body.

(7) Reports of inspections, audits, investigations, or surveys which pertain to safety, security or the internal management, administration, or operation of the Department of Defense.

(b) If any such intra- or inter-agency record, or reasonably segregable portion of such record would routinely be made available through the discovery process in the course or litigation with the agency (i.e., the process by which litigants obtain information from each other that is relevant to the issues in a trial or hearing) then it will not be withheld from the general public. If, however, the record or parts of the record would only be made available through the discovery process by special order of the court based on the particular needs of a litigant balanced against the interests of the agency in maintaining its confidentiality, then the record or part of the record will not be made available to a member of the general public.

(c) A direction or order from a superior to a subordinate, though contained in internal communication, is generally not withholdable from a requester if it constitutes policy guidance or a decision, as distinguished from a discussion of preliminary matters that would compromise the decision-making process.

(d) An internal communication concerning an event or decision which has subsequently been made a matter of public record, or was between officers or employees (or members of the armed forces) who no longer are actively employed by the DSA activity will normally be made available to a requester unless it is determined that, because of special circumstances, release would prejudice the current decision-making process.

(vi) Information in personnel and medical files, as well as information in similar files that, if disclosed to a member of the public, would result in a clearly unwarranted invasion of personal privacy.

(a) Examples of files similar to personnel and medical files include:

(1) Those compiled to evaluate or adjudicate the suitability of candidates for civilian employment and the eligibility of individuals, civilian, military or industrial, for security clearances.

(2) Files containing reports, records, and other material pertaining to personnel matters in which administrative action, including disciplinary action, may be taken.

(b) In determining whether the release of information would result in a "clearly unwarranted invasion of personal privacy," consideration will be given to the stated or assumed purpose of the request. When determining whether a release is "clearly warranted," the public interest in satisfying this purpose must be balanced against the sensitivity of the privacy interest being threatened.

(c) When the only basis for withholding information is protection of the personal privacy of an individual who is the subject of the record, the information will not be withheld from him or from his designated legal representative. A clearly unwarranted invasion of the privacy of others discussed in that record may, however, constitute a basis for deleting reasonably segregable portions of the record even when providing it to the subject of the record.

(d) An individual's personnel, medical, or similar files may be withheld from him or from his designated legal representative only to the extent consistent with Pub. L. 93-579, 5 U.S.C. 552a, The Privacy Act of 1974.

(vii) Those investigative records compiled for the purpose of enforcing civil, criminal, or military law, including the implementation of Executive Orders, or regulations validly adopted pursuant to law.

(a) But only to the extent that their release would:

(1) Interfere with enforcement proceedings.

(2) Deprive a person of the right to a fair trial or impartial adjudication.

(3) Constitute an unwarranted invasion of personal privacy.

(4) Disclose the identity of a confidential source.

(5) Disclose confidential information furnished only from a confidential source obtained by a criminal law enforcement authority in a criminal investigation or by an agency conducting a lawful national security intelligence investigation.

(6) Disclose investigative techniques and procedures not already in the public domain and requiring protection against public disclosure to ensure their effectiveness.

(7) Endanger the life or physical safety of law enforcement personnel.

(b) Examples include:

(1) Statements of witnesses and other material based on the information developed during the course of the investigation and all materials prepared in connection with related Government litigation or adjudicative proceedings.

(2) The identity of firms or individuals suspended from contracting with the Department of Defense or being investigated for alleged irregularities when no indictment has been obtained nor any civil action filed against them by the United States.

(3) Information obtained in confidence in the course of a criminal investigation by a criminal law enforcement agency or office within a DSA activity, or a lawful national security intelligence investigation conducted by an authorized agency or office within a DSA activity for the purpose of obtaining affirmative or counterintelligence information, or background investigation information needed to determine suitability for employment or eligibility for access to classified information.

(c) The right of individual litigants to investigative records currently available by law is not diminished.

(d) When the subject of an investigative record is the requester of that record it may be withheld only in accordance with P.L. 93-579, 5 U.S.C. 552a, (The Privacy Act of 1974), and implementing regulations.

(viii) Those contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(ix) Those containing geological and geophysical information and data (including maps) concerning wells.

§ 1285.4 Definitions.

(a) *Records.* (1) In determining whether documentary material qualifies as a "record", consideration should be given to Pub. L. 90-620 44 U.S.C. 3301 Definitions of Records which defines the word "record" for records disposal purposes as follows:

> [It] includes all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the United States Government in pursuance of federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained therein.

(2) The term "records" does not include objects or articles such as structures, furniture, paintings, sculpture, three-dimensional models, vehicles, equipment, etc., whatever their historical value or value as "evidence". Records are not limited to permanent or historical documents but include contemporaneous documents as well.

(3) Records include data stored in computers.

(4) Formulae, designs, drawings, research data, computer programs, technical data, and so forth are not considered "records" within the Congressional intent of 5 U.S.C. 552 as amended by Pub. L. 93-502. Because of development costs, utilization, or value, these items are considered property, not preserved for informational value nor as evidence of agency functions, but as exploitable resources to be utilized in the best interest of all the public. Requests for copies of such material will be evaluated in accordance with policies expressly directed to the appropriate dissemination or use of such property.

(b) *Record custodian.* The Heads of DSA primary level field activities and Heads of HQ DSA principal staff elements who have custody of the records.

§ 1285.5 Background.

Section 552 of Title 5 of the United States Code, as amended by Pub. L. 93-502, describes the kinds of official records and information that must be made available to the public and the kinds of information that need not be made available to the public, requires facilities be made available to the public for the examination and copying of records, and provides procedures for the review of denials to release records and information to the public. Requests from Members of Congress are governed by DSAR 5400.12.

§ 1285.6 Responsibilities.

(a) (HQ DSA. (1) The Chief, Publications Division, Office of Administration (DSAH-XM) will review DSA publications to assure that those which meet the criteria for publication in the Federal Register are prepared in proper form and transmitted promptly for publication in the Federal Register as required by DSAR 5025.19, Publication of Material in the Federal Register.

(2) The Chief, Administrative Management Division, Office of Administration (DSAH-XA) will:

(i) Serve as the point of contact for referring members of the public, except the news media, desiring to examine and copy records to the appropriate staff element within HQ DSA, or within the DSA Administrative Support Center having custody of the records.

(ii) Maintain for examination and copying by the public a copy of the material and documents referred to in subparagraph (b)(3) of this section.

(iii) Process requests for records received under provisions of § 1285.7(a)(1).

(iv) Maintain this DSAR in a current status and review it annually.

(3) The Special Assistant for Public Affairs (DSAH-B) will serve as the central point of contact for the release of information to the news media.

(4) The Counsel (DSAH-G) will:

(i) Provide advice and assistance in determining releasability of records.

(ii) Process appeals to the Director, DSA, of denials to provide records.

(iii) Coordinate denials of releases with Office of the General Counsel, Department of Defense, and the Department of Justice, as appropriate.

(5) The Heads of HQ DSA Principal Staff Elements will:

(i) Review all instructions for which they are the proponent to ensure that such instructions are not inconsistent with the provisions of this Part 1285.

(ii) Ensure that the provisions of this Part 1285 are followed in processing requests for records from members of the public.

(iii) Coordinate with other HQ DSA staff elements, to the extent considered necessary, requests from the public for information.

(iv) Arrange for the collection of fees prescribed in enclosure 1 associated with locating and providing copies of documentary material requested. Screening records and transporting records for screening purposes may constitute a search cost payable by the requester, in advance of release, along with costs of duplication in accordance with enclosure 1.

(v) Furnish DSAH-XA a copy of all denials to provide a record made under the provisions of § 1285.7(b)(13). Copies will be identified using the office symbol, calendar year, Freedom of Information Act (FOIA) and serially numbered, e.g., DSAH-X-75-FOIA-1.

(vi) Prepare and submit reports in accordance with § 1285.8(b).

(vii) Make initial determination to deny release after coordination with DSAH-G.

(b) The Heads of DSA Primary Level Field Activities will:

(1) Ensure that the provisions of this Part 1285 are followed in processing requests for records from members of the public.

(2) Provide convenient facilities where members of the public may examine and copy documents to which they are entitled.

(3) Maintain for examination and copying by the public a copy of the following:

(i) All publications listed in § 1285.1.

(ii) DSAH 5025.2, DSA Field Establishment Directory, which reflects the mailing addresses of all activities of DSA.

(iii) DSAH 5025.1, Defense Supply Agency Index of Publications (HSIs, Handbooks, Manuals and Regulations) which contains, among other things, a topical index of the publications issued by HQ DSA.

(iv) DSAM 5015.1, Files Maintenance and Disposition, which contains a functional description of all records and files generated by DSA. This manual also contains a topical index.

(v) A copy of such local indexes of opinions, orders, statement of policy, and publications that may exist, or that may be prepared in the future.

(4) Arrange for the collection of fees prescribed in enclosure 1 associated with locating and providing copies of documentary material requested. Screening records and transporting records for screening purposes may constitute a search cost payable by the requester, in advance of release, along with costs of duplication in accordance with enclosure 1.

(5) Furnish DSAH-XA a copy of all denials to provide a record made under provisions of § 1285.7(b)(13). In the case of the Defense Contract Administration Services Regions, the copy will be forwarded through the Deputy Director for Contract Administration Services. Copies will be identified using activity office symbol, calendar year, FOIA and serially numbered, e.g., DCSC-75-FOIA-1.

(6) Prepare and submit reports in accordance with § 1285.8(b).

(7) Refer cases of significance to DSAH-G for review and evaluation when the issues raised are unusual, precedent setting, matters of disagreement among components, or otherwise requiring special attention or guidance.

(8) Establish safeguards to ensure that the official records of the activity are properly safeguarded during the time they are made available for examination by a member of the public.

(9) Ensure that internal operating procedures provide for prompt response to all requests for records.

(10) Establish a training program for those personnel that may be involved in passing on requests from the public for records.

§ 1285.7 Procedures.

(a) *Requests for records or for permission to examine records.* (1) Members of the public may make requests in writing for copies of records or for permission to examine or copy records directly to the Head of the DSA activity having custody of the records, if the location of the document is known. If the location is not known, and it is reasonably certain that the document is in the custody of DSA, the requester should submit the request to HQ DSA, ATTN: DSAH-XA, Cameron Station, Alexandria, Virginia 22314.

(2) Requests must identify each record with sufficient particularity to enable the custodian to locate the record with a reasonable amount of effort. Information as to where the record originated, its subject, date, number, or other identification that would enable the custodian to locate the document should be provided by the requester when possible. The DSA activity may require the requester to complete a form to facilitate efforts to locate a record not otherwise reasonably described.

(3) Because certain information and documents are exempt from the imposition of fees under provisions of enclosure 1, the requester need not submit payment for services with the initial written request. When it is anticipated that the cost of the record search and reproduction of the documents may exceed $10.00, the requester will be so advised and requested to submit payment prior to furnishing the records. In other instances, the requester will be advised at the time the record is found and prior to the release as to the charges involved.

(4) Refusal to make a record available may be made only by the Heads of DSA primary level field activities or the Heads of HQ DSA principal staff elements. The refusal may be appealed to the Director, DSA.

(b) *Processing requests for records or for permission to examine records.* (1) Upon receipt of a request for records or for permission to examine records, the DSA activity having custody of the records will collect the documents, determine whether they are releasable under provisions of this DSAR, determine the fees to be charged, and advise the requester accordingly.

(2) If the request is for permission to examine releasable records, the requester will be advised as to where and when during normal working hours he may appear for this purpose. Every reasonable effort will be made to accommodate individuals granted permission to examine records; however, overtime is not authorized for this purpose.

(3) The DSA official having custody and control of any DSA record, requested by a member of the public, is authorized to make such record available unless the record falls within one of the exemptions listed in § 1285.3(d). In such case the request will be referred promptly to the Head of the primary level field activity or the Head of a HQ DSA principal staff element, as appropriate. The marking or absence of the marking "FOR OFFICIAL USE ONLY" does not relieve the official who is authorized to release the record from the responsibility of reviewing the requested record for the purpose of determining whether an exemption under § 1285.3(d) is applicable.

(4) The official designated by DSA to make initial determinations, if not a public affairs officer, should consult with the appropriate public affairs officer to determine if the subject matter is considered to be newsworthy. The Public Affairs Officer will be advised of all requests from news media representatives. In addition, public affairs officers will be informed in advance whenever a record containing potentially newsworthy material is to be released or to be withheld when it is likely that the withholding action will be publicly challenged.

(5) Initial determinations will normally be made within 10 working days of the date a request is received by the official designated to respond for the type of record sought, providing the requester indicates a willingness to reimburse the DSA activity for any search and duplication costs incurred in providing the record. If the willingness of the requester to reimburse the DSA activity for any required search and duplication costs is not expressed in the request, this issue must be resolved before the time for responding begins to run. The requester will be contacted as expeditiously as possible, usually by telephone, for assurance of his intent to reimburse the Government for these costs.

(6) When the request is received by someone other than the records custodian, it will be forwarded promptly to the records custodian with the period for response commencing upon his receipt.

(7) When a request is received for records which were obtained by DSA from a non-U.S. government source; or contain information obtained by DSA from non-U.S. government source and because of the source and the nature of the records or information, there is reason to believe that the source of the information or records may object to release and may have an enforceable right to prevent release, prompt notification of intended release shall be given to the source. Release will normally be withheld until the source has a reasonable time to comment on the proposed release. Comments received will be considered in determining the releasability of the document. When the source advises that it is seeking a restraining order or other court action to prevent release, release will normally not be made pending the outcome of the court action.

(8) When a decision is made to release a record, it will be forwarded promptly to the requester, upon receipt of any required payment for search and duplication.

(9) In all cases where the time for response may become an issue, the official responsible for replying will acknowledge to the requester the date of the receipt of the request for purposes of determining time limits.

(10) If additional time is needed in unusual circumstances to respond to requests for records, the DSA activity will acknowledge the request in writing within the 10 day period, briefly cite one of the unusual circumstances requiring delay, and indicate the anticipated date for substantive response which may not exceed 10 additional working days. Unusual circumstances that may justify delay are:

(i) The requested records are located in whole or part at places other than the office processing the request.

(ii) The request requires the collection and coordination of a substantial number of records.

(iii) Consultation is required with other DoD components or agencies having substantial interest in the subject matter of the requested records to determine whether the records requested in whole or part are exempt from disclosure under section VI of DoD Directive 5400.7 or should be released as a matter of discretion.

(11) The extension of time for responding to an initial request must be approved on a case by case basis by DSAH-G.

(12) Requests for records will be denied only by the Head of a DSA primary level field activity or the Head of a HQ DSA principal staff element upon

a determination after consultation with the appropriate Office of Counsel that:

(i) The record is subject to one or more of the exemptions set forth in § 1285.3(d) of this Part 1285 and a significant and legitimate Governmental purpose is served by withholding it, or

(ii) The record cannot be found because it has not been described with sufficient particularity to enable the DSA activity to locate it with a reasonable amount of effort.

(13) When a request for a record or records is denied in whole or part, the designated official who has made the determination will explain to the requester in writing (with at least one additional copy) the basis for the determination, that he may appeal the denial to the Director, DSA and that such appeals should contain the basis for disagreement with the denials.

(i) Inability to process any part of the request within the specified time will be explained to the requester, with notification that he may treat this delay as an initial denial with a right to appeal, or that he may agree to await a substantive response by an anticipated date. It will be made clear that any such agreement does not prejudice the right of the requester to appeal the initial decision after it is made.

(ii) The explanation of the substantive basis for a denial will include both specific citation of the exemption applied under the authority of § 1285.3(d), and a short discussion of the significant and legitimate Governmental purpose served by invoking an exemption. Reference to the marking "FOR OFFICIAL USE ONLY" on the requested record does not constitute a proper citation or explanation of the basis for invoking an exemption.

(iii) The name and title or position of the official responsible for the denial will be included in the written response to the requester.

(iv) When the initial denial is based in whole or part on a security classification pursuant to § 1285.3(d)(2)(i), the explanation will include a summary of the paragraph or paragraphs contained in DSAM 5205.1 which set forth the criteria or rationale for the current classification of the requested record. In addition, it will advise the requester of his optional right under DSAM 5205.1 and DoD Directive 5200.1–R to seek declassification review of a record more than 10 years old.

(v) Copies of all initial denials will be maintained by each DSA activity in a form suitable for rapid retrieval, periodic statistical compilation, and management evaluation.

(vi) When there is good reason to believe that the requester will appeal the denial, the record, the letter of denial, and such other information as will assist the Director, DSA, will be promptly forwarded to DSAH–G in order to permit timely response of the anticipated appeal.

(14) Final determination on appeals will normally be made within 20 working days of the receipt of the appeal by DSAH–G. Misdirected appeals will be forwarded promptly to the Director, DSA, with the period for response commencing upon his receipt, which should be acknowledged. If additional time is needed to decide the appeal because of unusual circumstances, as described in subparagraph 10 of this paragraph, the final determination may be delayed for the number of working days, not to exceed 10, which were not utilized as additional time for responding to the initial request.

(15) A final denial to provide a requested record will be made in writing by the Director, DSA. Such a denial will be made in accordance with appeal procedures prescribed in this DSAR and will include, as a minimum, the following elements:

(i) The basis for the denial will be explained to the requester, in writing, both with regard to the applicable exemption under § 1285.3(d), and the significant and legitimate governmental purpose served by its withholding. More particularly:

(*a*) When the final denial is based in whole or part on a security classification, pursuant to § 1285.3(d)(2)(i), the explanation will include a statement that the record meets the cited criteria and rationale of DSAM 5205.1 and that this determination is based on a declassification review. A brief explanation of why that review confirmed the continuing validity of the security classification will also be included.

(*b*) The requester will be advised of his optional right to seek declassification of the record by the appropriate component Classification Review Committee established pursuant to DoD 5200.1–R.

(*c*) Appeals from a denial by the appropriate component Classification Review Committee may be made to the Interdepartmental Classification Review Committee, establish pursuant to Executive Order 11652, March 8, 1972, in lieu of immediate judicial review.

(*d*) The written final denial will include the name and title or position of the official responsible for the denial and of the provision for judicial review of the denial set forth in § 1285.8.

(ii) No final denial will be made without prior consultation with the Office of the General Counsel of the Department of Defense when there is reason to believe that the requester will file a complaint in a U.S. District Court to force release of the denied record.

(iii) Copies of all final denial letters will be maintained by DSAH–XA in a central repository. Whenever a complaint is filed in a U.S. District Court to force release of the record, a copy of the final denial letter from DSA will be forwarded to the General Counsel of the Department of Defense. DSAH–G will also furnish to the General Counsel a copy of the requester's complaint and the DSA litigation report.

(iv) When the denial to provide the record is based in whole or part on a security classification, pursuant to § 1285.3(d)(2) and § 1285.3(d)(2)(iii), the litigation report will include an affidavit from the Director, DSA, for this purpose explaining in as much detail as national security interests permit the basis under applicable statute, executive order, and regulations for the current security classification of the requested record.

(16) The costs of searching for and duplicating a requested record must be paid or waived in accordance with enclosure 1. The time limits for responding to requests will be computed from the date of receipt from the requester of clear evidence of willingness to pay any anticipated search and duplication costs under the schedule of fees set forth in enclosure 1 for providing the requested record. The record need not be forwarded until actual receipt of payment.

(c) *Release and authentication of copies of official records.* (1) Records available to a person, requesting them under § 1285.3(b), will be authenticated with an appropriate seal whenever necessary to fulfill an official governmental or other legal function.

(2) Records exempt from release to a person requesting them may, nevertheless, be authenticated on request, and released in accordance with this DSAR to local, State, or other Federal Governmental bodies, whether legislative, executive, administrative, or judicial, as follows:

(i) To the courts: whenever ordered as appropriate to the proper administration of justice.

(ii) To the Congress: in accordance with DSAR 5400.12.

(iii) To local and State legislative bodies: in accordance with the determination of the Director, DSA.

(iv) To other Federal agencies, both executive and administrative as determined by the Director, DSA, as consistent with efficient administration and in accordance with law, including Pub. L. 93–579, 5 U.S.C. 552a, The Privacy Act of 1974.

(v) To local and State executive and administrative agencies as determined by the Director, DSA.

§ 1285.8 Forms and reports.

(a) An annual report will be prepared by DSAH–XA for the preceding calendar year on DSA's implementation of 5 U.S.C. 552 as amended by Pub. L. 93–502 as follows:

(1) The number and reasons for initial denial of records requested from DSA.

(2) The number of appeals from initial denials and the disposition of each such appeal; with the reasons for any final denial of records requested from DSA.

(3) The names and titles or positions of each person primarily responsible for an initial denial or for a final denial on appeal of a request for a record under 5 U.S.C. 552 as amended by Pub. L. 93–502 and the number of such denials by each such person.

(4) The results of any disciplinary proceeding, including an explanation of a decision not to discipline that was initiated against an officer or employee because a court determined that a record

requested from DSA was arbitrarily or capriciously withheld.

(5) A copy of the current DSAR implementing 5 U.S.C. 552 as amended by Pub. L. 93-502.

(6) Total amount collected for search and duplication under this DSAR as accurately and as reasonably as can be determined.

(7) A brief description of every court case brought against DSA to force the release, or withhold a record requested under 5 U.S.C. 552 as amended by Pub. L. 93-502, including the status of the case, whether attorney fees have been awarded to the private party, and whether the court found that the circumstances of withholding raised questions of arbitrary and capricious personnel conduct.

(8) A description of all efforts undertaken by DSA or by personnel of DSA to instruct and educate employees or the public on the requirements of 5 U.S.C. 552 as amended by Pub. L. 93-502.

(9) Such data on the costs of processing requests under 5 U.S.C. 552 as amended by Pub. L. 93-502 as can reasonably be ascertained or estimated.

(10) Any other information that demonstrates efforts by DSA to implement 5 U.S.C. 552 as amended by Pub. L. 93-502, including problems with the implementation and any proposed solutions for those problems.

(11) Six copies of the annual report will be furnished to the Assistant Secretary of Defense (Public Affairs), on or before 1 February of each year for transmittal to the Speaker of the House of Representatives, and to the President of the Senate.

(b) An annual feeder report on the actions of the preceding year will be prepared by Heads of DSA primary level field activities and Heads of HQ DSA principal staff elements for submission, in duplicate to DSAH-XA on or before 15 January each year. The report will contain the following:

(1) The number of initial denial of records requested.

(2) The total amount collected for search and duplication under this DSAR as accurately and as reasonably as can be determined.

(3) Such data on other costs of processing requests under 5 U.S.C. 552 as amended by Pub. L. 93-502 as can reasonably be ascertained or estimated.

(4) A description of all efforts undertaken by the DSA activity personnel to instruct and educate employees or the public on the requirements of 5 U.S.C. 552 as amended by Pub. L. 93-502 and this Part 1285.

(5) Any other information that demonstrates efforts by the DSA activity to implement 5 U.S.C. 552 as amended by Pub. L. 93-502, including problems with the implementation and any proposed solutions for those problems.

(6) The Reports Control Symbol for these annual reports will be DD-PA(A) 1365.

APPENDIX A

UNIFORM AGENCY FEES FOR SEARCH AND DUPLICATION UNDER THE FREEDOM OF INFORMATION ACT AMENDMENTS PUB. L. 93-502

SCHEDULE OF FEES

Duplication, Publications, Forms and Reports

Shelf stock of printed or microfiche medium (requesters may be furnished more than one copy of a publication or form if it does not deplete stock levels below projected planned usage).

Minimum fee, per request	$2.00
Plus:	
Forms, per copy	.05
Publications, per printed page	.01
Microfiche, per fiche	.06
Reports, per printed page	.05

(Examples: Cost of 20 forms, $3; cost of a printed publication with 100 pages, $3; cost of a microfiche publication consisting of 10 fiche, $2.60.)

Office copy reproduction (when shelf stock is not available):	
Minimum charge up to six reproduced pages	$2.00
Minimum charge, first fiche	5.00
Each additional page	.05
Each additional fiche	.10
Other issuances:	
Minimum charge up to six pages	2.00
Each additional page	.05
Search:	
Clerical search, per hour	6.50
Minimum charge	3.50
Professional search (includes computer programer time and review to determine whether a record comes within the scope of a request) per hour	13.00
Minimum charge	10.00
Computer service charges will be based on actual computer configuration used and be based on direct costs only if the Central Processing Unit plus Input/Output Devices plus Memory Capacity.	

Exceptions.—1. In general, charges may be waived in the public interest when:

a. The recipient of the benefits is engaged in a nonprofit activity designed for public safety, health or welfare.

b. Payment of the full costs or fee by a state, local government or nonprofit group would not be in the interest of the program.

c. The incremental cost of collecting the fees would be an unduly large part of the receipts from the activity.

2. A refusal to waive charges by the official responsible for the initial decision on the request for the record may be appealed to the Director, DSA, for purposes of final approval.

Collections.—1 Normally, collection of charges and fees will be made in advance of rendering the service. In some instances, it may be more practical to collect charges and fees at the time of conveying the service or property to the recipient, but only in those instances where the request specifically states that whatever cost involved will be acceptable or acceptable up to a specified limit that covers anticipated costs. The time for responding to a request begins to run upon agreement to pay for anticipated costs of search and duplication or upon actual receipt of payment.

2. Collection of scheduled fees and charges will normally be deposited to Miscellaneous Receipts of the Treasury.

3. Search fees are assessable even when no records responsive to the request, or no records not exempt from disclosure are found, provided the requester is advised of the requirement at the time the estimated charges are presented to the requester for approval and he agrees to incur the costs of search.

IDENTIFICATION AND MARKING "FOR OFFICIAL USE ONLY"

1. At the time of their origination, records which are not classified under DSAM 5205.1 but which are authorized by DoD Directive 5400.7 to be withheld from the general public disclosure under paragraph III D of this DSAR, and which for a significant reason should not be given general circulation, will be considered as being "FOR OFFICIAL USE ONLY" (FOUO). No other record may be considered as being FOUO.

2. A record that is considered FOUO will be marked "FOR OFFICIAL USE ONLY" when such marking is deemed necessary or desirable to ensure that all persons having access to the record are aware that it should not be publicly released and should not be handled indiscriminately. Individual folders, records, and files covering specific kinds of subject matter, normally falling within the exemptions of paragraph III D of this DSAR, such as personnel and medical files, bids, proposals, and the like, which are covered by rules and regulations specifying what may be released publicly, do not require the FOUO marking unless handled under circumstances where marking is desirable to ensure protection of the information involved.

a. The marking may not be used on records or portions of records which are classified under DSAM 5205.1 and DoD Directive 5200.1-R, but, if otherwise proper under this DSAR, may be applied to information or material which has been declassified.

b. The marking may not be employed as a less stringent security designation under conditions where classification under DSAM 5205.1 is not warranted.

c. Information contained in a technical document for which a determination has been made that a distribution statement under DSAR 4185.5 is appropriate will not be marked FOUO.

3. Material which is considered FOUO must be safeguarded from general disclosure irrespective of whether the material is physically marked with the term "FOR OFFICIAL USE ONLY."

4. Whenever necessary to assure proper understanding, or appropriate as a means of facilitating segregation of exempt information in a lengthy record, individual paragraphs which contain FOUO information will be marked with the symbol FOUO. In classified documents, this marking will be applied only to paragraphs which contain FOUO information and do not contain classified information. Instructions regarding marking, safeguarding, and transmitting FOUO materials are set forth in 42 U.S.C. 2162 (Classification and Declassification of Restricted Data Periodic Determination).

JUDICIAL ACTION

1. A requester has exhausted his administrative remedy after he has been refused a record by the Director, DSA, or when the DSA activity fails to respond to his request within any of the time limits set forth in paragraph VII of this DSAR. The requester may then seek an order from a United States

District Court, in the district in which he resides or has his principal place of business; in the district in which the record is situated to produce the record; or in U.S. District Court for the District of Columbia.

2. The burden is on DSA to justify its denial to produce the record, and its justification will be evaluated de novo by the District Court, which may examine any requested record in camera to determine whether the denial of the record, in whole or part, is justified under 5 U.S.C. 552 as amended by P.L. 93-502.

3. The United States must answer or otherwise plead to the complaint within 30 days. Consideration of such cases by both trial courts and courts of appeal will be expedited in every way, except as to cases the court considers of greater importance.

4. A court may retain jurisdiction and allow DSA additional time to complete its review of records to determine their availability to the requester when DSA demonstrates due diligence in exceptional circumstances.

5. If the court orders production of a record and the responsible official designated in accordance with paragraph VII of this DSAR refuses to produce it, the court has statutory authority to punish the official whose decision and order govern the determination of whether to release the record. In addition, the court may assess against the United States reasonable attorney fees and other litigation costs when the requester has substantially prevailed. In such situations the court may also issue a written finding that the circumstances of withholding, raise a question of whether DSA personnel have acted arbitrarily or capriciously, and the Civil Service Commission must determine whether disciplinary action against responsible DSA officials, or employees is warranted.

[FR Doc.75-4501 Filed 2-18-75;8:45 am]

SUBCHAPTER P—RECORDS

PART 298—FREEDOM OF INFORMATION PRACTICES

The Director, Defense Investigative Service (DIS) approved Part 298. This Part 298 has been added based upon a requirement contained in Congressional enacted amendments to Section 552 of Title 5, United States Code. The act requires that agencies publish in the FEDERAL REGISTER their rules of procedure for compliance with the Freedom of Information Act. In consideration of the foregoing the following are procedures in effect within the Defense Investigative Service, a component of the Department of Defense.

Sec.
298.1 Purpose.
298.2 DIS mission.
298.3 DIS organization.
298.4 Records maintained by DIS.
298.5 Procedure for release of DIS records.
298.6 Effective date.

AUTHORITY: The provisions of Part 298 issued under 5 U.S.C. 552 as amended by Public Law 93-502.

§ 298.1 Purpose.

This part sets forth the mission of the Defense Investigative Service (DIS), its organization, and policy and procedures for the public to obtain information from DIS records.

§ 298.2 DIS mission.

(a) The Defense Investigative Service was established on April 18, 1972, by Department of Defense (DoD) Directive 5105.42 (38 FR 7131, March 16, 1973) and became operational on October 1, 1972. DIS is a separate operating agency within the DoD, under control of the Secretary of Defense with staff supervision provided by the Assistant Secretary of Defense (Comptroller).

(b) The mission of DIS is to provide the Department of Defense (and, when authorized by the Secretary of Defense, other U.S. Government activities), with a single centrally directed personnel security investigative service. DIS also conducts criminal investigations and crime prevention surveys, and participates in joint investigative task force operations, in support of the Defense Supply Agency (DSA). Finally, it conducts such special investigations as the Secretary of Defense may direct. DIS operates the Defense Central Index of Investigations (DCII), a consolidated index of investigations conducted by all components of the DoD, and the DoD National Agency Check Center (NACC).

§ 298.3 DIS organization.

DIS organization includes a headquarters located in Washington, DC, as well as 20 district offices and over 200 subordinate operating locations throughout Continental United States (CONUS), Alaska, Hawaii, and Puerto Rico. A copy of the DIS Regulation 01-13,[1] "DIS Mailing List," showing addresses of all offices is available to the public upon request and may be obtained from the DIS Public Information Officer, Defense Investigative Service (DO102), Washington, DC 20314.

§ 298.4 Records maintained by DIS.

It is the expressed policy of DIS to make available to the public all information which may be released within the spirit of the Freedom of Information Act with due regard to protecting the privacy of any individual whom it investigates. In this regard DIS maintains the following records which may be of interest to the public:

(a) The DCII, which contains references to investigative records created and held by DoD components. The records indexed are primarily those prepared by the investigative agencies of the Military departments and DIS, covering criminal, fraud, counterintelligence, and personnel security information. Information from the DCII is not available to the general public since release would violate the privacy of individuals whose names are indexed therein.

(b) Records created as required by DoD Directive 5105.42, "Charter for the Defense Investigative Service" (38 FR 7131, March 16, 1973).

(c) Investigative records created in the furnishing of criminal investigative support to DSA.

(d) Publications listed in DIS Regulation 00-1,[1] "Numerical Index of Standard DIS Publications". A copy of DISR 00-1 may be obtained upon request from the DIS Public Information Officer, Defense Investigative Service (D0102), Washington, DC 20314. DISR 00-1 will be provided for the convenience of possible users of the materials but does not constitute a determination that all or any of the publications listed affect the public or have been cleared for release.

[1] Filed as part of original.

§ 298.5 Procedure for release of DIS records.

The following procedure is applicable to requests for records by the public, except that subjects of investigative files or their counsel may obtain summaries or extracts under separate procedures for use in administrative or judicial proceedings.

(a) All requests will be submitted in writing and addressed to:

PUBLIC INFORMATION OFFICER (FOIA REQUEST)
DEFENSE INVESTIGATIVE SERVICE (D0102)
WASHINGTON, D.C. 20314

(b) All requests will contain the following information:

(1) As complete an identification as possible of the desired material, including to the extent known, the title, description, and date.

(2) With respect to material concerning investigations of personnel: the first name, middle name or initial, surname, date and place of birth, military service number, and social security account number of the individual concerned. (These items are required to consult the index effectively.)

(3) A statement as to whether the requester wishes to inspect the record or obtain a copy of it.

(4) A statement that all costs for search and duplication, if requested (or costs to a specified limit), will be borne by the requester even if no record, or no releasable record, is found.

(5) In all third-party requests for investigative files (e.g., spouse or executor), a statement indicating what use the requester will make of the record.

(6) The full address (including ZIP code) of the requester.

(c) A notarized request by an individual requesting investigative or other personal records may be required to avoid the risk of invasion of privacy. Requesters will be notified and furnished appropriate forms if this requirement is deemed necessary.

(d) When a request is incomplete or fails to include all of the information required, the requester will be contacted for additional information prior to beginning release procedures.

(e) DIS will dispatch responses to requests within ten working days after receipt by the Information Office, unless an extension is required and the requester notified.

(f) When the release of information has been approved, a statement of estimated costs computed in accordance with the DoD Fee Schedule, or a statement waiving the fee, will be included in the notification of approval. Records approved for release will generally be mailed immediately following receipt of fees. Fees may be waived or reduced

where release of information is determined to benefit the general public. Remittances should be in the form of a personal check, bank draft, or postal money order. Remittances are to be made payable to the Treasurer of the United States.

(g) When requests are denied in whole or part, the requester will be advised of the identity of the official making the denial, the reason for the denial, the right of appeal of the decision, and the identity of the person to whom an appeal may be addressed.

(h) Facilities for the review or reproduction of records following approval of request or appeal are available at the DIS Public Information Office, Room 2H063, 1000 Independence Avenue, SW (James Forrestal Building), Washington, D.C. Subject to the approval of the Director, DIS, and upon request of an individual requester, arrangements may be made to review documents at one of the DIS field locations within the United States or Puerto Rico. Depending upon the field location, reproduction service may or may not be available at the specific office.

(i) Appeal of denial to DIS records and information:

(1) All appeals will be submitted in writing and addressed to:

DIRECTOR (FOIA APPEAL)
DEFENSE INVESTIGATIVE SERVICE
(D0102)
WASHINGTON, D.C. 20314

(2) All appeals will contain at least the same identification of the records requested as the original request, and a copy of the letter denying the request, if available.

(3) All appeals will be reviewed by the Director or Deputy Director, DIS. Responses to appeals will be dispatched within ten working days after receipt, unless an extension is required and appellant notified. When a request is approved on appeal, the procedures set forth in Section 298.5(f) will be followed.

§ 298.6 Effective date.

The effective date of this Part is February 19, 1975.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

FEBRUARY 15, 1975.

[FR Doc.75-4596 Filed 2-18-75;8:45 am]

Title 29—Labor

CHAPTER I—NATIONAL LABOR RELATIONS BOARD

PART 102—RULES AND REGULATIONS, SERIES 8

Subpart K—Records and Information

FREEDOM OF INFORMATION REGULATIONS

By virtue of the authority vested in it by the National Labor Relations Act, approved July 5, 1935,[1] the National Labor Relations Board hereby issues the following amendments to §§ 102.117 and 102.118 of its rules and regulations, Series 8, as amended, which it finds necessary to carry out the provisions of said Act.

The agency fee schedule set forth in § 102.117(c)(2)(iv) is issued pursuant to a notice of proposed rulemaking published in the FEDERAL REGISTER on January 14, 1975, 40 FR 2591-2592. The Board having considered the responses thereto and in the exercise of its authority under the Act has determined to adopt the rule as proposed.

1. Section 102.117 is revised to read as follows:

§ 102.117 Board materials and formal documents available for public inspection and copying; requests for described records; time limit for response; appeal from denial of request; fees for document search and duplication; files and records not subject to inspection.

(a)(1) The following materials are available to the public for inspection and copying during normal business hours: (i) All final opinions and orders made in the adjudication of cases; (ii) administrative staff manuals and instructions that affect any member of the public (excepting those establishing internal operating rules, guidelines, and procedures for the investigation, trial, and settlement of cases); (iii) a record of the final votes of each member of the Board in every agency proceeding; and (iv) a current index of final opinions and orders made in the adjudication of cases. Paragraphs (a)(1) (i) through (iv) of this section are available for inspection and copying during normal business hours at the Board's offices in Washington, D.C. Paragraphs (a)(1) (ii) and (iv) of this section are also available for inspection and copying during normal business hours at each regional, subregional, and resident office of the Board. Final opinions and orders made by regional directors in the adjudication of representation cases pursuant to the delegation of authority from the Board under section 3(b) of the act are available to the public for inspection and copying in the original office where issued.

(2) Copies of forms prescribed by the Board for the filing of charges under section 10 or petitions under section 9 may be obtained without charge from any regional, subregional, or resident office of the Board.

(b)(1) The formal documents constituting the record in a case or proceeding are matters of official record and, until destroyed pursuant to applicable statutory authority, are available to the public for inspection and copying during normal business hours, at the appropriate regional office of the Board or at the Board's office in Washington, D.C., as the case may be.

(2) The executive secretary shall certify copies of the formal documents upon request made a reasonable time in advance of need and payment of lawfully prescribed costs.

(c)(1) Requests for the inspection and copying of records other than those specified in paragraphs (a) and (b) of this section must be in writing and must reasonably describe the record in a manner to permit its identification and location. The envelope and the letter should be clearly marked to indicate that it contains a request for records under the Freedom of Information Act (FOIA). The request must contain a specific statement assuming financial liability in accordance with paragraph (c)(2)(iv) of this section, for the direct costs of the search for the requested records and their duplication. If the request is for records in a regional or subregional office of the agency, it should be made to that regional or subregional office; if for records in the office of the general counsel and located in Washington, D.C., it should be made to the Freedom of Information officer, office of the general counsel, Washington, D.C.; and if for records in the offices of the Board in Washington, D.C., to the executive secretary of the Board, Washington, D.C. Requests made to other than the appropriate office will be forwarded to that office by the receiving office, but in that event the applicable time limit for response set forth in paragraph (c)(2) of this section shall be calculated from the date of receipt by the appropriate office.

(2)(i) Within 10 working days after receipt of a request by the appropriate office of the agency a determination shall be made whether to comply with such request, and the person making the request shall be notified in writing of that determination. If the determination is to comply with the request, the records shall be made promptly available to the person making the request, upon payment of any charges due in accordance with the provisions of paragraph (c)(2)(iv) of this section. If the determination is to deny the request, the notification shall set forth the reasons therefor and the name and title or position of each person responsible for the denial, and shall notify the person making the request of the right to appeal the adverse determination under the provisions of subparagraph (ii) of this subsection.

(ii) An appeal from an adverse determination made pursuant to paragraph (c)(2)(i) of this section must be filed within 20 working days of the receipt by the person of the notification of the adverse determination where the request is denied in its entirety; or, in the case of a partial denial, within 20 working days of the receipt of any records being made available pursuant to the request. If the adverse determination was made in a regional office, a subregional office, or by the Freedom of Information officer, office of the general counsel, the appeal shall be filed with the general counsel in Washington, D.C. If the adverse determination was made by the executive secretary of the Board, the appeal shall be filed with the chairman of

[1] 49 Stat. 449; 29 U.S.C. 151-166, as amended by act of June 23, 1947 (61 Stat. 136; 29 U.S.C. Sup. 151-167), act of October 22, 1951 (65 Stat. 601; 29 U.S.C. 158, 159, 168), and act of September 14, 1959 (73 Stat. 519; 29 U.S.C. 141-168).

the Board in Washington, D.C. Within 20 working days after the receipt of an appeal the chairman of the Board or the general counsel, as the case may be, shall make a determination with respect to such appeal and shall notify the person in writing. If the determination is to comply with the request, the records shall be made promptly available to the person making the request, upon receipt of payment of any charges due in accordance with the provisions of paragraph (c)(2)(iv) of this section. If on appeal the denial of the request for records is upheld in whole or in part, the person making the request shall be notified of the reasons for the determination, the name and title or position of each person responsible for the denial, and the provisions for judicial review of that determination under the provisions of 5 U.S.C. section 552(4)(B). Even though no appeal is filed from a denial in whole or in part of a request for records by the person making the request, the chairman of the Board or the general counsel may, without regard to the time limit for filing of an appeal, sua sponte initiate consideration of an adverse determination under this appeal procedure by written notification to the person making the request. In such event the time limit for making the determination shall commence with the issuance of such notification.

(iii) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either paragraph (c)(2)(i) or (ii) of this subsection may be extended by written notice to the person requesting the record setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice or notices shall specify a date or dates that would result in an extension or extensions totaling more than 10 working days with respect to a particular request. As used in this subparagraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(*a*) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(*b*) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(*c*) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(iv) Persons requesting records from this agency shall be subject to a charge of fees for the direct cost of document search and duplication in accordance with the following schedules, procedures, and conditions:

(*a*) Schedule of charges:

(*1*) For each one-quarter hour or portion thereof of clerical time	$1.10
(*2*) For each one-quarter hour or portion thereof of professional time	2.85
(*3*) For each sheet of duplication (not to exceed 8½ x 14 inches) of requested records	$0.10
(*4*) All other direct costs of search or duplication shall be charged to the requester in the same amount as incurred by the agency.	

(*b*) Each request for records shall contain a specific statement assuming financial liability, in full or to a specified maximum amount, for charges, in accordance with paragraph (c)(2)(iv)(*a*) of this section which may be incurred by the agency in responding to the request. If the anticipated charges exceed the maximum limit stated by the person making the request or if the request contains no assumption of financial liability for charges, the person shall be notified and afforded an opportunity to assume financial liability. The request for records shall not be deemed received for purposes of the applicable time limit for response until a written assumption of financial liability is received. When the anticipated charges exceed $50, the person making the request, upon notification, shall deposit 50 percent of the anticipated charges with the agency. The request shall not be deemed received for purposes of the applicable time limit for response until such deposit has been made.

(*c*) Charges may be imposed even though the search discloses no records responsive to the request, or none not exempt from disclosure. The imposition of charges may be waived for the convenience of the agency, and will be reduced or waived where the agency determines that furnishing the information can be considered as primarily benefiting the general public. The agency may, by agreement with the person making the request, make arrangements with commercial firms for required services to be charged directly to the requester.

(v) "Working days," as used in this subsection, means calendar days excepting Saturdays, Sundays, and legal holidays.

(d) Subject to the provisions of §§ 102.31(c) and 102.66(c), all files, documents, reports, memoranda, and records of the agency, falling within the exemptions specified in 5 U.S.C. section 552(b), shall not be made available for inspection or copying, unless specifically permitted by the Board, its chairman, or its general counsel.

2. Section 102.118(a) is revised to read as follows:

§ 102.118 Board employees prohibited from producing files, records, etc., pursuant to subpoena ad testificandum or subpoena duces tecum; prohibited from testifying in regard thereto; production of witnesses' statements after direct testimony.

(a) Except as provided in § 102.117 of this part respecting requests cognizable under the Freedom of Information Act, no regional director, field examiner, administrative law judge, attorney, specially designated agent, general counsel, member of the Board, or other officer or employee of the Board shall produce or present any files, documents, reports, memoranda, or records of the Board or of the general counsel, whether in response to a subpoena duces tecum or otherwise, without the written consent of the Board or the chairman of the Board if the document is in Washington, D.C., and in control of the Board; or of the general counsel if the document is in a regional office of the agency or is in Washington, D.C., and in the control of the general counsel. Nor shall any such person testify in behalf of any party to any cause pending in any court or before the Board, or any other board, commission, or other administrative agency of the United States, or of any State, territory, or the District of Columbia, or any subdivisions thereof, with respect to any information, facts, or other matter coming to his knowledge in his official capacity or with respect to the contents of any files, documents, reports, memoranda, or records of the Board or the general counsel, whether in answer to a subpoena or otherwise, without the written consent of the Board or the chairman of the Board if the person is in Washington, D.C., and subject to the supervision or control of the Board; or of the general counsel if the person is in a regional office of the agency or is in Washington, D.C., and subject to the supervision or control of the general counsel.

A request that such consent be granted shall be in writing and shall identify the documents to be produced, or the person whose testimony is desired, the nature of the pending proceeding, and the purpose to be served by the production of the document or the testimony of the official. Whenever any subpoena ad testificandum or subpoena duces tecum, the purpose of which is to adduce testimony or require the production of records as described hereinabove, shall have been served on any such person or other officer or employee of the Board, he will, unless otherwise expressly directed by the Board or the chairman of the Board or the general counsel, as the case may be, move pursuant to the applicable procedure, whether by petition to revoke, motion to quash, or otherwise, to have such subpoena invalidated on the ground that the evidence sought is privileged against disclosure by this rule.

These amendments shall become effective on February 19, 1975.

Dated, Washington, D.C., February 14, 1975.

By direction of the Board.

JOHN C. TRUESDALE,
Executive Secretary.

[FR Doc.75-4624 Filed 2-18-75;8:45 am]

Title 30—Mineral Resources

CHAPTER V—INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

SUBCHAPTER A—COAL MINE HEALTH

PART 506—FREEDOM OF INFORMATION

The Interim Compliance Panel established by section 5 of the Federal Coal Mine Health and Safety Act of 1969 (83

Stat. 744; 30 U.S.C. 804) issues regulations implementing the provisions of Pub. L. 93-502 (88 Stat. 1561) which amends the Freedom of Information Act, 5 U.S.C. 552.

Written comments on the fee schedule or objections may be submitted to the Interim Compliance Panel, Room 800, 1730 K Street NW., Washington, D.C. 20006, no later than March 21, 1975. If in the opinion of the Panel such comments are applicable, these regulations will be amended.

Part 506 of title 30 CFR, Subchapter A Coal Mine Health, as set forth below is herewith promulgated and shall become effective February 19, 1975.

Sec.
506.1 Purpose.
506.2 General.
506.3 Responding to requests.
506.4 Certification of information.
506.5 Denial of requests.
506.6 Appeals.
506.7 Schedule of fees.
506.8 Annual report.

AUTHORITY: Sec. 508, Pub. L. 91-173, 83 Stat. 803, (30 U.S.C. 957).

§ 506.1 Purpose.

The provisions of this Part provide procedures to implement the Freedom of Information Act, 5 U.S.C. 552 as amended by Pub. L. 93-502 (88 Stat. 1561).

§ 506.2 General.

(a) Except for material specifically excluded by § 552(b) of Title 5, United States Code or other applicable statute, the Interim Compliance Panel will disclose all records and proceedings pertaining to the issuance or denial of permits for noncompliance with the interim mandatory health standards and the electric face equipment standards for underground coal mines prescribed by the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742; 30 U.S.C. 801).

(b) Requests for information should be sent to the Interim Compliance Panel, Room 800, 1730 K Street NW, Washington, D.C. 20006.

§ 506.3 Responding to requests.

(a) Requests for information will be acted upon within ten working days after the receipt of such requests.

(b) If an unusual circumstance under section 552(a)(6)(B), United States Code, delays a decision concerning disclosures of information, the person making the request will be informed of the delay within ten working days. In no case will the decision be delayed more than 20 working days from the receipt of the initial request.

§ 506.4 Certification of information.

(a) The Chairman and Vice Chairman are the certifying officers of the Interim Compliance Panel.

(b) The Chairman or Vice Chairman may authenticate records or written instruments of the Interim Compliance Panel and may attest to the genuineness and correctness of copies of Interim Compliance Panel records by his signature and by affixing the seal of the Interim Compliance Panel to such documents or records.

§ 506.5 Denial of requests.

(a) Denial of requests for privileged information shall be the responsibility of the Chairman or Vice Chairman.

(b) Letters denying requests for information will:

(1) Provide the person making the request with the reason for the denial;

(2) Inform the person making the request of the right to appeal the denial within 30 days; and

(3) Give the name of the official to whom the appeal may be sent.

§ 506.6 Appeals.

(a) The Interim Compliance Panel, or a quorum thereof, is the appellate authority for all denials of requests for information; however, the officer who denied the initial request for information is excluded from considering the merits of the appeal.

(b) The person filing the appeal will be informed of the decision on the appeal within 20 working days after its receipt. If the denial is upheld, the person who filed the appeal will be notified concerning the provisions for judicial review of that determination.

§ 506.7 Schedule of fees.

(a) The fee schedule for processing or copying of records or proceedings is:

(1) Reproduction, duplication, or copying of written records—10 cents per page; however, no charge will be made where the total amount does not exceed $1.

(2) Certification or authentication of records—$3 per certification or authentication.

(3) Transcription or duplication of audio tapes—direct cost.

(4) Special handling — overtime search for records, special delivery, certified, or airmail postage or other nonroutine costs will be charged on a direct cost basis.

(b) The Chairman or Vice Chairman may waive all or part of any fee provided for in this section whenever he determines that waiver or reduction of fee is in the public interest because furnishing the information can be considered as primarily benefitting the general public.

§ 506.8 Annual report.

On or before March 1 of each calendar year the Interim Compliance Panel will submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include:

(a) The number of determinations made not to comply with requests for information and the reasons for each such determination;

(b) The number of appeals filed, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(c) The name and title or position of each person responsible for the denial of information requested and the number of instances of participation for each;

(d) The results of each proceeding conducted pursuant to section 552(a)(4)(F), United States Code, including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding information or an explanation of why disciplinary action was not taken;

(e) A copy of every rule made in implementation of section 552 of Title 5, United States Code;

(f) A copy of the fee schedule and the total amount of fees collected for making information available pursuant to this regulation; and

(g) Any other information which indicates efforts to administer fully section 552 of Title 5, United States Code.

Dated: February 13, 1975.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

[FR Doc.75-4402 Filed 2-18-75;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER P—RECORDS

PART 292—AVAILABILITY TO THE PUBLIC OF DEFENSE INTELLIGENCE AGENCY (DIA) INFORMATION

The Director, Defense Intelligence Agency has approved the following revision of Part 292 as shown below in order to reflect the new requirements as contained in Public Law 93-502 which amended the Freedom of Information Act (5 U.S.C. 552).

Sec.
292.1 Purpose.
292.2 Applicability.
292.3 Basic policy.
292.4 Specific policy.
292.5 How the public submits requests for records.
292.6 Schedule of fees.
292.7 Material that may be withheld from release.
292.8 Filing an appeal for refusal to make records available.
292.9 Responsibilities.
292.10 Uniform agency fees for search and duplication under the Freedom of Information Act amendments (P.L. 93-502).

AUTHORITY: 5 U.S.C. 301, 552, as amended by the Act of 21 November 1974 (P.L. 93-502).

§ 292.1 Purpose.

This part implements the "Freedom of Information Act," (FOIA) 5 U.S.C. 552, as amended by Pub. L. 93-502, within the DIA and outline policy governing release of records to the public.

§ 292.2 Applicability.

The provisions of this part apply to all elements of the DIA and governs the release of records of these elements. This regulation is effective as of February 19, 1975.

§ 292.3 Basic policy.

(a) Upon receipt of a written request, the DIA will release to the public records concerning its operations and activities which are rightfully public information. Generally, information, other than that exempted in § 292.7, will be provided to the public. The following policy will be followed in the conduct of this program:

(1) The provisions of the Freedom of Information Act (5 U.S.C. 552 as amended), as implemented by Part 286 of this chapter and this part, will be supported in both letter and spirit.

(2) Requested records will be withheld only when a significant and legitimate governmental purpose is served by withholding them. Records which require protection against unauthorized release in the interest of the national defense or foreign relations of the United States will not be provided.

(3) Requests from members of Congress will be governed by DoD Directive 5400.4,[1] from the General Accounting Office by DoD Directive 7650.1,[1] and from other agencies and courts by Part 286 of this chapter.

(4) Records will not be withheld solely because their release might result in criticism of DoD or this Agency.

(5) The applicability of the Freedom of Information Act depends on the existence of an "identifiable record" (5 U.S.C. 552(a)(3)). Accordingly, if DIA has no record containing information requested by a member of the public, it is under no obligation to compile information to create such a record.

(6) The mission of DIA does not encompass regulatory or decisionmaking matters in the sense of a public use agency, therefore, extensive reading room material for the general public is not available, however, unclassified DIA regulations and related material have been placed in the joint reading room managed by DoD Public Affairs.

(b) This basic policy is subject to the exemptions recognized in 5 U.S.C. 552(b) and discussed in § 292.7. Even where release denial is authorized by 5 U.S.C. 552(b) and § 292.7, requested records will be provided if no significant and legitimate governmental purpose is served by withholding them.

§ 292.4 Specific policy.

(a) In determining whether documentary material qualifies as a "record," 44 U.S.C., 3301 will be used as a guide. This statute, which defines the word "records" for record disposal purposes, provides that:

> [It] includes all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the United States Government under Federal Law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained therein.

(1) Records are not limited to permanent or historical documents but include contemporaneous documents as well.

(2) The term "records" does not include objects or articles such as structures, furniture, paintings, sculpture, three-dimensional models, vehicles, equipment, etc., whatever their historical value or value as "evidence."

(3) Records include data stored in computers.

(4) Formulae, designs, drawings, research data, computer programs, technical data packages, and so forth are not considered "records" within the Congressional intent of 5 U.S.C. 552 as amended by Pub. L. 93-502. Because of development costs, utilization, or value, these items are considered property, not preserved for informational value nor as evidence of agency functions, but as exploitable resources to be utilized in the best interest of all the public. Requests for copies of such materal shall be evaluated in accordance with policies expressly directed to the appropriate dissemination or use of such property. Requests to inspect such material to determine its content for informational purposes shall normally be granted, unless inspection is inconsistent with the obligation to protect the property value of the material, as, for example, may be true for certain formulae.

(5) The term "For Official Use Only" will not prevent a record from being released. Use of this designation is for internal convenience only, and each record containing this designation should be examined for release on its own merit.

(b) For a record to be considered "identifiable," it must exist at the time of the request.

(c) Requesters must be reasonably specific in identifying records. DIA will make a reasonable effort to locate any records that are requested.

(d) Requests for identifiable records may be denied only when the official designated in § 292.9 determines that such denial is authorized by this regulation.

(e) Pursuant to 5 U.S.C. 552(a)(3), requesters will be charged reasonable costs incurred by DIA in searching and copying records. Charges will be in accordance with § 292.6.

(f) In appropriate circumstances, requests requiring special attention will be referred, by the Central Reference Division Library, DIA, to the Assistant Secretary of Defense (Public Affairs) (ASD (PA)) for review and evaluation.

(g) Initial availability, releasability and cost determinations will normally be made within 10 working days of the date on which a written request for an identifiable record is received by the DIA Secretariat (FOIA). If, due to unusual circumstance, additional time is needed, a written notification of the delay will be forwarded the requester within the 10 working day period. This notification will briefly explain the circumstances for the delay and indicate the anticipated date for a substantiative response. The period of delay may not exceed 10 additional working days.

§ 292.5 How the public submits requests for records.

(a) Requests to obtain copies of records must be made in writing. The request should contain at least the following information:

(1) Reasonable identification of the desired record including (if known) title or description, date and the issuing office.

(2) With respect to matters of official record concerning civilian or military personnel, the first name, middle name or initial, surname, date of birth, and social security number of the individual concerned, if known.

(b) Persons desiring records should direct inquiry to:

Defense Intelligence Agency
ATTN: SC (FOIA)
Washington, D.C. 20301

§ 292.6 Schedule of fees.

Specific fees apply with respect to services rendered to the public.

(a) In general, charges may be waived when:

(1) The recipient of the benefits is engaged in a nonprofit activity designed for public safety, health or welfare.

(2) Payment of the full costs or fee by state, local government or nonprofit group would not be in the interest of the program.

(3) The incremental cost of collecting the fees would be an unduly large part of the receipts from the activity.

(b) Normally, collection of charges and fees will be made in advance of rendering the service. In some instances, it may be more practical to collect charges and fees at the time of conveying the service or property to the recipient, but only in those instances where the request specifically states that whatever cost is involved will be acceptable or acceptable up to a specified limit that covers anticipated costs. In the absence of an agreement to pay required anticipated costs, the time for responding to a request begins on resolution of willingness to pay.

(c) The schedule of fees chargeable is contained in § 292.10.

(d) Fees must be paid in full prior to search and issuance of requested copies. If uncertainty as to the existence of a record, or as to the number of sheets to be copied or certified, precludes remitting the exact fee chargeable with the request, DIA will inform the requester of the exact amount required.

(e) Remittances will be by personal check or bank draft on a bank in the United States or by U.S. postal money order. Remittances will be made payable to the "Treasurer of the United States" and forwarded to the address listed in § 292.5.

§ 292.7 Material that may be withheld from release.

(a) Detailed guidelines for withholding information under exemptions con-

[1] Filed as part of original. Extra copies available from the U.S. Naval Publications and Forms Center, Attention Code 300, 5801 Tabor Avenue, Philadelphia, Pa. 19120.

tained in 5 U.S.C. 552 are published in 32 CFR 286.8, "Exemptions."

(b) For example, DIA is not required to release records that fall within the categories listed below:

(1) Information requiring protection in the interest of national defense or foreign policy and authorized under criteria established by Executive Order 11652 and DoD 5200.1–R [1] to be kept SECRET.

(2) Rules, regulations, orders, manuals, directives, and instructions relating to the internal personnel rules or internal practices of DIA and those providing management guidance to the Military Departments and the Unified and Specified Commands.

(3) Information authorized or required by statute to be withheld from the public. The authorization or requirement may be found in the statute itself or in Executive orders or regulations authorized by, or in implementation of, the statute. Examples include:

(i) Documentary material referred to in 18 U.S.C. 1905—Trade and financial information provided in confidence by businesses (see subparagraph (4) of this paragraph).

(ii) 35 U.S.C. 181–88—Records containing information relating to inventions that are the subject of patent applications for which Patent Secrecy orders have been issued.

(4) Personnel and medical files and similar files the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

(5) DIA will also withhold information which has been received from anyone, including an individual, a foreign nation, an international organization, a State or local government, a corporation, or any other organization, with the understanding, expressed or implied, that the information will be retained on a privileged or confidential basis under criteria contained in Executive Order 11652 and DoD 5200.1–R.[1]

(6) Exempt portions of a record may be deleted and the remaining reasonably segregable portions of the record released to the requester when the meaning of these portions is not distorted and it can be reasonably assumed that a skillful and knowledgeable person could not reconstruct the exempt information.

§ 292.8 Filing an appeal for refusal to make records available.

(a) A requester may appeal an initial decision to withhold a record. Appeals should be addressed to:

Director
Defense Intelligence Agency
ATTN: SC (FOIA)
Washington, D.C. 20301

(b) Final determination on appeals shall normally be made within 20 working days of the receipt of the appeal at the above address. If additional time is needed to decide the appeal because of unusual circumstances, the final determination may be delayed for the number of working days, not to exceed 10, which were not utilized as additional time for responding to the initial request.

(c) When an appeal is denied, the requester will be apprised of the following:

(1) Applicable exemptions and the significant and legitimate governmental purpose served by the denial.

(2) Name, and title of position of the official responsible for the denial and of the provision for judicial review of the denial.

(3) When the denial is based upon security classification, the requester shall be advised of his optional right to seek declassification of the record by the Interdepartmental Classification Review Committee established pursuant to Executive Order 11652, March 8, 1972, in lieu of immediate judicial review.

§ 292.9 Responsibilities.

When a request for release of material is received the following will apply:

(a) The Secretariat (SC):

(1) Receives requests and assigns tasking.

(2) Maintains appropriate suspenses and authorizes all extensions of response time.

(3) Acts as the responsible official for all initial denials of access to the public.

(b) The Reference Library Branch (DS–4A), Central Reference Division, Directorate for Support:

(1) Acts as the responsible operating office for all Agency actions related to the Freedom of Information Act.

(2) Drafts and transmits responses on:

(i) The release of records and/or information.

(ii) Obtaining supplemental information from the requester.

(iii) Informing the requester of any fees required.

(iv) The transfer to another component or agency of the initial request.

(3) Fulfills the annual reporting requirement and maintains appropriate records.

(4) Refers unusual or precedent-setting requirements to ASD (PA).

(5) Drafts for SC:

(i) Notification of an extension of response time.

(ii) The denial of access to the record.

(c) All DIA Elements:

(1) When identified by DS–4A as the Office of Primary Interest (OPI):

(i) Review records for possible public release within the time constraints assigned.

(ii) Prepare a documented response in all cases of nonrelease.

(2) All employees are required to read this Part to insure familiarity with the requirements of the Freedom of Information Act as implemented.

(d) General Counsel (GC):

(1) Insures uniformity in the Freedom of Information Act legal positions within DIA and with DoD.

(2) Secures coordination with the DoD General Counsel on denials of public requests.

(3) Acts as the focal point in all judicial actions.

(4) Reviews all initial and final denials.

(e) Chief of Staff (CS/DP):

(1) Exercises overall staff supervision of the Freedom of Information Act activities of the Agency.

(2) Acts as the responsible official for all denials of appeals.

§ 292.10 Uniform agency fees for search and duplication under the Freedom of Information Act amendments (Pub. L. 93–502).

General fees:	
Minimum fee, per request plus	$2.00
Forms, per copy	.05
Publications, per printed page	.01
Microfiche, per fiche	.06
Reports, per printed page	.05
(Examples: Cost of 20 forms, $3.00; cost of a printed publication with 100 pages, $3.00; cost of a microfiche publication consisting of 10 fiche, $2.60.)	
Office copy reproduction (when shelf stock is not available):	
Minimum charge up to six reproduced pages	2.00
Minimum charge, first fiche	5.00
Each additional page	.05
Each additional fiche	.10
Other issuances:	
Minimum charge up to six pages	2.00
Each additional page	.05
Search:	
Clerical search, per hour	5.50
Minimum charge	2.75
Professional search (includes computer programmer time and review to determine whether a record comes within the scope of a request), per hour	11.00
Minimum charge	5.50
Computer service charges will be based on actual computer configuration used and be based on direct costs only of the Central Processing Unit plus Input/Output Devices plus Memory Capacity.	

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

FEBRUARY 12, 1975.

[FR Doc.75-4298 Filed 2-18-75;8:45 am]

[1] Filed as part of original.

CHAPTER XIX—CENTRAL INTELLIGENCE AGENCY

PART 1900—PUBLIC ACCESS TO DOCUMENTS AND RECORDS AND DECLASSIFICATION REQUESTS

Part 1900 of Title 32 of the Code of Federal Regulations is revised to read as follows:

GENERAL

Sec.
1900.1 Purpose and Authority.
1900.3 Definitions.
1900.5 Organization: Requests and Submittals.

REQUESTING RECORDS

1900.11 Freedom of Information Communications: Requirements as to Form.
1900.21 Option to Request Records.
1900.23 Pre-Request Option: Estimates of Charges.
1900.25 Fees for Records Services.

PROCESSING FREEDOM OF INFORMATION COMMUNICATIONS

Sec.
1900.31 Screening Communications.
1900.33 Processing Expressions of Interest.
1900.35 Processing Requests for Records.

ACTIONS ON REQUESTS

1900.41 Searching for Requested Records.
1900.43 Reviewing Records.
1900.45 Expeditious Action: Extension of Time.
1900.47 Allocation of Manpower and Resources: Agreed Extension of Time.
1900.49 Notification and Payment: Furnishing Records.

APPEALS

1900.51 Appeal to CIA Information Review Committee.
1900.53 Appeal to Interagency Classification Review Committee.

MISCELLANEOUS

1900.61 Access for Historical Research.
1900.63 Suggestions and Complaints.

AUTHORITY: National Security Act of 1947, the Central Intelligence Agency Act of 1949, the Freedom of Information Act (5 U.S.C. 552), and Executive Order 11652.

GENERAL

§ 1900.1 Purpose and authority.

This part is issued under the authority of, and in order to implement, section 102 of the National Security Act of 1947, as amended (50 U.S.C. 403), the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a et seq.), Executive Order 11652, as amended (3 CFR Revised as of January 1, 1974, p. 339) and the Freedom of Information Act, as amended (5 U.S.C. 552). It prescribes procedures for:

(a) Requesting records pursuant to the Freedom of Information Act;

(b) Requesting the declassification of documents pursuant to Executive Order 11652;

(c) Appealing any denial or refusal of any such request to an appeal authority with the Central Intelligence Agency, to the Interagency Classification Review Committee, in appropriate cases, and to the courts;

(d) The prompt and expeditious processing of such requests and appeals; and

(e) Requesting estimates and advice prior to actually requesting records, thus affording protection against unanticipated fees.

This part is also designed to assist Central Intelligence Agency management at all appropriate echelons, to allocate resources to perform the functions, duties and responsibilities of the Central Intelligence Agency prescribed by and pursuant to law, including in particular those situations where it is deemed necessary to choose among conflicting requirements, duties and responsibilities.

§ 1900.3 Definitions.

For the purpose of this part, the following terms have the meanings indicated:

(a) "Agency" includes any executive department, military department or other establishment or entity included in the definition of agency in subsection 552(e) of Title 5 of the United States Code;

(b) "Coordinator" means the Central Intelligence Agency Freedom of Information Coordinator;

(c) "Expression of interest" means a written communication submitted by a potential requester pursuant to § 1900.23 to indicate an interest in requesting records;

(d) "Freedom of Information Act" means section 552 of Title 5 of the United States Code, as amended;

(e) "National Security Council Directive of May 1972" means the directive entitled "National Security Council Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information" approved on May 17, 1972 and published at page 227 of Title 3A (The President, Appendix (1972 Compilation)) of the Code of Federal Regulations;

(f) "Potential requester" means a person, organization or other entity who submits an expression of interest in accordance with § 1900.23;

(g) "Records," with reference to records of the Central Intelligence Agency, includes all papers, maps, photographs and other documentary materials regardless of physical form or characteristics made or received by the Central Intelligence Agency in pursuance of federal law or in connection with the transaction of public business and appropriate for preservation by the Central Intelligence Agency as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the Agency or because of the informational value of data contained therein. But the term does not include:

(1) Index, filing and museum documents made or acquired and preserved solely for reference, indexing, filing or exhibition purposes;

(2) Routing and transmittal sheets and notes and filing instructions and notes which do not also include information, comment or statement of substance or policy;

(3) Books, newspapers, magazines, and similar publications and clippings and excerpts from any such publications;

(4) Documents and records prepared or originated by an agency other than the Central Intelligence Agency;

(5) Documents and records furnished by foreign governments or international organizations and held by the Central Intelligence Agency on the understanding that the information therein or the furnishing thereof be kept in confidence.

(h) "Records of interest" means records which are the subject of an expression of interest or of a request;

(i) "Work days" means calendar days other than Saturdays and Sundays and legal public holidays.

§ 1900.5 Organization: requests and submittals.

The headquarters of the Central Intelligence Agency is located in Fairfax County, Va. Functions are channeled and determined by regular chain-of-command procedures. Except as provided by this part, there are no formal or informal procedural requirements regarding public access to Agency records. Requests and other submittals may be addressed to the CIA Freedom of Information Coordinator, Central Intelligence Agency, Washington, D.C. 20505.

REQUESTING RECORDS

§ 1900.11 Freedom of information communications; requirements as to form.

(a) Any communication to the Central Intelligence Agency or to the Director of Central Intelligence under the Freedom of Information Act should be addressed to:

CIA Freedom of Information Coordinator,
Central Intelligence Agency,
Washington, D.C. 20505.

That address should appear on the envelope or other folder or package in which the communication is transmitted. It should also be included as the addressee of the letter or other communication or be clearly set forth in the text of the communication.

(b) Any request for records under the Freedom of Information Act (§ 1900.21), expression of interest in requesting records (§ 1900.23) or request for declassification of records under Executive Order 11652 shall be in writing and shall be addressed as prescribed by paragraph (a). The Coordinator may, but need not, waive the requirements as to address.

(c) The request or expression of interest shall reasonably describe the records of interest.

(d) Any request or communication to an agency other than the Central Intelligence Agency which requests or concerns documents or records originated by the Central Intelligence Agency and is transferred by that agency to the Central Intelligence Agency shall not be a Freedom of Information Request to the Central Intelligence Agency. But the person or entity who submitted the request to that agency may submit a request for such records to the Central Intelligence Agency in accordance with the procedures prescribed by § 1900.11.

§ 1900.21 Option to request records.

Any person, organization or entity may submit a written request for records to the Coordinator, in accordance with the procedures prescribed by § 1900.11. An estimate of charges likely to be incurred may be obtained by requesting such an estimate as provided by § 1900.23.

§ 1900.23 Pre-request option: estimates of charges.

(a) In order to avoid being faced with unanticipated sizeable charges, interested persons and entities may defer the submission of requests for records and first submit a written request, in accordance with the procedures prescribed by § 1900.11, for an estimate of charges likely to be incurred if the records are requested.

(b) Notice is hereby given that a requester may be liable for the payment of search charges, in accordance with the

fee schedule and provisions of § 1900.25, even if search for requested records locates no such records and even if some or all of requested records which are located are denied the requester under one or more exemptions of the Freedom of Information Act. In determining which of options §§ 1900.21 and 1900.23(a) to exercise, interested persons and entities are urged to take into consideration the fact of possible liability.

§ 1900.25 Fees for records services.

(a) Search and duplication fees shall be charged according to the schedule set out in paragraph (c) of this section for services rendered in responding to requests for Agency records under this part. Records shall be furnished without charge or at a reduced rate whenever the Coordinator determines that waiver or reduction of the charge is in the public interest because furnishing the information can be considered as primarily benefiting the general public. The Coordinator also may waive or reduce the charge whenever he determines that the interest of the government would be served thereby. Fees shall not be charged where they would amount, in the aggregate, for a request, or a series of related requests, to less than $4.

(b) Where it is anticipated that the fees chargeable under this section will amount to more than $25, and the requester has not indicated in advance his willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fee or of such portion thereof as can readily be estimated. In appropriate cases an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to confer with the Coordinator in an attempt to revise the request in a manner which will reduce the fees and meet the needs of the requester. Dispatch of such a notice or request shall suspend the running of the period for response by the Agency until a reply is received from the requester.

(c) The schedule of fees for services performed in responding to requests for Agency records is established as follows:

(1) For each one quarter hour spent by clerical personnel in searching for a record, $1;

(2) For each one quarter hour spent by professional personnel in searching for a record, $2;

(3) For computer search, $55;

(4) For copies of paper documents in sizes not larger than 8½ x 14 inches, $0.10 per copy of each page; and

(5) For duplication of non-paper media or any document that cannot be reproduced on a standard office copier actual direct cost.

PROCESSING FREEDOM OF INFORMATION COMMUNICATIONS

§ 1900.31 Screening communications.

(a) If any Agency employee receives a written communication which the employee deems to be an apparent or intended communication under the Freedom of Information Act, he shall expeditiously transmit the communication to the Coordinator and alert the Coordinator to the fact that the communication may be a communication under the Freedom of Information Act.

(b) Upon receipt of a communication in accordance with § 1900.11 or paragraph (a) of this section, the Coordinator shall promptly consult with such Agency components as he may deem appropriate and:

(1) Determine the nature of the communication—an intended expression of interest (§ 1900.21), an intended request (§ 1900.23) or other; and

(2) If he determines the communication to be an intended expression of interest or intended request, he shall further determine whether it fails to qualify as an expression of interest or request only because it fails to reasonably describe the records of interest.

(c) The Coordinator thereupon shall take the appropriate one of the following actions.

(1) If he determined that the communication was not an intended expression of interest or an intended request, he shall take such action with respect to the communication as he may deem appropriate.

(2) If he determined that the communication was an intended expression of interest or an intended request but failed to reasonably describe the records of interest, he shall so inform the originator of the communication promptly, in writing, and he may offer to assist the originator in revising and perfecting the description of the records of interest.

(3) The Coordinator shall determine whether any communication not acted on under subparagraph (1) or (2) is an expression of interest, or is a request made in accordance with published rules stating the procedures to be followed, as required by subsection (a)(3) of the Freedom of Information Act. The Coordinator's determination in this regard shall be based on and shall reflect the clear intent of the originator of the communication insofar as the Coordinator is able to determine that intent. When the originator's intent is not apparent to the Coordinator and when the Coordinator deems it desirable and feasible, he shall promptly communicate with the originator in order to ascertain the latter's intent.

(d) The Coordinator shall inform the requester, in writing, of his determination made under subparagraph (c)(3) and, in the case of a determination that the communication is a request, of the date of such determination. Such notification shall be given promptly and, in any case, within five work days of the date of such determination. The ten work days within which the Agency must determine whether to comply with a request, as provided by subsection (a)(6)(A)(i) of the Freedom of Information Act, shall begin as of the date of such determination.

(e) The Coordinator shall promptly process under the procedures prescribed by § 1900.33 those communications which he determines to be expressions of interest. He shall promptly process under the procedures prescribed by § 1900.35 those communications which he determines to be requests.

§ 1900.33 Processing expressions of interest.

(a) Upon determining, in accordance with subparagraph (c)(3) of § 1900.31, that a communication is an expression of interest, and after promptly consulting with such Agency components as he may deem appropriate, the Coordinator, to the extent feasible, shall determine the search and duplication charges likely to be incurred by the potential requester if the potential requester ultimately requests such records. In determining such charges, the Coordinator shall take into account the nature and quantity of the work and services of people and computers and other equipment which may be required, and the applicable rates set out in the fee schedule prescribed by paragraph (c) of § 1900.25. If feasible at this stage, the Coordinator also shall determine whether to waive or reduce the fee in accordance with paragraph (a) of § 1900.25.

(b) The Coordinator thereupon shall advise the potential requester, in writing, of the likely search and duplication charges. He shall explain the bases and reasons for the charges and he shall make clear that the amounts indicated are estimates only, if such be the case, and, if there is a possibility that the charges to be incurred may be in larger amounts, he shall so inform the potential requester. If the amounts indicated are not estimates but are the amounts which in fact are to be charged if the potential requester makes a request, he shall inform the potential requester of that fact. In either event and if such be the case, he shall also inform the potential requester that search charges will be levied upon the requester even if no records fitting the description are located or if any or all records which do fit the description are denied the requester.

(c) When he deems it appropriate or when the potential requester so requests, the Coordinator shall consult with and advise the potential requester with the view to assisting the latter to determine whether and, if so, how to revise the description of the records of interest so as to cause or permit a reduction in the likely and actual search and duplication charges.

(d) Upon receipt of such estimate and advice concerning likely charges, the potential requester may:

(1) In accordance with § 1900.21, submit a request for records, either the records of interest indicated in his expression of interest or records encompassed in a less-inclusive description;

(2) Advise the Coordinator that he does not intend to request records; or

(3) Take no additional action.

(e) If, as a result of his consultations with the Coordinator or otherwise, the potential requester wants to request records additional to or other than those described in his expression of interest, he may submit an expression of interest

with respect to such records, in accordance with § 1900.23, or a request for such records, in accordance with § 1900.21.

§ 1900.35 Processing requests for records.

Upon determining that a communication is a request for records, the Coordinator, after consulting with such Agency components as he may deem appropriate, shall promptly transmit a copy of the request to the component or components believed responsible for the records, if any exist, inform the components of the date of receipt of the request as determined by him pursuant to paragraph (c)(3) of § 1900.31, and alert the components to the action required of them by § 1900.41 through § 1900.47 with respect to the request.

ACTIONS ON REQUESTS

§ 1900.41 Searching for requested records.

(a) Upon receipt of a copy of a request and an alert pursuant to § 1900.35, the components responsible for requested records (hereinafter the "responsible components"), shall, with such assistance as may be appropriate from the Coordinator and from such reference, indexing or filing components as may have reference, indexing or filing responsibilities with respect to any such records, undertake to locate the requested records.

(b) If no records described by the request are located, the responsible components shall so inform the Coordinator who shall promptly so inform the requester, in writing. The Coordinator also shall determine the charges, if any, for which the requester shall be liable, in accordance with the fee schedule and provisions of § 1900.25. He shall inform the requester of the amount charged, explain the basis of computation and request prompt payment thereof.

§ 1900.43 Reviewing records.

(a) The responsible components shall review any located records in accordance with the provisions of the Freedom of Information Act and Executive Order 11652, and on the basis of other applicable law, regulations and policy, and determine which, if any, requested records, or reasonably segregable portions of records, are to be furnished the requester and which are to be denied or withheld. Any decision to furnish or to deny or withhold requested records shall be made only by employees and officials to whom authority to make such decisions has been duly delegated.

(b) In the event records require review by more than one Agency component or by more than one agency, the Coordinator or the responsible component, as may be appropirate, shall expeditiously coordinate such review.

§ 1900.45 Expeditious action: extension of time.

Whenever feasible under the standards prescribed by § 1900.47, the search and review functions prescribed by §§ 1900.41 and 1900.43 and notice to the requester of the Agency action on the request, as prescribed by paragraph (a) of § 1900.49, shall be completed within ten days of the date of Agency receipt of the request as determined by the Coordinator pursuant to subparagraph (c)(3) or § 1900.31. Whenever the Coordinator determines that "unusual circumstances," as defined by subsection (a)(6)(B) of the Freedom of Information Act, exist, he may, by written notice to the requester, authorize an additional period for completion of Agency action, but no such extension shall be for more than ten work days. His notice shall also set forth the reasons for the extension.

§ 1900.47 Allocation of manpower and resources: agreed extension of time.

(a) Agency components shall devote such manpower and other resources to searching for, locating and reviewing records in accordance with §§ 1900.41 and 1900.43 as may be appropriate and expedient in the circumstances, taking into account:

(1) The manpower and resources available for those purposes;

(2) The right of the requester to resort to litigation if the Agency decision on the request is not made within ten work days; and

(3) All functions, duties and responsibilities assigned to those components by, or pursuant to, law.

(b) The responsible components shall consult with the Coordinator with regard to the need to allocate resources and establish priorities, and the latter with the requester, as may be appropriate, in order to accomplish such arrangements and agreements with the requester as may be acceptable to the requester concerning the Agency's efforts and ability to act on his request expeditiously. In particular, when the Coordinator deems it feasible and of possible benefit to the requester, the public or the Agency, he shall inform the requester that more thorough or extensive search or review, or both, could be accomplished, which might be of benefit to the requester, if additional time were to be available. When appropriate in such cases, the Coordinator shall also advise the requester of the effect on charges and fees such additional search might cause. Any extensions arranged or agreed to under this section may be in addition to any extension under § 1900.45.

§ 1900.49 Notification and payment: furnishing records.

(a) The Coordinator shall promptly inform the requester, in writing, which of the requested records, or portions thereof, if any, are to be furnished the requester and those, if any, which are denied, as determined pursuant to paragraph (a) of § 1900.43. With respect to the latter, he shall also explain the reasons for the denial and he shall furnish the names and titles or positions of the persons responsible for the decision to deny access.

(b) Upon receipt of payment of all fees and charges, or upon the completion of arrangement satisfactory to the Coordinator that payment will be made promptly, the Coordinator shall promptly prepare copies of the records, or portions of records, which are to be made available and transmit them to the requester. The Coordinator shall do likewise with respect to any records or portions of records made available to a requester by the action of the Central Intelligence Agency Information Review Committee under subparagraph (i) or (ii) of paragraph (e) of § 1900.51.

APPEALS

§ 1900.51 Appeal to CIA Information Review Committee.

(a) *Establishment of committee.* The Central Intelligence Agency Information Review Committee is established hereby, pursuant to the Freedom of Information Act and section 7(B)(2) of Executive Order 11652. The Committee shall be comprised of the Deputy Director for Administration, the Deputy Director for Intelligence, the Deputy Director for Operations, the Deputy Director for Science and Technology, the Deputy to the Director of Central Intelligence for the Intelligence Community and the Deputy to the Director of Central Intelligence for National Intelligence Officers. The Director of Central Intelligence shall appoint a chairman. The Committee, by majority vote, may delegate to one or more of its members the authority to act on any appeal or appeals under this section, and may authorize the chairman to delegate such authority.

(b) *Right of appeal: notice.* Whenever any requested record or any portion thereof is denied a requester, the requester may appeal the denial to the Committee and the Coordinator shall inform the requester of this right, in writing. Also, any requester for the declassification of classified documents under Executive Order 11652 who is not informed of Agency action thereon within sixty days of his request may request the Committee to declassify the documents and make them available.

(c) *Appeal procedures.* Any such appeal or request to the Committee shall be in writing, addressed to the CIA Freedom of Information Coordinator. The appeal or request may present such information, data and argument in support thereof as the requester may desire. The Committee shall not permit a requester to appear before the Committee or to make an oral presentation.

(d) *Time for appeal: expiration of right of appeal.* An appeal shall be submitted within thirty days of the date of receipt of notification of the right to appeal and the right of appeal shall cease as of the expiration of that period. But the Committee, for good cause shown, may permit an additional thirty days for the submission of an appeal.

(e) *Committee action on appeals and requests.* (1) The Committee shall promptly consider any appeal, together with any submissions in support thereof, and shall grant or deny the appeal or take such other action thereon as it may deem appropriate. The Committee's review, decision and action shall be based on and shall be in conformance

with the Freedom of Information Act, Executive Order 11652 and other applicable law, directives, regulations and policy.

(2) The Committee shall promptly consider any requests for declassification under paragraph (a) of this section and shall declassify any such records or reasonably segregable portions of such records as it deems appropriate in accordance with Executive Order 11652.

(3) Committee action on appeals shall be completed within twenty work days of receipt of the appeal, except that the Committee may, in accordance with the provisions of § 1900.45, avail itself of an additional period of time for completion of its work on the appeal. But no such extension shall be available with respect to an appeal of a denial of a request which was the subject of an extension of time for Agency action by the Coordinator under that paragraph. In the event the Committee is unable to complete its review of an appeal within the time prescribed by the two preceding sentences it may, by agreement with the requester, extend the period for completion of such review.

(4) The Committee shall promptly inform the requester of its decisions and, with respect to any decision to withhold or deny records, it shall furnish the names and titles or positions of the persons responsible for the decision. If any record or portion thereof is denied the requester by the Committee's action, the Committee shall also inform the requester of the provision for judicial review of that determination under subsection (a)(4) of the Freedom of Information Act.

§ 1900.53 Appeal to Interagency Classification Review Committee.

In the case of any refusal to declassify records which are at least ten years old, the Committee also shall inform the requester of his right to appeal that denial to the Interagency Classification Review Committee established pursuant to section 7(A) of Executive Order 11652, as provided by section IX(D) of the National Security Council Directive of May 1972. In that event, the Committee shall also inform the requester that appeal to the Interagency Classification Review Committee shall not waive his right to judicial review as provided by subsection (a)(4) of the Act.

MISCELLANEOUS

§ 1900.61 Access for historical research.

(a) Any person engaged in a historical research project may submit a request, in writing, to the Coordinator to be given access to information classified pursuant to an Executive order for purposes of that research project may submit a request, the nature, purpose and scope of the research project.

(b) The Coordinator may authorize access, under such conditions and at such time and place as he may deem feasible. But the Coordinator shall authorize access only with respect to documents and records prepared or originated not less than ten years prior to the date of such request and only upon the prior written approval by the Agency Director of Security of a current security clearance of the requester and of persons associated with him in the project, in accordance with Executive Order 10450, and upon the Coordinator's further determination that:

(1) A serious professional or scholarly research project is contemplated;

(2) Such access is clearly consistent with the interests of national security;

(3) Appropriate steps have been taken to assure that classified information will not be published or otherwise compromised;

(4) The information requested is reasonably accessible and can be located and compiled with a reasonable amount of effort;

(5) The historical researcher agrees to safeguard the information in a manner consistent with Executive Order 11652 and the National Security Council Directive of May 1972; and

(6) The historical researcher agrees to authorize a prior review of his notes and manuscript by the Agency for the sole purpose of determining that no classified information is contained therein.

(c) An authorization shall be valid for the period required for the research project, as the Coordinator may determine, but in no event for more than two years. But upon renewed request in accordance with paragraph (a) of this section, authorization may be renewed in accordance with paragraph (b) and this paragraph.

(d) The Coordinator shall cancel any authorization whenever the Director of Security cancels the security clearance of the requester or of any person associated with the requester in the research project or whenever the Coordinator determines that continued access would not be in compliance with one or more of the requirements of paragraph (b) of this section.

§ 1900.63 Suggestions and complaints.

Any person may direct any suggestion or complaint with respect to the Agency administration of Executive Order 11652 to the CIA Information Review Committee. The Committee shall consider such suggestions and complaints and shall take such action thereon as it may deem feasible and appropriate.

This regulation shall become effective on February 19, 1975.

JOHN F. BLAKE,
Deputy Director for Administration, Central Intelligence Agency.

FEBRUARY 11, 1975.

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CHAPTER XVI—SELECTIVE SERVICE SYSTEM

PART 1608—PUBLIC INFORMATION

Freedom of Information Act Regulations

Whereas, on January 14, 1975, the Director of Selective Service published a Notice of Proposed Amendments to Selective Service Regulations (40 FR 2593) of January 14, 1975; and

Whereas more than thirty days have elapsed subsequent to such publication during which period comments from the public have been received and considered. The proposed amendments are being made effective without change in substance.

The revision of Part 1608 would eliminate the authority of the Director of Selective Service and the State Director of Selective Service to disclose information in a registrant's file to an official of any state or subdivision thereof and the authority of the Director of Selective Service to disclose information in a registrant's file to any person other than the officials listed; the addresses of State Directors of Selective Service would be eliminated; a charge for the search of records would be specifically prohibited; "not clearly authorized" disclosures of information could be made only upon advice of the General Counsel of the Selective Service System; and final agency action on an appeal from a denial of information would be taken by the Director of Selective Service. The present provisions of Part 1608 that are not changed in substance are rearranged for the purposes of increased clarity and convenience in use.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and § 1604.1 of Selective Service Regulations (32 CFR 1604.1), the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective February 19, 1975.

Part 1603, Public Information is revised to read as follows:

Sec.

1608.1 Public information policy.
1608.2 Definitions.
1608.3 General policy on disclosure of information.
1608.4 Availability and use of information information in registrants' files.
1608.5 Waiver of confidential nature of information in registrant's files.
1608.6 Subpoena of records.
1608.7 Available information.
1608.8 Places where information may be obtained.
1608.9 Rules governing the obtaining of information.
1608.10 Identification of information requested.
1608.11 Fees for search of records and copies of documents.
1608.12 Request for information not authorized to be disclosed.
1608.13 Review of denials of requests for information.
1608.14 Demands of courts or other authorities for records or information protected by these regulations.

AUTHORITY: Military Selective Service Act, as amended (50 App. U.S.C. 451 et seq.) 32 CFR 1604.1.

§ 1608.1 Public information policy.

The Selective Service System has a positive public information policy under which information is brought to the attention of the public. The Selective Service System brings to the public, through news releases, pamphlets, educational material for distribution to high schools, and other documents, information concerning important events, and the functions of the Selective Service System.

§ 1608.2 Definitions.

When used in this part, the following words shall have the meaning ascribed to them as follows:

(a) "Disclose" shall mean an oral or written statement concerning any such record or information.

(b) "Furnish" shall mean providing in substance or verbatim a copy of any such record or information.

(c) "Examine" shall mean a visual inspection and examination of any such record or information at the office of the local board or appeal board as the case may be.

§ 1608.3 General policy on disclosure of information.

(a) It is the general policy of the Selective Service System to make information available to the public unless the disclosure thereof would constitute a clearly unwarranted invasion of personal privacy or is prohibited by law or Executive order or relates to internal memoranda, letters or other documents the disclosure of which would interfere with the functions of the Selective Service System.

(b) The records in a registrant's file and the information contained in such records shall be disclosed, furnished, or examined only in accord with the provisions of this part.

(c) Technical instructions pertaining to automatic data processing, memoranda, correspondence, opinions, data, staff studies, information received in confidence, and similar documentary material prepared for the purpose of internal communication within the Selective Service System or between the Selective Service System and other organizations or persons generally are not information available to the public.

(d) Lists of registrants may be furnished only in accordance with written instructions from the Director of Selective Service.

(e) The addresses of registrants are confidential information.

§ 1608.4 Availability and use of information in registrants' files.

(a) Information contained in records in a registrant's file and records pertaining to a named registrant may be disclosed or furnished to, or examined by, the following persons:

(1) The registrant, or any person having written authority dated and signed by the registrant: *Provided*, That whenever the time of the expiration of such authority is not specified therein, no information shall be disclosed, furnished, or examined under that authority after the expiration of a period of 1 year from its date.

(2) The legal representative of a deceased or incompetent registrant.

(3) All personnel of the Selective Service System while engaged in carrying out the functions of the Selective Service System.

(4) A U.S. Attorney and his duly authorized representatives, including agents of the Federal Bureau of Investigation, whenever the registrant has been reported to the U.S. Attorney as a violator for prosecution for violating the Military Selective Service Act or the rules, regulations, or directions made pursuant thereto.

(5) Any other agency, official, or employee, or class or group of officials or employees of the United States upon written request in individual cases, but only when and to the extent specifically authorized in writing by the Director of Selective Service.

(b) No information shall be disclosed or furnished to, or examined by, any person under the provisions of this section, until such person has been properly identified as entitled to obtain such information.

(c) Persons described in paragraph (a)(1) may be furnished a copy of the registrant's file only in accord with the provisions of § 1608.11(e) or upon payment of fees prescribed in § 1608.11(b)(1) of this part. Persons described in paragraph (a)(2) may be furnished a copy of a registrant's file only upon payment of fees prescribed in § 1608.11(b)(1) of this part.

§ 1608.5 Waiver of confidential nature of information on registrants files.

The making or filing by or on behalf of a registrant of a claim or action for damages against the Government or any person, based on acts in the performance of which the record of a registrant or any part thereof was compiled, or the institution of any action against the Government or any representative thereof by or on behalf of a registrant involving his classification, selection, or induction, shall constitute a waiver of the confidential nature of all selective service records of such registrant, and, in addition, all such records shall be produced in response to the subpoena or summons of the tribunal in which such claim or action is pending.

§ 1608.6 Subpoena of records.

(a) In the prosecution of a registrant or any other person for a violation of the Military Selective Service Act, the Selective Service Regulations, any orders or directions made pursuant to such act or regulations, or for perjury, all records of the registrant shall be produced in response to the subpoena or summons of the court in which such production or proceeding is pending. Any officer or employee of the Selective Service System who produces the records of a registrant in court shall be considered the custodian of such records for the purpose of this section.

(b) Except as provided in paragraph (a) of this section, no officer or employee of the Selective Service System shall produce a registrant's file, or any part thereof, or testify regarding any confidential information contained therein, in response to the subpoena or summons of any court without the consent, in writing, of the registrant concerned, or of the Director of Selective Service.

(c) Whenever, under the provisions of this section, a registrant's file, or any part thereof, is produced as evidence in the proceedings of any court, such file shall remain in the personal custody of an official of the Selective Service System, and permission of the court be asked, after tender of the original file, to substitute a copy of the file with the court.

§ 1608.7 Available information.

(a) Upon request, current documents specifically identified as being printed for free distribution to the general public will be furnished without charge. Each individual requesting such documents shall be entitled to only one copy of each document.

(b) Copies of Selective Service Regulations (32 CFR Chapter XVI) and the Registrants Processing Manual are offered for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

(c) The Registrants Processing Manual may be inspected at the office of any local board, the office of the State Director of Selective Service for any State or at the National Headquarters, Selective Service System.

(d) Each local board maintains a Classification Record (SSS Form 102) which contains the name, selective service number, and the current and past classifications for each person registered with that board. Information in this record will be supplied upon request.

(e) Any compensated employee of the Selective Service System may disclose to the former employer of a registrant who is serving in or who has been discharged from the Armed Forces whether the registrant has or has not been discharged and, if discharged, the date thereof, upon reasonable proof that the registrant left a position in the employ of the person requesting such information in order to serve in the Armed Forces.

(f) The names, position titles, grades, salaries, and duty stations of employees of the Selective Service System are public information.

(g) The names of local board members and the names and addresses of advisors to registrants will be posted in an area available to the public at each board office to which such personnel are assigned.

(h) Personal data concerning board members that relate to their legal qualifications for appointment and/or continuation in office are a matter of official record. Upon request, the executive secretary or clerk of a local board or appeal board will verify that a member of that

board was legally qualified for appointment and for continuation in office without disclosing the personal data pertaining to such member without the member's consent.

§ 1608.8 Places where information may be obtained.

(a) Requests for information concerning a registrant shall be addressed to the local board where he is registered.

(b) Requests for information concerning the national administration of the Military Selective Service Act shall be addressed to the National Headquarters, Selective Service System, 1724 F Street, NW, Washington, D.C. 20435.

(c) Requests for information concerning the administration of the Military Selective Service Act within a particular State shall be addressed to the State Director of Selective Service involved.

§ 1608.9 Rules governing the obtaining of information.

(a) A request for information under this part must be made orally or in writing during business hours at the appropriate selective service office. When information to be furnished is not readily available, the employee responsible for obtaining the information shall advise the requester how and where it may be obtained.

(b) Although the time period allowed for inspection of identifiable documents and registrants' files must be sufficient to allow hand copying, the activity should not interfere with the daily business activities of the selective service office. Accordingly, the selective service employee handling the request for information or inspection should arrange for inspection of selective service files and documents during specified hours of the business week.

(c) Any person entitled under the provisions of this part to examine any record or information shall be permitted to copy it by hand, to photograph it or to copy it by using portable copying equipment so long as the use of such equipment does not disrupt the normal operations of the office.

§ 1608.10 Identification of information requested.

(a) Any person who requests information under these regulations shall provide a reasonably specific description of the information sought so that it may be located without undue search is not an identifiable record, and the request for that information may be declined.

(b) If the description is insufficient, the employee processing the request will notify the requester and, to the extent possible, indicate the additional information required. Every reasonable effort shall be made to assist a requester in the identification and location of the record or records sought. Records will not be withheld merely because it is difficult to find them.

(c) When a request is received at an office not having charge of the records, it shall promptly forward the request to the proper office and notify the requester of the action taken.

§ 1608.11 Fees for search of records and copies of documents.

Fees for search of records and copies of documents are the following:

(a) Search of records is made by compensated employees of the Selective Service System without charge.

(b) The charge for copies of documents prepared on Selective Service System equipment is as follows:

(1) 25 cents per page for a copy of File Folder (SSS Form 101) and contents except as provided in paragraph (c) of this section.

(2) 25 cents per page for other identifiable records or documents.

(c) For copies of File Folder (SSS Form 101) or other identifiable records or documents reproduced by a private concern, the requester will assume the expense of copying. The Selective Service System employee's time to monitor the reproduction, computed from the time of his departure until his return to his post, will be charged by the Selective Service System to the requester at the rate of $1 per quarter-hour after the first quarter-hour.

(d) Copies will not be released to any requester until these fees are paid in full by money order payable to the Treasury of the United States.

(e) Where a registrant has been charged under the Military Selective Service Act and must defend himself in a criminal prosecution, or where a registrant submits to induction and thereafter brings habeas corpus proceedings to test the validity of his induction, the Selective Service System will furnish to him, or to any person he may designate, one copy of his selective service file free of charge.

§ 1608.12 Request for information not authorized to be disclosed.

Whenever an employee receives a request for information or documents the disclosure of which is not clearly authorized by the provisions of this part that request will be immediately reported by telephone to the General Counsel, Selective Service System for instruction as to its disposition.

§ 1608.13 Review of denials of requests for information.

(a) Complaints concerning possible abuse of discretion granted selective service employees under this part or failure to respond to inquiries shall be directed to the state director in the case of state headquarters or local board employees and to the Director in the case of National Headquarters employees.

(b) A requester whose request for information or documents has not been satisfied may appeal to the Director of Selective Service, 1724 F Street NW., Washington, D.C. 20435.

§ 1608.14 Demands of courts or other authorities for records or information protected by these regulations.

No officer or employee of the Selective Service System will comply with a request, demand or order of a court or other authority to produce information the disclosure of which is prohibited or restricted by the provisions of this part without the prior approval of the Director of Selective Service.

BYRON V. PEPITONE,
Director.

FEBRUARY 13, 1975.

[FR Doc.75-4451 Filed 2-18-75;8:45 am]

PART 286a—AVAILABILITY OF INFORMATION TO THE PUBLIC

Cancellation of Part

The provisions of Part 286a have been incorporated in Part 297. Part 286a is hereby cancelled.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

FEBRUARY 14, 1975.

[FR Doc.75-4526 Filed 2-18-75;8:45 am]

PART 299—PUBLIC ACCESS TO RECORDS

The Director, National Security Agency/Chief, Central Security Service has approved Part 299. This Part 299 implements the requirements of 5 U.S.C. 552 as amended by Public Law 93-502 and sets out the procedures for public access to the official records of the NSA/CSS.

Part 299 is added to read as follows:

Sec.
299.1 Purpose.
299.2 Organization and Requests for Information.
299.3 Indexes.
299.4 Procedures for request of records.
299.5 Determination and notification.
299.6 Appeals.
299.7 Effective date.

AUTHORITY: The provisions of this Part 299 issued under 5 U.S.C. 552 as amended by Public Law 93-502.

§ 299.1 Purpose.

Pursuant to the requirements of the Public Information Section of the Administrative Procedure Act (5 U.S.C. 552), and amendments thereto contained in Public Law 93-502, the following rules of procedure are established with respect to public access to the records of the National Security Agency/Central Security Service.

§ 299.2 Organization and requests for information.

The Headquarters of the National Security Agency/Central Security Service is located at Fort George G. Meade, Maryland. Requests for information and decisions and other submittals may be addressed to the Information Officer, National Security Agency/Central Security Service, Fort George G. Meade, Maryland 20755.

§ 299.3 Indexes.

The NSA/CSS does not originate final orders, opinions, statements of policy, interpretations, staff manuals or instructions that affect a member of the public of the type covered by the indexing requirement of 5 U.S.C. 552(a)(2) or required to be published for the guidance of the public under 5 U.S.C. 552(a)(1). The Director, NSA/Chief, CSS, has therefore determined, pursuant to pertinent statutory and Executive Order requirements, that it is unnecessary and impracticable to publish an index of the type required by 5 U.S.C. 552 as amended by Public Law 93–502.

§ 299.4 Procedures for request of records.

(a) *Requests.* Requests for access to records of the National Security Agency/Central Security Service may be filed by mail addressed to the Information Officer, National Security Agency/Central Security Service, Fort George G. Meade, Maryland 20755. Requests need not be made on any special form but may be by letter or other written statement identifying the request as a Freedom of Information Act request and setting forth sufficient information reasonably describing the requested record.

(b) *Determination and notification.* When the requested record has been located and identified, the Information Officer shall determine whether the record is one which, consistent with statutory requirements, Executive Orders and appropriate directives, may be released or should be exempted under the provisions of 5 U.S.C. 552. The Information Officer shall notify the requester of his determination within ten working days of his receipt of the request.

(c) *Extension of response time.* Where the requested record cannot be located within the initial response period of ten days because of unusual circumstances, the Information Officer shall notify the requester in writing within the initial response period of the delay, the reasons therefore, and a date, not to exceed ten working days, on which a determination is expected to be dispatched.

(d) *Fees.* If the Agency determines that the requested record can be released, the Information Officer will inform the requester as to the appropriate search and duplication fee, if any, and, upon receipt of this fee, will have the record duplicated and sent to the requester. Fees will be computed in accordance with the uniform Schedule of Fees promulgated by the Department of Defense. Fees paid in accordance with this paragraph will be paid by check or postal money order forwarded to the Information Officer and made payable to the Treasurer of the United States.

§ 299.5 Appeals.

Any person denied access to records may, within 30 days after notification of such denial, file an appeal to the Executive for Staff Services, National Security Agency/Central Security Service. Such an appeal shall be in writing addressed to the Executive for Staff Services, National Security Agency/Central Security Service, Fort George G. Meade, Maryland 20755, shall reference the initial denial of access issued by the Agency to the requester and shall contain in sufficient detail and particularity the grounds upon which the requester believes release of the information is required. The Executive for Staff Services shall respond to the appeal within 20 working days after receipt of the appeal.

§ 299.6 Effective date.

This notice shall become effective upon February 19, 1975.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

FEBRUARY 14, 1975.

[FR Doc.75-4527 Filed 2-18-75;8:45 am]

PART 290—AVAILABILITY TO THE PUBLIC OF DEFENSE CONTRACT AUDIT AGENCY INFORMATION

The Director of the Defense Contract Audit Agency (DCAA) has approved the following revision of Part 290 as shown below in order to reflect the new requirements established by Pub. L. 93–502, which amended the Freedom of Information Act, 5 U.S.C. 552.

Sec.
290.1 Purpose.
290.2 Applicability.
290.3 Policy.
290.4 Availability of records.
290.5 DCAA officials authorized to release records requested by members of the public.
290.6 Procedure for submission of requests for DCAA records by members of the public.
290.7 Fees.
290.8 Material that may be withheld from disclosure.
290.9 Expedited handling required.
290.10 Appeals.
290.11 Judicial action.

AUTHORITY: (5 U.S.C. 301, 552), as amended by Act of Nov. 21, 1974 (Pub. L. 93–502, 88 Stat. 1–3).

§ 290.1 Purpose.

This part implements 5 U.S.C. 552, as amended, and Department of Defense Directive § 5400.7 (Part 286 of this Subchapter) and describes established facilities at which, the officials from whom, and the procedures whereby members of the public may inspect and copy or obtain copies of unclassified DCAA records.

§ 290.2 Applicability.

This part is applicable to Headquarters DCAA and all DCAA Regions.

§ 290.3 Policy.

It is the policy of the DCAA to make available to the public the maximum amount of information concerning its operations and activities. This basic policy is subject to the exemptions recognized in 5 U.S.C. 552(b) and Part 286 of this Subchapter. However, notwithstanding such permissible exemptions, it is DCAA's policy that an exempt record will be made available to the public when its disclosure would not be inconsistent with statutory requirements and when the DCAA official designated in § 290.5 determines that no significant and legitimate governmental purpose would be served by withholding the information. The latter determination is within the sole discretion of the DCAA.

§ 290.4 Availability of records.

(a) Any identifiable documentary material in the possession of the Defense Contract Audit Agency which qualifies as a "record", as discussed in paragraph (b) of this section and which is not exempt under 5 U.S.C. 552(b) and Part 286 of this Subchapter shall be made available on the request of any person.

(b) In determining whether documentary material qualifies as a "record", consideration will be given to 44 U.S.C. 366, which defines the word "record" as follows:

(It) includes all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the United States Government in pursuance of federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained therein.

(1) Records are not limited to permanent or historical documents but include contemporaneous documents as well.

(2) The term "records" does not include objects or articles such as structures, furniture, paintings, sculpture, three-dimensional models, vehicles, equipments, etc., whatever their historical value or value as "evidence."

(3) Formulae, designs, drawings, research data, computer programs, technical data packages, etc., are not considered "records" within the intent of 5 U.S.C. 552, even though maintained in documentation form because of development costs, utilization, or value, these items are considered property, not preserved for informational value nor as evidence of agency functions, but as exploitable resources to be utilized in the best interest of all the public. Requests for copies of such material shall be evaluated in accordance with policies expressly directed to the appropriate dissemination or use of such property. Requests to inspect such material to determine its content for informational purposes shall normally be granted; however, unless inspection is inconsistent with the obligation to protect the property value of the material, as, for example, may be true for certain formulae.

(c) For a record to be considered "identifiable" it must exist at the time of the request. There is no obligation to create a record to satisfy a request for information.

(d) Requesters must reasonably describe the record sought. This requires sufficient particularity in the description

to enable the DCAA to locate the record requested with reasonable effort.

(e) Pursuant to 5 U.S.C. 552(4)(A), requesters will be charged the reasonable costs of searching for, coyping and certifying records. Such charges will be determined in accordance with Part 286 of this Subchapter.

(f) Requests for identifiable records may be denied only when an official designated in § 290.5 determines that such denial is authorized by 5 U.S.C. 552 (b) and Part 286 of this Subchapter.

§ 290.5 DCAA officials authorized to release records requested by members of the public.

Authority to make initial determinations of whether to release DCAA records to members of the public is, in the case of Headquarters, DCAA vested in the Records Administrator; in the case of the DCAA Regions such authority is vested in the Regional Managers.

§ 290.6 Procedure for submission of requests for DCAA records by members of the public.

(a) Identification of records requested. Requests to inspect or obtain copies of records will normally be submitted by letter and should contain at least the following information.

(1) As complete an identification as possible of the desired record, including (if known) its title or a description thereof, date and the issuing office.

(2) A statement as to whether the requester wishes to inspect the record at a DCAA facility or obtain copies thereof by mail.

(b) Addressing requests. Requesters should address their inquiries to the appropriate official as follows:

(1) Records Administrator, Headquarters, DCAA, Cameron Station, Alexandria, Va. 22314.

(2) Regional Manager, Atlanta Region, DCAA, 3100 Maple Drive NE., Atlanta, Ga. 30305.

(3) Regional Manager, Boston Region, DCAA, Waltham Federal Center, 424 Trapelo Road, Waltham, MA 02154.

(4) Regional Manager, Chicago Region, DCAA, 527 So. LaSalle Street, Suite 652, Chicago, IL 60605.

(5) Regional Manager, Los Angeles Region, DCAA, 1340 West Sixth Street, Second Floor, Los Angeles, CA 90017.

(6) Regional Manager, New York Region, DCAA, 252 Seventh Avenue, Fourth Floor, New York, NY 10001.

(7) Regional Manager, Philadelphia Region, DCAA, Federal Building, 1421 Cherry Street, Philadelphia, Pa. 19102.

(8) Regional Manager, San Francisco Region, DCAA, 450 Golden Gate Avenue, Box 36116, San Francisco, CA 94102.

(c) Facilities for inspection and copying of records.

(1) Subject to the exemptions set forth in 5 U.S.C. 552(b) and Part 286 of this Subchapter, Headquarters, DCAA and each DCAA Region shall make available for public inspection and copying in an appropriate facility or facilities the materials described in Part 286 of this Subchapter, unless such materials are published and copies offered for sale.

(2) The cost of copying any such opinion, order, or statement of policy or interpretation shall be imposed on the person requesting the copy in accordance with Part 286 of the Subchapter.

(3) Headquarters, DCAA and each DCAA Region shall maintain on a current basis and make available for public inspection and copying in the facilities established for that purpose current indexes providing identifying information for the public as to any matter issued, adopted or promulgated after July 4, 1967 and required by 5 U.S.C. 552 and Part 286 of this Subchapter to be indexed.

§ 290.7 Fees.

(a) The schedule of fees published in Part 286 of this Subchapter shall be applicable to all services rendered to members of the public hereunder.

(b) When no specific fee has been established for a particular service, or the service requested does not fall within a category covered by Part 286 of this Subchapter, an appropriate fee will be established therefor in accordance with Part 288 of this Subchapter.

(c) Normally, mail requests for identifiable records should be accompanied by remittance of the total fee chargeable, as well as a self-addressed, stamped envelope, if special mail services are desired.

(d) Fees must be paid in full prior to search for an issuance of requested copies of records. If uncertainty as to the existence of a record, or as to the number of sheets to be copied or certified, precludes remittance of the exact fee with the request, the Defense Contract Audit Agency will inform the requester of the exact amount required. The time limits for responding to requests established in 5 U.S.C. 552 and Part 286 of this Subchapter begin to run only upon receipt of any required payment, unless the requester indicates in writing a clear willingness to pay the anticipated costs.

(e) Remittances may be in the form of either a personal check or bank draft drawn on a U.S. bank, or by U.S. postal money order. All such instruments shall be drawn to the order of the Treasurer of the United States.

(f) A receipt for fees paid will be given only upon request. Refund of fees paid will be made when the requested service cannot be rendered.

§ 290.8 Material that may be withheld from disclosure.

Only those records falling within the specific exemptions listed in 5 U.S.C. 552(b), and Part 286 of this Subchapter may be withheld from members of the public. Therefore, a request for a record made pursuant to 5 U.S.C. 552 and this part may be denied only by a DCAA official designated in § 290.5 of this Chapter, and only upon a determination that:

(1) The record is subject to one or more of the exemptions set forth in 5 U.S.C. 552(b) and Part 286 of this Subchapter, and a significant and legitimate governmental purpose is served by withholding it; or

(2) The record cannot be found because it has not been described with sufficient particularity to enable the DCAA to locate it with a reasonable amount of effort; or

(3) The requester has unreasonably failed to comply with the procedural requirements imposed by this part.

§ 290.9 Expedited handling required.

The handling of all requests from members of the public to inspect or copy records will be expedited by the officials designated in § 290.5 of this chapter, as well as by all other DCAA people. The initial determination of whether to make a record available upon request will normally be made within ten (10) working days of the date a request is received by the official designated to respond for the type of record sought. Any delay beyond this initial ten day period may not exceed ten additional working days and will be authorized only for the reasons described in Part 286 of this Subchapter.

§ 290.10 Appeals.

Any person who is denied a request for a record, in whole or in part, will be given a written explanation of the basis for such determination by an appropriate official designated in § 290.5 of this Chapter, and advised of his right to appeal the denial to the Deputy for Resources Management, Headquarters, DCAA, Cameron Station, Alexandria, Va. 22314. Final determinations on appeals will normally be made within twenty (20) working days of the receipt thereof. If, due to unusual circumstances, additional time is needed to decide the appeal, the final determination may be delayed for the number of working days, not to exceed ten (10), which were not utilized as additional time for responding to the initial request. Final refusal to provide a requested record will be made in writing by the Deputy for Resources Management in accordance with the appeal procedures prescribed in Part 286 of this Subchapter and after consultation with the Counsel, DCAA and the Deputy for Audit Management.

§ 290.11 Judicial action.

5 U.S.C. 552 provides that a requester will be deemed to have exhausted his administrative remedy after he has been refused the requested record by the head of an agency, or his designee, or when the agency fails to respond to his request within the time limits prescribed by law. The requester may then seek an order from a U.S. District Court: (1) in the district in which he resides or has his principal place of business; (2) in the district in which the record is situated; or (3) in the U.S. District Court for the District of Columbia, enjoining the agency from withholding the record and ordering its production.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

FEBRUARY 14, 1975.

[FR Doc.75-4528 Filed 2-18-75;8:45 am]

CHAPTER XXII—NATIONAL SECURITY AGENCY, CENTRAL SECURITY SERVICE

PART 2200—AVAILABILITY OF INFORMATION

Pursuant to the requirements of the Public Information Section of the Administrative Procedure Act (5 U.S.C. 552), and amendments thereto contained in Pub. L. 93-502, the following rules of procedure are established with respect to public access to the records of the National Security Agency/Central Security Service.

Sec.
2200.1 Organization and requests for information.
2200.2 Indexes.
2200.3 Procedures for request of records.
2200.4 Appeals.

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93-502.

§ 2200.1 Organization and requests for information.

The Headquarters of the National Security Agency/Central Security Service is located at Fort George G. Meade, Maryland. Requests for information and decisions and other submittals may be addressed to the Information Officer, National Security Agency/Central Security Service, Fort George G. Meade, Maryland 20755.

§ 2200.2 Indexes.

The NSA/CSS does not originate final orders, opinions, statements of policy, interpretations, staff manuals or instructions that affect a member of the public of the type covered by the indexing requirement of 5 U.S.C. 552(a)(2) or required to be published for the guidance of the public under 5 U.S.C. 552(a)(1). The Director, NSA/Chief, CSS, has therefore determined, pursuant to pertinent statutory and Executive Order requirements, that it is unnecessary and impracticable to publish an index of the type required by 5 U.S.C. 552 as amended by Pub. L. 93-502.

§ 2200.3 Procedures for request of records.

(a) *Requests.* Requests for access to records of the National Security Agency/Central Security Service may be filed by mail addressed to the Information Officer, National Security Agency/Central Security Service, Fort George G. Meade, Maryland 20755. Requests need not be made on any special form but may be by letter or other written statement identifying the request as a Freedom of Information Act request and setting forth sufficient information reasonably describing the requested record.

(b) *Determination and notification.* When the requested record has been located and identified, the Information Officer shall determine whether the record is one which, consistent with statutory requirements, Executive Orders and appropriate directives, may be released or should be exempted under the provisions of 5 U.S.C. 552. The Information Officer shall notify the requester of his determination within ten working days of his receipt of the request.

(c) *Extension of response time.* Where the requested record cannot be located within the initial response period of ten days because of unusual circumstances, the Information Officer shall notify the requester in writing within the initial response period of the delay, the reasons therefor, and a date, not to exceed ten working days, on which a determination is expected to be dispatched.

(d) *Fees.* If the Agency determines that the requested record can be released, the Information Officer will inform the requester as to the appropriate search and duplication fee, if any, and upon receipt of this fee, will have the record duplicated and sent to the requester. Fees will be computed in accordance with the uniform Schedule of Fees promulgated by the Department of Defense. Fees paid in accordance with this paragraph will be paid by check or postal money order forwarded to the Information Officer and made payable to the Treasurer of the United States.

§ 2200.4 Appeals.

Any person denied access to records may, within 30 days after notification of such denial, file an appeal to the Executive for Staff Services, National Security Agency/Central Security Service. Such an appeal shall be in writing addressed to the Executive for Staff Services, National Security Agency/Central Security Service, Fort George G. Meade, Maryland 20755, shall reference the initial denial of access issued by the Agency to the requester and shall contain in sufficient detail and particularly the grounds upon which the requester believes release of the information is required. The Executive for Staff Services shall respond to the appeal within 20 working days after receipt of the appeal.

Effective date. This notice shall become effective on February 19, 1975.

LEW ALLEN, Jr.,
Lieutenant General, USAF
Director, NSA/Chief, CSS.

[FR Doc.75-4615 Filed 2-18-75;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER IV—AMERICAN BATTLE MONUMENTS COMMISSION

PART 404—PROCEDURES AND GUIDELINES FOR COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT

On January 13, 1975, there was published in the FEDERAL REGISTER (40 FR 2447) a notice of proposed rule-making in which the American Battle Monuments Commission announced that it was planning to issue a new Part 404 to 36 CFR Chapter 4. The new Part 404 was to contain procedures and Guidelines for Compliance with the Freedom of Information Act. The publication of these procedures and guidelines is required by the November 21, 1974 amendments to the Freedom of Information Act (5 U.S.C. 552). Interested persons were given 30 days in which to submit comments and recommendations regarding the proposed rule making. As a result of the comments received, § 404.1(a) was amended.

Accordingly with this change, the proposed Procedures and Guidelines are adopted as set forth below:

Sec.
404.1 General.
404.2 Denial of access.
404.3 Appeals.

AUTHORITY: 5 U.S.C. 552, as amended.

§ 404.1 General.

(a) Public requests for information from the records of the American Battle Monuments Commission should be sent to that agency at Room 4C014, The Forrestal Building, Washington, D.C. 20314. They may also be sent to its field offices at the below listed addresses:

(1) Officer-in-Charge, European Office, American Battle Monuments Commission, APO New York 09777
(2) Officer-in-Charge, Mediterranean Office, American Battle Monuments Commission, APO New York 09794
(3) Superintendent, Manila American Cemetery, APO San Francisco 96528

(b) Requests for information from the public will be honored within ten working days except where the confidentiality of such information is protected by law.

(c) Whenever information cannot be dispatched within ten working days after receipt of its request, an interim reply will be sent informing the requestor of the status of the request.

§ 404.2 Denial of access.

(a) Letters denying access to confidential information will be dispatched within ten working days of receipt of the request and will be signed by one of the below listed personnel:

(1) Officer-in-Charge, ABMC European Office
(2) Officer-in-Charge ABMC Mediterranean Office
(3) Directors, ABMC Washington Office
(4) Secretary, ABMC

(b) Letters denying access to information will:

(1) provide the requestor with the reason for denial,
(2) inform the requestor of his or her right to appeal the denial within 30 days,
(3) give the name of the official to whom the appeal may be sent.

(c) If an unusual circumstance delays a decision concerning access to information, the requestor will be informed of the delay within ten working days of the request's initial receipt. In no case will the decision be delayed more than 20 working days from initial receipt of the request.

(d) A copy of each denial of information will be furnished to the Secretary at the time of its dispatch.

§ 404.3 Appeals.

(a) The Secretary is the appellate authority for all denials except those which he authors. The Chairman is the appellate authority for denials authored by the Secretary.

(b) The requestor will be informed of the decision on his or her appeal within 20 working days after its receipt. If the denial is upheld, the requestor will be advised that there are provisions for judicial review of such decisions under the Freedom of Information Act.

(c) In the event a court finds that the American Battle Monuments Commission has arbitrarily and capriciously withheld information from the public and a subsequent Civil Service Commission investigation finds agency personnel responsible, these personnel will be subject to disciplinary action by the American Battle Monuments Commission.

Dated: February 13, 1975.

A. J. ADAMS,
Major General, U.S. Army,
Secretary.

[FR Doc.75-4373 Filed 2-18-75;8:45 am]

PART 405—SCHEDULE OF FEES FOR SEARCH AND DUPLICATION OF RECORDS

On January 13, 1975, there was published in the FEDERAL REGISTER (40 FR 2447) a notice of proposed rule making in which the American Battle Monuments Commission announced that it was planning to issue a new Part 405 to 36 CFR Chapter 4. The new Part 405 was to contain a schedule of fees for search and duplication of records available to the public under the Freedom of Information Act. The publication of this schedule is required by the November 21, 1974 amendments to the Freedom of Information Act (5 U.S.C. 552). Interested persons were given 30 days in which to submit comments and recommendations regarding the proposed rule making.

No written objections have been received and the proposed schedule of fees is hereby adopted without change and is set forth below.

Sec.
405.1 General.
405.2 Schedule.

AUTHORITY: 5 U.S.C. 552 as amended.

§ 405.1 General.

(a) While most information will be furnished promptly at no cost as a service to the general public, fees will be charged if the cost of search and duplication warrants.

(b) When a fee is to be charged, the individual requesting the information will be informed of the fee, and no work will be performed until he or she has agreed to pay it.

§ 405.2 Schedule.

Fees which may be charged by this Commission for search and duplication of records are as follows:

(a) Duplication fees:

(1) $2.00 for first 6 pages, 5¢ per page thereafter for photocopying.

(2) $1.50 per 8x10 inch black and white print of photographs.

(3) $2.50 per 8x10 inch color print of photographs.

(b) Search fees:

(1) $8.00 per hour to search records for specific documents.

(2) $215.00 for selective extracts from Commission computer tapes.

(3) Transportation costs of personnel and records arising from searches for requested information.

Dated: February 13, 1975.

A. J. ADAMS,
Major General, U.S. Army
Secretary.

[FR Doc.75-4372 Filed 2-18-75;8:45 am]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

PART 2—RECORDS AND TESTIMONY

Pursuant to the authority granted by 5 U.S.C. 301, 5 U.S.C. 552, 31 U.S.C. 483a and 43 U.S.C. 1460, Part 2 of Title 43, Subtitle A, Code of Federal Regulations is revoked in its entirety and a revised Part 2 is adopted.

The 1974 Amendments to the Freedom of Information Act, Pub. L. 93-502 (November 21, 1974) significantly revised the Freedom of Information Act. In order to conform the Department of the Interior's regulations to the changes in the Act and to improve the Department's procedures for handling requests made under the Act, detailed new Freedom of Information procedures are set out in the revised Part 2. The significant features of the new procedures are as follows:

1. Specific time limits for the processing of requests are established, as required by the 1974 Amendments. Decisions on whether to grant initial requests for records must be made within 10 working days. Decisions on appeals from initial denials of requests must be decided within 20 working days. Provision is made for extension of both the initial request time limit and the appellate decision time limit. The total extension with respect to any one request may not exceed 10 working days, however.

2. Authority to process initial requests under the Freedom of Information Act is vested in the various bureaus and offices of the Department. Requests made to field installations of a bureau may be denied only by the head of the field installation or such higher authority as the head of the bureau may designate. Requests made to the headquarters of a bureau may be denied only by the head of the bureau or by an official designated by the head of the bureau.

3. The appellate authority of the Secretary of the Interior in Freedom of Information Act cases is vested in the Assistant Secretary—Program Development and Budget, who will decide all appeals after consultation with the Solicitor, the Director of Communications and the appropriate program Assistant Secretary.

4. Specific procedures for the submission of Freedom of Information Act requests are outlined for requesters.

5. Specific standards for granting and denying requests are also established. A request for records may be denied only if the record falls within one of the nine exemptions from the Freedom of Information Act's general disclosure requirements and the non-disclosure of the record is required by statute or Executive Order or supported by sound grounds.

Because of the length of the new Freedom of Information procedures and because it is anticipated that detailed regulations implementing the Privacy Act, P.L. 93-579, will be added to Part 2 later in 1975, it was necessary to rearrange the remainder of the prior Part 2.

Prior § 2.3, "Declassification of classified documents," has been placed in subpart C of the revised Part 2 and redesignated section 2.41.

Prior § 2.5, "Opinions in adjudication of cases; administrative manuals," has been placed in subpart A and redesignated §§ 2.1 to 2.3. The section has also been modified by deletion of certain obsolete provisions.

Prior §§ 2.6 and 2.7, "Compulsory process" and "Testimony of employees," have been placed in subpart E and designated §§ 2.81 and 2.82.

The remaining sections of the prior Part 2 dealt with Freedom of Information matters and have been replaced by the revised Freedom of information regulations, §§ 2.11 to 2.19 of subpart B of the revised Part 2.

Subpart D of the revised Part 2 has been reserved for addition of regulations implementing the Privacy Act.

The Appendix to the prior Part 2 has been redesignated Appendix B in the revised Part 2 and has been expanded to list the heads of the bureaus and offices of the Department and their addresses and the public information officers of the Department and their addresses.

Appendix A is reserved for addition of a uniform fee schedule. Such a schedule was proposed by a notice of proposed rulemaking published in the FEDERAL REGISTER on Friday, February 7, 1975, 40 Fed. Reg. 5783.

Because Part 2 consists of rules of agency organization, procedure and practice, adoption of the revised Part 2 through the rulemaking procedure prescribed in 5 U.S.C. 553 is not required and the revised Part 2 is accordingly adopted without resort to that procedure. In accordance with the public policy expressed in 5 U.S.C. 553 and the Department's policy statement of May 4, 1971 on rulemaking procedures, interested persons may, however, submit written comments, suggestions, data or arguments concerning the revised Part 2 to the Assistant Solicitor—General Legal Services, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240, on or before April 7, 1975. All such comments received will be given full consideration.

The amendments to the Freedom of Information Act take effect on February 19, 1975. So that the Department's new procedures will be in effect when the amendments take effect or shortly thereafter, good cause for waiver of the 30-day waiting period for effectiveness exists

and the revised Part 2 accordingly will take effect February 19, 1975.

The revised Part 2 reads as follows:

Subpart A—Opinions in Adjudication of Cases; Administrative Manuals

Sec.
2.1 Purpose and scope.
2.2 Opinions in adjudication of cases.
2.3 Administrative manuals.

Subpart B—Inspection of Records

2.11 Purpose and scope.
2.12 Definitions.
2.13 Records available.
2.14 Requests for records.
2.15 Action on initial requests.
2.16 Time limits on processing of initial requests.
2.17 Appeals.
2.18 Action on appeals.
2.19 Fees.

Subpart C—Declassification of Classified Records

2.41 Declassification of Classified Records.

Subpart D—[Reserved]

Subpart E—Compulsory Process, Testimony of Employees

2.81 Compulsory process.
2.82 Testimony of employees.

Appendix B—Heads of Bureaus and Offices of the Department of the Interior.

AUTHORITY: 5 U.S.C. 301, and 552; 31 U.S.C. 483a, and 1460.

Subpart A—Opinions in Adjudication of Cases, Administrative Manuals

§ 2.1 Purpose and scope.

This subpart contains the regulations of the Department of the Interior concerning the availability to the public of opinions issued in the adjudication of cases and of administrative manuals. Persons interested in obtaining access to other records are directed to the procedures for submission of Freedom of Information requests set out in Subpart B of this part.

§ 2.2 Opinions in adjudication of cases.

(a) (1) Copies of final decisions and orders issued on and after July 1, 1970, in the following categories of cases are available for inspection and coyping in the Office of Hearings and Appeals, Ballston Building No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203:

(i) Contract appeals:

(ii) Appeals from decisions rendered by departmental officials relating to the use and disposition of public lands and their resources and the use and disposition of mineral resources in certain acquired lands of the United States and in the submerged lands of the Outer Continental Shelf;

(iii) Appeals from orders and decisions issued by departmental officials and administrative law judges in proceedings relating to mine health and safety; and

(iv) Appeals from orders and decisions of administrative law judges in Indian probate matters other than those involing estates of Indians of the Five Civilized Tribes and Osage Indians.

(2) Copies of final opinions and orders issued in the following categories of cases are available for inspection and copying in the Docket and Records Section, Office of the Solicitor, Interior Building, Washington, D.C. 20240:

(i) Tort claims decided in the headquarters office of the Office of the Solicitor, and appeals from decisions of Regional Solicitors or Field Solicitors on tort claims;

(ii) Irrigation claims under Public Works Appropriation Acts (e.g., 79 Stat., 1103) or 25 U.S.C. 388 decided in the headquarters office of the Office of the Solicitor, and appeals from decisions of Regional Solicitors on irrigation claims;

(iii) Appeals under § 2.18 respecting availability of records;

(iv) Appeals from decisions of officials of the Bureau of Indian Affairs, and Indian enrollment appeals; and

(v) Appeals from decisions of officers of the Bureau of Land Management and of the Geological Survey in proceedings relating to lands or interests in land, contract appeals, and appeals in Indian probate proceedings, issued prior to July 1, 1970.

(3) An Index-Digest is issued by the Department. All decisions, opinions and orders issued in the categories of cases described in subdivisions paragraph (a) (1), (i), (ii), and (iii) of this section (that is, contract appeals, land appeals, and mine health and safety appeals), are covered in the Index-Digest; in addition, the Index-Digest covers the more important decisions, opinions and orders in the remaining categories of cases described in paragraphs (a) (1) (iv) and (a) (2) (i)–(iv) of this section, and the more important opinions of law issued by the Office of the Solicitor. The Index-Digest is available for use by the public in the Office of Hearings and Appeals, Ballston Building No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, in the Docket and Records Section, Office of the Solicitor, Interior Building, Washington, D.C. 20240, and in the offices of the Regional Solicitors and Field Solicitors. Selected decisions, opinions, and orders are published in a series entitled "Decisions of the United States Department of the Interior" (cited as I.D.), and copies may be obtained by subscription from the Superintendent of Documents U.S. Government Printing Office, Washington, D.C. 20402.

(4) Copies of final opinions and orders issued by Regional Solicitors on tort claims and irrigation claims, and copies of final opinions and orders on appeals in Indian probate proceedings issued by Regional Solicitors prior to July 1, 1970, are available for inspection and copying in their respective offices. Copies of final opinions and orders issued by Field Solicitors on tort claims are available for inspection and copying in their respective offices.

(b) (1) Copies of final decisions and orders issued prior to July 1, 1970, on appeals to the Director, Bureau of Land Management, and by hearing examiners of the Bureau of Land Management, in proceedings relating to lands and interests in land are available for inspection and copying in the Office of Hearings and Appeals, Ballston Building No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, and in the offices of the Departmental administrative law judges.

(2) Copies of final decisions, opinions and orders issued on and after July 1, 1970, by departmental administrative law judges in all proceedings before them are available for inspection and copying in their respective offices and in the Office of Hearings and Appeals, Ballston Building No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

(3) Copies of final decisions, opinions and orders issued by administrative law judges in Indian probate proceedings are available for inspection and copying in their respective offices.

§ 2.3 Administrative manuals.

The Departmental Manual is available for inspection in the Departmental Library, Interior Building, Washington, D.C., and at each of the regional offices of bureaus of the Department. The administrative manuals of those bureaus which have issued such documents are available for inspection at the headquarters offices and at the regional offices of the bureaus.

Subpart B—Inspection of Records

§ 2.11 Purpose and scope.

(a) This subpart contains the regulations of the Department of the Interior implementing the requirement of subsection (a) (3) of the Freedom of Information Act, 5 U.S.C. Section 552(a) (3), which provides that the Department "upon any request for records which (1) reasonably describes such records and (2) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person." This subpart describes the procedures by which records may be obtained from all constituent units of the Department of the Interior. The procedures in this subpart are not applicable to requests for records published in the Federal Register or opinions in the adjudication of cases, statements of policy and interpretations and administrative staff manuals which have been published or made available under Subpart "A" of this part.

(b) Before invoking the formal proinformation or records of the Department may find it useful to consult with officials of the bureau possessing the information or records or the Office of Communications, U.S. Department of the Interior, Washington, D.C. 20240.

§ 2.12 Definitions.

(a) *Act.* As used in this subpart, "Act" means the "Freedom of Information Act," 5 U.S.C. § 552.

(b) *Bureau.* As used in this subpart, "bureau" refers to all constituent bureaus and offices of the Department of the Interior, including the Office of the Secretary and the other Departmental offices.

§ 2.13 Records available.

(a) *Department policy.* It is the policy of the Department of the Interior to make the records of the Department available to the public to the greatest

extent possible, in keeping with the spirit of the Freedom of Information Act.

(b) *Statutory disclosure requirement.* The Freedom of Information Act requires that the Department, on a request from a member of the public to inspect or copy records made in accordance with the procedures in this subpart, shall promptly make the records available.

(c) *Statutory exemptions.* The Act exempts nine categories of records from this disclosure requirement. The Act provides that disclosure is not required of matters that are:

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to such Executive order;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempt from disclosure by statute;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory records compiled for law enforcement purposes, but only to the extent that production of such records would (i) interfere wies enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

(d) *Decisions on requests.* It is the policy of the Department to withhold information falling within an exemption only if (1) disclosure is prohibited by statute or Executive Order or (2) sound grounds exist for invocation of the exemption.

(e) *Deletion of portions of records.* If a requested record contains material within an exemption together with material not within an exemption and it is determined under the regulations in this subpart to withhold the exempt material, any reasonably segregable nonexempt material shall be separated from the exempt material.

(f) *Creation of records.* This subpart applies only to records which exist at the time a request for records is made. Records are not required to be created in response to a request by combining or compiling selected items from the files or by preparing a new computer program, nor are records required to be created to provide the requester with such data as proportions, percentages, frequency distributions, trends, or comparisons.

(g) *Records of concern to other departments and agencies.* (1) If the release of a record would be of concern to both the Department of the Interior and another Federal agency, the record will be made available by the Department only if the interest of the Department is the primary interest. If the Department's interest is not the primary interest, the requester shall be referred in writing to the agency having the primary interest. The Department of the Interior has the primary interest in a record if the record was developed pursuant to Department regulations, directives, or request even though the record originated outside of the Department.

(2) If the release of a record in which the Department has a primary interest would be of substantial concern to another agency, the official processing the request, should, if administratively feasible and appropriate, consult with that agency before releasing the record.

(h) *Records obtained from the public.* If a requested record was obtained by the Department from a person or entity outside of the Government, the official responsible for processing the request shall, when it is administratively feasible to do so, seek the views of that person or entity on whether the record should be released before making a decision on the request.

§ 2.14 Requests for records.

(a) *Submission of requests.* A request to inspect or copy records shall be made to the installation where the records are located. If the records are located at more than one installation or if the specific location of the records is not known to the person wishing to inspect or copy the records, he may direct his request to the head of the appropriate bureau, or the bureau's chief public information officer, if any.

(b) *Assistance in submitting requests.* If a requester is uncertain which bureau of the Department is responsible for a record which he wishes to inspect or copy, he may seek guidance from the Office of Communications, U.S. Department of the Interior, Washington, D.C. 20240, to assist him in determining the appropriate bureau to which to submit his request.

(c) *Form of request.* (1) Requests invoking the Freedom of Information Act shall be in writing.

(2) (i) A request must reasonably describe the records requested. A request reasonably describes the records requested if it will enable an employee of the Department familiar with the subject area of the request to locate the record with a reasonable amount of effort. If such information is available, the request should identify the subject matter of the record, the date when it was made, the place where it was made, and the person or office that made it, the present custodian of the record, and any other information which will assist in location of the requested records. If the request involves a matter known by the requester to be in litigation, the request should also state the case name and court hearing the case.

(ii) If the description of a record sought is insufficient to allow identification and location of the record, the response denying the request on this ground shall so state and, to the extent possible, indicate what additional descriptive information, if any, would assist in location of the record.

(3) A request shall state the maximum amount of fees which the requester is willing to pay. Requesters are notified that under § 2.19(d), the failure to state willingness to pay fees as high as are anticipated by the Department will delay running of the time limit and delay processing of the request, if the responsible official anticipates that the fees chargeable may exceed $25.00.

(4) (i) To insure expeditious handling, requests shall be prominently marked, both on the envelope and on the face of the request, with the legend "FREEDOM OF INFORMATION REQUEST." The failure of a request to bear such a legend will not disqualify a request from processing under the procedures in this subpart if the request otherwise meets the requirements of this section. A request not bearing the legend "FREEDOM OF INFORMATION REQUEST" will not, however, be deemed to have been received for purposes of the running of the time limit set out in § 2.16 until it has been identified by bureau personnel as a Freedom of Information request and marked by them with this legend.

(ii) Bureau personnel identifying a communication from the public not bearing the legend "FREEDOM OF INFORMATION REQUEST" as a request otherwise meeting the requirements of this section shall immediately (A) mark the communication with the legend "FREEDOM OF INFORMATION REQUEST," (B) date the request to reflect the date on which it was identified, and (C) take steps to assure proper processing of the request under the procedures in this subpart.

(d) *Categorical requests.* (1) A request for all records falling within a reasonably specific category shall be regarded as conforming to the statutory requirement that records be reasonably described if (i) it can be determined which particular records are covered by the request and (ii) the records can be seached for, collected and produced without unduly burdening or interfering with Department operations because of the staff time consumed or the resulting disruption of the files.

(2) If a categorical request is determined under paragraph (d)(1) of this section not to reasonably describe the records requested, the response denying the request on that ground shall specify the reasons why and shall extend to the requester an opportunity to confer with knowledgeable Department personnel in an attempt to reduce the request to manageable proportions by reformulation and by agreeing on an orderly procedure for the production of the records.

§ 2.15 Action on initial requests.

(a) *Granting of requests.* (1) A requested record shall be made available if (i) the record is not exempt from disclosure or (ii) the record is exempt from disclosure, but its withholding is neither required by statute or Executive order nor supported by sound grounds.

(2) A determination to release a record which is exempt from disclosure and which is located in a field installation may be made only by the head of that installation or by such higher authority as the head of the bureau may in writing designate. A determination to release a record which is exempt from disclosure and which is located at the headquarters installation of a bureau may be made only by the head of the bureau or an official whom the head of the bureau has in writing designated.

(b) *Form of grant.* (1) When a requested record has been determined to be available, the official processing the request shall immediately notify the person requesting the record as to where and when the record is available for inspection or, as the case may be, where and when copies will be available. If fees are due under § 2.19, the responsible official shall also state the amount or, if the exact amount cannot be determined, the approximate amount of fees due.

(2) If the record was obtained by the Department from a person or entity outside of the Government, the responsible official shall, when it is administratively feasible to do so, notify that person or entity that the record has been made available.

(c) *Denial of requests.* A request for a record may be denied only if it is determined that (1) the record is exempt from disclosure and (2) that withholding of the record is required by statute or Executive order or supported by sound grounds.

(d) *Authority to deny requests.* (1) A request made of a field installation to inspect or copy a record located at that installation may be denied only by the head of the installation or such higher authority as the head of the bureau may in writing designate and only after consultation with the appropriate field or regional solicitor.

(2) A request to inspect or copy a record located at the headquarters installation of a bureau shall be denied only by the head of the bureau or by an official whom the head of the bureau has in writing designated and only after consultation with the appropriate associate, regional, or field solicitor.

(e) *Form of denial.* A reply denying a request shall be in writing and shall include:

(1) A reference to the specific exemption or exemptions under the Freedom of Information Act authorizing the withholding of the record;

(2) If neither a statute nor an executive order requires withholding, the sound ground for withholding;

(3) A listing of the names and titles or positions of each person responsible for the denial;

(4) A statement that the denial may be appealed to the Assistant Secretary—Program Development and Budget, pursuant to § 2.17 and that such appeal must be in writing and be received by this official within 20 days (Saturdays, Sundays, and public legal holidays excepted) after the date of the denial, in the case of the denial of an entire request, or within 20 days (Saturdays, Sundays, and public legal holidays excepted) of records being made available, in the case of a partial denial, by writing to the Freedom of Information Act Officer, Office of the Assistant Secretary—Program Development and Budget, U.S. Department of the Interior, Washington, D.C. 20240.

(f) *Exception.* The requirements of paragraphs (c), (d), and (e) of this section do not apply to requests denied under § 2.14 on the ground that the request did not reasonably describe the records requested or to requests for records which do not exist.

(g) *Filing of denials.* (1) Copies of all replies denying, in whole or part, a request for a record which are issued under this section or § 2.14 shall be promptly submitted to the Freedom of Information Act Officer, Office of the Assistant Secretary—Program Development and Budget, U.S. Department of the Interior, Washington, D.C. 20240. The Freedom of Information Act Officer shall be responsible for promptly furnishing copies of such denials to the Office of the Solicitor, the Office of Communications, and the appropriate program Assistant Secretary.

(2) If a bureau has a public information office, copies of all replies denying, in whole or part, a request for a record issued by the bureau under this section or § 2.14 shall be submitted to the public information office.

§ 2.16 Time limits on processing of initial requests.

(a) *Basic limit.* Requests for records shall be processed promptly. A determination whether to grant or deny a request shall be made within no more than 10 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of a request. This determination shall be communicated immediately to the requester.

(b) *Running of basic time limit.* For purposes of paragraph (a) of this section, the time limit commences to run when a request is received at an installation designated in § 2.14(a) to receive the request. If a request is received at an installation not designated in § 2.14(a) to receive the request, the officer receiving a request shall promptly transmit the request to the appropriate installation and shall notify the requester in writing of this action.

(c) *Extensions of time.* In the following unusual circumstances, the time limit for acting upon an initial request may be extended to the extent reasonably necessary to the proper processing of the particular request, but in no case may the time limit be extended for more than 10 working days:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(d) *Authority to make extensions.* (1) An extension of time under paragraph (c) of this section may be made only by the head of a field installation or such higher authority as the head of a bureau has in writing designated, if the records requested are located in a field installation, or by the head of a bureau or an official whom the head of the bureau has in writing designated, if the records are located in the headquarters installation of a bureau.

(2) The person requesting the records shall be notified in writing of the extension. The written notice shall state the reason for the extension and the date on which a determination on the request is expected to be dispatched.

(3) A copy of the written notice shall be forwarded to the Freedom of Information Act Officer, Office of the Assistant Secretary—Program Development and Budget, U.S. Department of the Interior, Washington, D.C. 20240. The Freedom of Information Act Officer shall be responsible for promptly furnishing copies of such notices to the Office of the Solicitor, the Office of Communications, and the appropriate program Assistant Secretary.

(e) *Treatment of delay as denial.* (1) If no determination has been reached at the end of the 10-day period for deciding an initial request, or the last extension thereof, the requester may deem his request denied and may exercise a right of appeal in accordance with the provisions of § 2.17.

(2) When no determination can be reached within the applicable time limit, the responsible official shall nevertheless continue to process the request. On expiration of the time limit, the responsible official shall inform the requester of the reason for the delay, of the date on which a determination may be expected to be dispatched, and of his right to treat the delay as a denial for purposes of appeal to the Assistant Secretary—Program De-

velopment and Budget in accordance with § 2.17. The requester may be asked to consider delaying use of his right to appeal until the date on which the determination is expected to be dispatched. If the requester so agrees, he is deemed not to have treated the failure to respond within the applicable time limit as a denial for purposes of the running of the 20 working-day appeal period set out in § 2.17(b). If a determination on the request is not issued by the new agreed upon date, or if the request is denied in whole or part, the requester will have available his full right of appeal under § 2.17, including the entire 20 working-day period for filing of the appeal.

§ 2.17 Appeals.

(a) *Right of appeal.* Where a request for records has been denied, in whole or part, the person submitting the request may appeal the denial to the Assistant Secretary—Program Development and Budget.

(b) *Time for appeal.* An appeal must be received no later than twenty (20) days (Saturdays, Sundays, and public legal holidays excepted) after the date of the initial denial, in the case of a denial of an entire request, or twenty (20) days (Saturdays, Sundays, and public legal holidays excepted) after records have been made available, in the case of a partial denial.

(c) *Form of appeal.* (1) An appeal shall be initiated by filing a written notice of appeal. The notice shall be accompanied by copies of the original request and the initial denial and should, in order to expedite the appellate process and give the requester an opportunity to present his arguments, contain a brief statement of the reasons why the requester believes the initial denial to have been in error.

(2) The appeal shall be addressed to Freedom of Information Act Officer, Office of the Assistant Secretary—Program Development and Budget, U.S. Department of the Interior, Washington, D.C. 20240.

(3) (i) Both the envelope containing the notice of appeal and the face of the notice shall bear the legend "FREEDOM OF INFORMATION APPEAL." The failure of an appeal to bear such a legend will not disqualify an appeal from processing under § 2.18 if the appeal otherwise meets the requirements of this section. An appeal not bearing the legend "FREEDOM OF INFORMATION APPEAL" will not, however, be deemed to have been received for purposes of the running of the time limit set out in § 2.18 until it has been identified by Department personnel as a Freedom of Information appeal and marked by them with this legend.

(ii) Department personnel identifying a communication from the public not bearing the legend "FREEDOM OF INFORMATION APPEAL" as an appeal otherwise meeting the requirements of this section shall immediately (A) mark the communication with the legend "FREEDOM OF INFORMATION APPEAL," (B) date the appeal to reflect the date on which it was identified, and (C) take steps to assure proper processing of the appeal under the procedures in this subpart.

(4) The Freedom of Information Act Officer shall be responsible for promptly furnishing copies of such notices to the Office of the Solicitor, the Office of Communications, and the appropriate program Assistant Secretary.

§ 2.18 Action on appeals.

(a) *Authority.* Appeals from initial denials of requests for records shall be decided for the Department by the Assistant Secretary—Program Development and Budget after consultation with the Solicitor, the Director of Communications and the appropriate program Assistant Secretary. If the initial denial appealed from was issued by an official required to be consulted by this paragraph, the Assistant Secretary—Program Development and Budget is not required to consult with that official.

(b) *Time limit.* A final determination on any appeal shall be made within 20 days (excepting Saturdays, Sundays, and public legal holidays) after receipt of the appeal.

(c) *Extensions of time.* (1) If the time limit for responding to the initial request for a record was not extended under the provisions of § 2.16(c) or was extended for fewer than 10 working days, the time for processing of the appeal may be extended by the Assistant Secretary—Program Development and Budget to the extent reasonably necessary to the proper processing of the appeal, but in no event may the extension, when taken together with any extension made during processing of the initial request, result in an aggregate extension with respect to any one request of more than 10 working days. The time for processing of an appeal may be extended only if one or more of the unusual circumstances listed in § 2.16(c) requires an extension.

(2) The Assistant Secretary—Program Development and Budget shall, in writing, advise the appellant of the reasons for the extension and the date on which a final determination on the appeal is expected to be dispatched.

(3) If no determination on the appeal has been reached at the end of the 20 working-day period for deciding an appeal, or the last extension thereof, the requester is deemed to have exhausted his administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When no determination can be reached within the applicable time limit, the appeal will nevertheless continue to be processed. On expiration of the time limit the requester shall be informed of the reason for the delay, of the date on which a determination may be expected to be dispatched and of his right to seek judicial review. The requester may be asked to consider delaying resort to his right to judicial review until the date on which the determination on his appeal is expected to be dispatched.

(d) *Form of decision.* (1) The final determination on an appeal shall be in writing and shall state the basis for the determination. If the determination is to release the requested records or portions thereof, the Assistant Secretary—Program Development and Budget shall immediately make the records available or instruct the appropriate bureau official to make them immediately available. If the determination upholds in whole or part the initial denial of a request for records, the determination shall advise the requester of his right to obtain judicial review in the United States District Court for the district in which the withheld records are located, or in which the requester resides or has his principal place of business or in the United States District Court for the District of Columbia, and shall set forth the names and titles or positions of each person responsible for the denial.

(2) If the determination is to release a requested record or portions thereof and the record was obtained by the Department from a person or entity outside of the Government, the Assistant Secretary—Program Development and Budget shall, when it is administratively feasible to do so, notify the person or entity of the release of the record.

(e) *Distribution of copies.* Copies of final determinations issued by the Assistant Secretary—Program Development and Budget shall be provided to the Office of the Solicitor, the Office of Communciations, and the appropriate program Assistant Secretary.

§ 2.19 Fees.

(a) *Services for which fees may be charged.* (1) Unless waived pursuant to the provisions of paragraph (c) of this section, user fees shall be charged for document search and duplication costs incurred in responding to requests for records. User fees also shall be charged for the formal certification of verification attached to authenticated copies of records under the seal of the Department or any bureau.

(2) Unless waived or reduced pursuant to paragraph (c) of this section, user fees shall be charged in accordance with the schedule of charges contained in Appendix A to this Part.

(b) *Services for which fees may not be charged.* No fee may be charged for any services required by the Freedom of Information Act to be performed in responding to a request for records other than those services for which fees may be charged under subsection (a) of this section. Services for which no fees may be charged include, but are not limited to, (1) examining requested records to determine whether they are exempt from mandatory disclosure or whether, even if exempt, they should nevertheless be made available in whole or part, (2) deleting exempt matter from records so that the remaining portions of the records may be made available, (3) monitoring a requester's inspection of agency records made available to him for inspection, and (4) resolving legal and policy issues affecting access to requested records.

(c) *Waiver or reduction of fees.* (1) Fees otherwise chargeable for document search and duplication costs incurred in responding to requests for records shall be waived or reduced, as appropriate, if the official making the records available determines that furnishing the records can be considered as primarily benefiting the public as opposed to the requester.

(2) Fees otherwise applicable for document research and duplication costs incurred in responding to requests shall be waived and not charged if the request involves:

(i) furnishing unauthenticated copies of any documents reproduced for gratuitous distribution;

(ii) furnishing one copy of a personal document (e.g., a birth certificate) to a person who has been required to furnish it for retention by the Department;

(iii) furnishing one copy of the transcript of a hearing before a hearing officer in a grievance or similar proceeding to the employee for whom the hearing was held.

(3) Fees otherwise chargeable for document search and duplication costs incurred in responding to requests may be waived or reduced if the cost of collecting the fee would exceed the amount of the fee or if the request involves:

(i) furnishing records to press, radio and television representatives for dissemination through the media to the general public;

(ii) furnishing records to donors with respect to their gifts;

(iii) furnishing records to individuals or private non-profit organizations having an official voluntary or cooperative relationship with the Department to assist the individual or organization in its work with the Department;

(iv) furnishing records to state, local and foreign governments and public international organizations when to do so without charge is an appropriate courtesy, or when the recipient is carrying on a function related to that of the Department and to do so will help to accomplish the work of the Department;

(v) furnishing records when to do so saves costs and yields income equal to the direct cost of providing the records (e.g., where the Department's fee for the service would be included in a billing against the Department);

(vi) furnishing records when to do so is in conformance with generally established business custom (e.g., furnishing personal reference data to prospective employers of former Department employees);

(vii) furnishing one copy of a record in order to assist the requester to obtain financial benefits to which he is entitled (e.g., veterans or their dependents, employees with Government employee compensation claims or persons insured by the Government).

(d) *Notice of anticipated fees and prepayment.* (1) Where it is anticipated that fees chargeable under this section may amount to more than $25.00 and the requester has not indicated in advance his willingness to pay fees as high as are anticipated, the request shall be deemed not to have been received for purposes of the time limits established by § 2.16 until the requester is advised of the fees which are anticipated and has agreed to pay these fees. Advice to requesters with respect to anticipated fees shall be provided promptly.

(2) In appropriate cases, advance payment of fees may be required before requested records are made available to the requester.

(3) A notice of anticipated fees or notice of request for advance payment shall extend an offer to the requester to confer with appropriate personnel in an attempt to reformulate the request in a manner which will reduce the anticipated fees and meet the needs of the requester.

(e) *Form of payment.* Payment of fees should be made by check or money order payable to the Department of the Interior or the bureau furnishing the information. The term United States or the initials "U.S." should not be included on the check or money order. Where appropriate, the official responsible for handling a request may require that payment by check be made in the form of a certified check.

Subpart C—Declassification of Classified Documents

§ 2.41 Declassification of classified documents.

(a) *Request for classification review.* (1) Requests for a classification review of a document of the Department of the Interior pursuant to section 5(c) of Executive Order 11652 (37 FR 5209, March 10, 1972) and section III B of the National Security Council Directive Governing Classification, Downgrading, Declassification and Safeguarding of National Security Information (37 FR 10053, May 1972) shall be made in accordance with the procedures established by this section.

(2) Any person desiring a classification review of a document of the Department of the Interior containing information classified as National Security Information by reason of the provisions of Executive Order 11652 (or any predecessor executive order) and which is more than 10 years old, should address such request to the Chief, Division of Enforcement and Security Management, Office of Management Operations, U.S. Department of the Interior, Washington, D.C. 20240.

(3) Requests need not be made on any special form, but shall, as specified in the executive order, describe the document with sufficient particularity to enable identification of the document requested with expenditure of no more than a reasonable amount of effort.

(4) Charges for locating and reproducing copies of records will be made when deemed applicable in accordance with Appendix A to this Part and the requester will be notified.

(b) *Action on requests for classification review.* (1) The Chief, Division of Enforcement and Security Management, shall, unless the request is for a document over 30 years old, assign the request to the bureau having custody of the requested records for action. In the case of requests for declassification of records in the custody of the Office of the Secretary and less than 30 years old, the request shall be processed by the Chief, Division of Enforcement and Security Management. Requests for declassification of documents over 30 years shall be referred directly to the Archivist of the United States. The bureau which has been assigned the request, or the Chief, Division of Enforcement and Security Management, in the case of requests assigned to him, shall immediately acknowledge the request in writing. Every effort will be made to complete action on each request within thirty (30) days of its receipt. If action cannot be completed within thirty (30) days, the requester shall be so advised.

(2) If the requester does not receive a decision on his request within sixty (60) days from the date of receipt of his request, or from the date of his most recent response to a request for more particulars, he may apply to the Department of the Interior Committee on Classification of Security Information, U.S. Department of the Interior, Washington, D.C. 20240, for a decision on his request. The Committee must render a decision within thirty (30) days.

(c) *Form of decision and appeal to Committee on Classification of Security Information.* In the event that the bureau to which a request is assigned or the Chief, Division of Records and Protective Services, in the case of a request assigned to him, determines that the requested information must remain classified by reason of the provisions of Executive Order 11652, the requester shall be given prompt notification of that decision and, whenever possible, shall be provided with a brief statement as to why the information or material cannot be declassified. He shall also be advised that if he desires he may appeal the determination to the Chairman, Department of the Interior Committee on Classification of Security Information, U.S. Department of the Interior, Washington, D.C. 20240. An appeal shall include a brief statement as to why the requester disagrees with the decision which he is appealing. The Department Committee on Classification of Security Information shall render its decision within thirty (30) days of receipt of an appeal. The Departmental Committee shall be authorized to over-rule previous determinations in whole or in part when, in its judgment, continued protection is no longer required.

(d) *Appeal to Interagency Classification Review Committee.* Whenever the Department of the Interior Committee on Classification of Security Information confirms a determination for continued classification, it shall so notify the requester and advise him that he is entitled to appeal the decision to the Interagency Classification Review Committee established under section 8(A) of Executive Order 11652. Such appeals shall be addressed to the Interagency

Classification Review Committee, the Executive Office Building, Washington, D.C. 20500.

(e) *Suggestions and complaints.* Any person may also direct suggestions or complaints with respect to the administration of the other provisions of Executive Order 11652 and the NSC Directive by the Department of the Interior to the Department of the Interior Committee for Classification of Security Information, U.S. Department of the Interior, Washington, D.C. 20240.

Subpart D—[Reserved]

Subpart E—Compulsory Process and Testimony of Employees

§ 2.80 Compulsory process.

(a) If the production of any record of the Department is sought by compulsory process and if it is determined in accordance with the provisions of § 2.13 that the record should not be disclosed, the person making such determination shall immediately report the matter to the Solicitor. The person to whom the compulsory process is directed shall appear in answer to the process and respectfully decline to produce the record on the ground that the disclosure, pending the receipt of instructions from the Secretary of the Interior, is prohibited by the regulations in this Subpart.

(b) The Solicitor of the Department of the Interior is authorized to exercise all of the authority of the Secretary of the Interior under this section.

§ 2.82 Testimony of employees.

(a) An officer or employee of the Department shall not testify in any judicial or administrative proceeding concerning matters related to the business of the Government without the permission of the head of the bureau, or his designee, or of the Secretary of the Interior, or his designee. If the head of a bureau or his designee, concludes that permission should be withheld, he shall report the matter immediately to the Solicitor for a determination, and the officer or employee shall appear in answer to process and respectfully decline to testify, pending the receipt of instructions from the Secretary, on the ground that testimony is prohibited by the regulations in this part. Pending instructions from the Secretary or his designee, an officer or employee in the Office of the Secretary shall follow the same procedure.

(b) Any person (including a public agency) wishing an officer or employee of the Department to testify in a judicial or administrative proceeding concerning a matter related to the business of the Government may be required to submit a statement setting forth the interest of the litigant and the information with respect to which the testimony of the officer or employee of the Department is desired, before permission to testify will be granted under this section.

(c) The Solicitor of the Department of the Interior is authorized to exercise all of the authority of the Secretary of the Interior under this section.

APPENDIX B

1. *Heads of Bureaus and Offices of the Department of the Interior.* (The address for all bureaus and offices, unless otherwise indicated, is U.S. Department of the Interior, Washington, D.C. 20240.)

Secretary of the Interior
Office of the Secretary

Director
U.S. Geological Survey
The National Center
Reston, Virginia 22092

Commissioner
Bureau of Indian Affairs

Director
Bureau of Land Management

Director
Bureau of Mines

Administrator
Mining Enforcement and Safety Administration

Director
National Park Service

Director
Bureau of Outdoor Recreation

Director
Bureau of Reclamation

Director
U.S. Fish and Wildlife Service

Administrator
Alaska Power Administration
P.O. Box 50
Juneau, Alaska 99802

Administrator
Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208

Administrator
Southeastern Power Administration
Samuel Elbert Bldg.
Elberton, Georgia 30635

Administrator
Southwestern Power Administration
P.O. Drawer 1619
Tulsa, Oklahoma 74101

Administrator
Defense Electric Power Administration

Solicitor
Office of the Solicitor

Director
Office of Hearings and Appeals
4015 Wilson Boulevard
Arlington, Virginia 22203

Director
Office of Legislation

Director
Office for Equal Opportunity

Director
Office of Communications

Director
Office of International Activities

Director
Office of Research and Development

Director
Office of Water Research and Technology

Director
Office of Land Use and Water Planning
801—19th Street, NW.
Washington, D.C. 20006

Director
Office of Management Services

Director
Office of Management Operations

Director
Office of Management Consulting

Director
Office of Organization and Personnel Management

Director
Office of Library Services

Director
Office of Manpower Training and Youth Activities

Director
Office of Audit and Investigation

Director
Office of ADP Management

Director
Office of Aircraft Services
3905 Vista Avenue
Boise, Idaho 83705

Director
Office of Budget

Director
Office of Policy Analysis

Director
Office of Environmental Project Review

Director
Office of Outer Continental Shelf Program Coordination

2. *Public Information Officers of the Department of the Interior.* (The address for all public information officers, unless otherwise indicated is U.S. Department of the Interior, Washington, D.C. 20240.)

Director
Office of Communications
U.S. Department of the Interior

Chief
Office of Minerals Information
Bureau of Mines

Director
Public Information Staff
Bureau of Indian Affairs

Chief
Office of Public Affairs
Bureau of Reclamation

Information Officer
U.S. Geological Survey
The National Center
Reston, Virginia 22092

Chief
MESA Information Office
Mining Enforcement and Safety Administration
Ballston Tower No. 3
4015 Wilson Boulevard
Arlington, Virginia 22203

Assistant to the Director
Office of Public Affairs
National Park Service

Assistant Director—Public Affairs
U.S. Fish and Wildlife Service

Staff Assistant for Communications
Office of Land Use and Water Planning
801 19th Street NW.
Washington, D.C. 20006

Information Officer
Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208

Administrator
Alaska Power Administration
P.O. Box 50
Juneau, Alaska 99801

Chief
Division of Administrative Management
Southeastern Power Administration
Samuel Elbert Building
Elberton, Georgia 30635

Public Information Specialist
Southwestern Power Administration
P.O. Drawer 1619
Tulsa, Oklahoma 74101

3. *Office of Hearings and Appeals—Field Offices.*

Administrative Law Judge
Federal Building
Sacramento, California 95825

Administrative Law Judge
Federal Building
Salt Lake City, Utah 84138

Administrative Law Judge
Indian Probate
Arizona Title Annex Building
Phoenix, Arizona 85012

Administrative Law Judge
Indian Probate
Federal Building
Sacramento, California 95825

Administrative Law Judge
Indian Probate
Federal Building and Courthouse
Billings, Montana 59101

Administrative Law Judge
Indian Probate
V.E.M. Building
Gallup, New Mexico 87301

Administrative Law Judge
Indian Probate
U.S. Post Office and Federal Office Building
Tulsa, Oklahoma 74101

Administrative Law Judge
Indian Probate
Federal Building
Portland, Oregon 97208

4. *Office of the Solicitor—Field Offices.*

Anchorage Region

Regional Solicitor
Federal Building
Anchorage, Alaska 99501

Field Solicitor
U.S. Post Office and Courthouse
Juneau, Alaska 99801

Atlanta Region

Regional Solicitor
148 Cain Street, N.E., Suite 410
Atlanta, Georgia 30303

Field Solicitor
Elberton, Georgia 30635

Denver Region

Regional Solicitor
Denver Federal Center
Denver, Colorado 80225

Field Solicitor
Post Office Box 549
Aberdeen, South Dakota 57401

Field Solicitor
Post Office Box 1538
Billings, Montana 59103

Field Solicitor
Post Office Box 983
Cheyenne, Wyoming 82001

Portland Region

Regional Solicitor
Post Office Box 3621—Room 766
1002 N.E. Holladay Street
Portland, Oregon 97208

Field Solicitor
Post Office Box 020
Boise, Idaho 83702

Field Solicitor
Reclamation Building
Division and C Streets
Ephrata, Washington 98823

Philadelphia Region

Regional Solicitor
Merchants Exchange Building
143 South Third Street
Philadelphia, Pennsylvania 19106

Field Solicitor
686 Federal Building
Fort Snelling
Twin Cities, Minnesota 55111

Sacramento Region

Regional Solicitor
2800 Cottage Way—Room E-2753
Sacramento, California 95825

Field Solicitor
Arizona Title Annex Building—Room 410
135 North 2nd Avenue
Phoenix, Arizona 85003

Field Solicitor
4127 Federal Building—U.S. Courthouse
300 Booth Street
Reno, Nevada 89502

Field Solicitor
3610 Central Avenue—Suite 104
Riverside, California 92506

Field Solicitor
Post Office Box 36064
450 Golden Gate Avenue—Room 14126
San Francisco, California 94102

Field Solicitor
Window Rock, Arizona 86515

Salt Lake City Region

Regional Solicitor
Federal Building—Suite 6201
125 South State Street
Salt Lake City, Utah 84111

Tulsa Region

Regional Solicitor
Page Belcher Federal Building—Room 3068
333 West 4th Street
Tulsa, Oklahoma 74103

Field Solicitor
Federal Building & Courthouse
500 Gold Avenue, S.W.
Albuquerque, New Mexico 87101

Field Solicitor
Box H-4393, Herring Plaza
317 East Third
Amarillo, Texas 97101

Field Solicitor
Post Office Box 397
Anadarko, Oklahoma 73005

Field Solicitor
Federal Building—Room 319
5th and Broadway
Muskogee, Oklahoma 74401

Field Solicitor
c/o Osage Agency
Grandview Avenue
Pawhuska, Oklahoma 74056

Field Solicitor
U.S. Courthouse—Room 224
Federal Place & Washington Street
Santa Fe, New Mexico 87501

KENT FRIZZELL,
Acting Secretary of the Interior.

FEBRUARY 14, 1975.

[FR Doc.75-4505 Filed 2-18-75;8:45 am]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

Docket No. 75-1; [General Order 22; Amdt. 5]

PART 503—PUBLIC INFORMATION

Pursuant to amendments to the Freedom of Information Act (5 USC 522) notice of a proposal to amend the regulations of the Federal Maritime Commission dealing with public information (46 CFR Part 503) was published in the FEDERAL REGISTER (40 FR 2983, January 17, 1975). The amended regulations would conform to the requirements of the Freedom of Information Act and, in accordance therewith, afforded interested parties the opportunity to submit comments on the Commission's fee schedule provided in Subpart E of the proposed regulations.

A single comment was received. That comment noted the fact that the fee proposed to be assessed by the Commission for photocopying of documents was 30¢ per page. It suggested that, in view of a slightly lower range of charges for duplication commonly proposed by other agencies, the Commission review the cost data which justifies a 30¢ charge to assure inclusion of direct costs only, as mandated by the Freedom of Information Act amendments. The Commission reviewed the rate and its cost basis. The component costs of this charge are as follows:

4 minutes expenditure of time (GS-5, Step 1)	27¢
Machine rental and supplies (1971 cost study)	4¢
Total	31¢

The Commission does not impose a fee for the first one-half hour of search (§ 503.43(c)(3)) and the Commission has discretion to waive or reduce any fee (§ 503.43(d)(4) and (g)). In view of these provisions, and the cost data above, it has been determined that the charge of 30¢ per page for photocopying reflects only direct costs and therefore is in accord with the mandate of the Freedom of Information Act.

Therefore, the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These regulations shall be effective as of February 19, 1975.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-4616 Filed 2-18-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 75-134]

PART 0—COMMISSION ORGANIZATION

Amendment of Rules Implementing the Freedom of Information Act; Report and Order

1. The Congress has recently amended the Freedom of Information Act (Pub. L. 93-502, November 21, 1974, 5 U.S.C. 552). Our purpose herein is to revise the Commission's rules and regulations to comply with the requirements of the modified statute. The amendments to both the Act and the rules apply to requests for inspection of records which are received by the Commission on or after February 19, 1975. In addition to the rules set out in the attached Appendix, which specify procedures for requesting records and acting on requests, a schedule of fees to recover the cost of staff time spent in searching for records which are requested will apply to requests submitted on or after February 19, 1975. A Notice of Proposed Rule Making requesting comment on a proposed fee schedule was released on January 22, 1975 (FCC 75-30).

2. For purposes here pertinent, the Freedom of Information Act, as amended, contains the following new or modified provisions:

(a) The amended act requires the publication of certain indexes.

(b) The amended act requires a person requesting records to "reasonably describe" those records. This replaces a provision requiring agencies to grant requests for "identifiable records."

(c) The amended act provides for waiver of fees.

(d) The amended act specifies time limits for actions by agencies on requests for inspection of records.

(e) The amended act provides that notice of denial of a request shall set forth the names and titles or positions of each person responsible.

(f) The amended act provides that any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of portions which are exempt from inspection.

(g) The amended act modifies the description of two categories of exempt records.

These new or modified provisions and the rules implementing them are discussed below.

3. *The publication of indexes, 5 U.S.C. 552(a)(2).* The amended act requires agencies to publish indexes of the following materials:

(a) Final opinions, including concurring and dissenting opinions, made in the adjudication of cases;

(b) Those statements of policy and interpretations which have been adopted by the agency and are not published in the FEDERAL REGISTER; and

(c) Administrative staff manuals and instructions to staff that affect a member of the public.

Except in the case of administrative staff manuals, indexes for these materials are now published, as provided in § 0.445 of the rules. The manuals are listed in that section and are indexed. Since the indexes would be of no use whatsoever without the text of the manuals, no purpose would be served by publishing them. We find, therefore, pursuant to 5 U.S.C. 552, that publication of the indexes to the Commission's administrative manuals is unnecessary and impracticable.

4. *Reasonable description of records requested, 5 U.S.C. 552(a)(3).* In accordance with this provision, requirements in our rules which seem to require more than a reasonable description have been deleted. Our reading of what is reasonable is contained in the following two requirements:

> The records in question must be reasonably described by the person requesting them, so as to permit their location by staff personnel.
>
> Written requests shall * * * for each document requested, * * * set out all information known to the person making the request which would be helpful in identifying and locating the document.

See § 0.460 (c) and (e) and § 0.461 (a) and (b) as set out below.

5. *Waiver of fees, 5 U.S.C. 552(a)(4)(A).* Pursuant to this provision of the act, the proposed fee rules (§ 0.466(c)) provide as follows for the waiver of search fees:

> (c) The search fee will be waived or reduced by the custodian of the records, upon a showing that waiver or reduction is in the public interest because furnishing the information is primarily of benefit to the general public.

A waiver of duplicating fees on the same grounds will be considered by the custodian of the records under present section 0.465(c)(3) of the Rules, which provides, in part, that, "When it serves the regulatory or financial interests of the U.S. Government, the Commission will make and furnish copies of its records free of charge."

6. *Time limits for actions, 5 U.S.C. 552(a)(6).* This part of the act provides that agencies:

(a) Shall act on requests for records within 10 working days after receipt of the request and immediately notify the requester of the action, the reasons therefore, and of his right to appeal an adverse ruling to the head of the agency;

(b) Shall act on any appeal of an adverse ruling within 20 working days after its receipt and, in the event of an adverse ruling on appeal, notify the requester of his right to judicial review; and

(c) May extend the aggregate period for acting on the initial request and the appeal for a maximum of 10 working days, but only for the following reasons: (1) The need to search for and collect the records from establishments that are separate from the office processing the request; (2) the need to search for, collect or examine a voluminous amount of records demanded in a single request; or (3) the need to consult with another interested agency or among components of the same agency. If the initial or appellate periods are exceeded, the requester may immediately seek an injunction in a Federal district court.

7. The new time limits are responsible for most of the rule changes set out below. The provisions are implemented by a new § 0.460, covering requests for materials which are routinely available for public inspection, and a revised § 0.461, covering requests for other materials. They have necessitated a revision of § 0.459, covering requests that materials submitted to the Commission be received in confidence.

8. In part, new § 0.460 tracks provisions heretofore set out in § 0.451. Significant additions include the following:

(a) Paragraph (d) requires written requests for routinely available records where it appears that there will be an appreciable delay in locating or producing the documents.

(b) Paragraph (e) specifies the required contents of written requests, including a statement of the maximum search fee the person making the request is prepared to pay. (If the specified maximum is reached before all the records have been located, the search will be terminated).

(c) Paragraph (f) contains instructions for delivery of the request.

(d) Paragraph (h) provides that all requests limited to records listed in §§ 0.453 and 0.455 (those routinely available for inspection) will be granted and provides that requests for records listed in those sections shall not be combined with requests for other records.

(e) Paragraph (i) provides that the records will be produced for inspection at the earliest possible time.

9. Significant changes in § 0.461 include the following:

(a) Paragraphs (b) and (c) specify the required contents of requests for records not routinely available, all of which must be in writing. Included is a statement of the maximum search fee the person making the request is prepared to pay.

(b) Paragraph (d) contains instructions for delivery of the request.

(c) Paragraph (g) provides for action on the request within 10 working days (if possible), for an extension of up to 10 working days (if permissible and if needed), for a further extension on consent of the requester (if needed), and for denial of the request if it cannot be acted on within the statutory period and if the requester does not agree to an extension. In the event of denial in the latter circumstance, the search for and/or assessment of the records will continue during the period provided for filing and acting on an application for review.

(d) Paragraph (h) provides for administrative and judicial review of an action granting a request for records where the records have been submitted to the Commission in confidence. Note that provision has not been made for consideration of oppositions to requests for inspection by the person who submitted the materials to the Commission. The 10 day period allowed for action is not sufficient to provide for the filing and consideration of oppositions prior to the initial action. However, as provided in paragraph (d), the person who submitted the materials will be notified when the request is filed and will be afforded an opportunity to file an application for review of an order granting the request for inspection. In view of the statutory admonition to produce the records promptly after grant of the request, the period for seeking administrative review of a grant has been reduced from 15 to 5 days and a period of 5 days has been specified for seeking a judicial stay if the Commission affirms the order granting the request for inspection. The limited period is also required because of the possibility of a partial grant, followed by applications for review by two parties, including the person who submitted the request for inspection, and the requirement that the latter application be acted on within 20 days after it is submitted.

(e) Paragraph (i) provides that the person who requested the records is afforded 30 days in which to apply for review of an adverse action.

(f) Paragraph (k) provides for action within 20 working days on an application for review, if possible, and contains essentially the same provision for statutory and consensual extensions of the 20 day

period as are provided in the case of the initial ruling under § 0.461(g).

(g) Paragraph (l) provides that, if a request is granted, the records will be made available at the earliest possible time.

10. In part, new § 0.459 tracks provisions of existing § 0.459. The main changes are that the procedures for submitting, and the criteria for acting on, requests that materials submitted to the Commission be received in confidence have been tightened and that the periods allowed for filing an application for review or for seeking a judicial stay of an adverse action have been reduced. Significant changes in § 0.459 include the following:

(a) Paragraph (a) notes that a request under § 0.459 is unnecessary if the materials in question are specifically listed in § 0.457 as materials which are not routinely available for inspection.

(b) Paragraph (c) provides that requests which do not meet the requirements of paragraphs (a) and (b) will not be considered. Among other things, it is expected that requests will contain a full statement of the facts and reasons, and of the statutory basis, for non-disclosure.

(c) Paragraph (d) provides that the request will be granted only if it presents a clear and convincing case for non-disclosure consistent with the Freedom of Information Act.

(d) Paragraph (g) provides for the filing of an application for review of an action denying the request or non-disclosure. In view of the fact that a request for inspection of the materials may be filed at any time and must be acted on within 10 days, the period for filing an application for review has been reduced from 30 to 5 days. In addition, the period afforded for seeking a judical stay of a Commission order affirming an order denying the request has been limited to 5 days.

11. *Disclosure of names of persons responsible for denying a request for inspection, 552(a)(4)(c).* This provision is implemented by § 0.461(m) of the rules.

12. *Deletion of the exempt portions of a record and disclosure of the remainder, 5 U.S.C. 552(b).* This provision is implemented by § 0.461(e)(5).

13. *Modification of substantive provisions,* 5 U.S.C. 552(b) (1) and (7). These changes have been carried forward into § 0.457 (a) and (g).

14. Authority for the amendments set out below is set out in section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and in 5 U.S.C. 552.

15. Because the amendments are procedural in nature or carry forward to our rules mandatory provisions of the amended Freedom of Information Act, and because the revised rules must be in effect on February 19, 1975, compliance with the notice and effective date provisions of 5 U.S.C. 553 is unnecessary and impracticable.

16. In view of the foregoing, it is ordered, effective February 19, 1975, that Part 0 of the rules and regulations is amended as set out below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Adopted: February 4, 1975.

Released: February 11, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 0.451 is revised to read as follows:

§ 0.451 Inspection of records: Generally.

(a) *Records which are routinely available for public inspection.* Sections 0.453 and 0.455 list those Commission records which are routinely available for public inspection and the places at which those records may be inspected. Procedures governing requests for inspection of such records are set out in § 0.460.

(b) *Records which are not routinely available for public inspection.* Records which are not listed in § 0.453 or § 0.455 are not routinely available for public inspection. Such records fall into two categories.

(1) The first category consists of those records or kinds of records listed in § 0.457 and of particular records withheld from public inspection under § 0.459. The Commission has determined that there is a statutory basis for withholding these records from public inspection. In some cases, the Commission is prohibited from permitting the inspection of records. In other cases, the records are the property of another agency, and the Commission has no authority to permit their inspection. In still other cases, the Commission is authorized, for reason of policy, to withhold records from inspection, but is not required to do so.

(2) The second category consists of records which are not listed in § 0.453, § 0.455, or § 0.457 and have not been withheld from inspection under § 0.459. In some cases, these records have not been identified for listing. In other cases (e.g., the general correspondence files), the Commission is unable to determine either that all records in a class should be routinely available for inspection or that all records in that class should not be routinely available for inspection, and individual determination is required.

(3) Procedures governing requests for inspection of these records are set out in § 0.461.

(4) Procedures governing demands by competent authority for inspection of these records are set out in § 0.463.

(5) Except as provided in §§ 0.461 and 0.463, no officer or employee of the Commission shall permit the inspection of records which are not routinely available for public inspection under § 0.453 or § 0.455, or disclose information contained therein.

(c) *Copies.* Section 0.465 applies to requests for copies of Commission records which are routinely available for public inspection under §§ 0.453 and 0.455 and those which are made available for inspection under § 0.461. Section 0.467 applies to requests for certified copies of Commission records.

(d) *Search fees.* Section 0.466 prescribes fees to cover the expense of searching for records made available for inspection under § 0.460 or § 0.461.

§ 0.456 [Deleted]

2. Section 0.456 is deleted.

3. In § 0.457, the portion of paragraph (a) preceding paragraph (a)(1), and paragraph (g), are revised to read as set forth below:

§ 0.457 Records not routinely available for public inspection.

* * * * *

(a) *Materials that are specifically authorized under criteria established by executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such executive order, 5 U.S.C. 552(b)(1).* * * *

* * * * *

(g) *Investigatory records compiled for law enforcement purposes, to the extent that production of such records would*
(1) *Interfere with enforcement proceedings;*
(2) *Deprive a person of a right to fair trial or an impartial adjudication;*
(3) *Constitute an unwarranted invasion of personal privacy;*
(4) *Disclose the identity of a confidential source;*
(5) *Disclose investigative techniques or procedures; or*
(6) *Endanger the life or physical safety of law enforcement personnel, 5 U.S.C. 552(b)(7).*

4. Section 0.459 is revised to read as follows:

§ 0.459 Requests that materials or information submitted to the Commission be withheld from public inspection.

(a) Any person submitting information or materials to the Commission may submit therewith a request that such information not be made routinely available for public inspection. (If the materials are specifically listed in § 0.457, such a request is unnecessary.) A copy of the request shall be attached to and shall cover all of the materials to which it applies and all copies of those materials. If feasible, the materials to which the request applies shall be physically separated from any materials to which the request does not apply; if this is not feasible, the portion of the materials to which the request applies shall be identified.

(b) Each such request shall contain a statement of the reasons for withholding the materials from inspection (see § 0.457) and of the facts upon which those reasons are based. If the request is that the materials be withheld from inspection for a limited period of time, that period shall be specified.

(c) Casual requests which do not comply with the requirements of paragraphs

(a) and (b) of this section will not be considered.

(d) Requests which comply with the requirements of paragraphs (a) and (b) of this section will be acted on by the appropriate Bureau or Office Chief, who is directed to grant the request only if it presents a clear and convincing case for non-disclosure consistent with the provisions of the Freedom of Information Act, 5 U.S.C. 552. If the request is granted, the ruling will be placed in a public file in lieu of the materials withheld from public inspection. A copy of the ruling shall be forwarded to the General Counsel.

(e) If the materials are submitted voluntarily (i.e., absent any direction by the Commission), the person submitting them may request the Commission to return the materials without consideration if the request for confidentiality should be denied. In that event, the materials will ordinarily be returned (e.g., an application will be returned if it cannot be considered on a confidential basis); only in the unusual instance where the public interest so requires will the materials be made available for public inspection. If submission of the materials is required by the Commission and the request for confidentiality is denied, the materials will be made available for public inspection.

(f) If no request for confidentiality is submitted, the Commission assumes no obligation to consider the need for nondisclosure but, in the unusual instance, may determine on its own motion that the materials should be withheld from public inspection. See § 0.457(g).

(g) If a request for confidentiality is denied, the person who submitted the request may, within 5 working days, file an application for review by the Commission. If the application for review is denied, the person who submitted the request will be afforded 5 working days in which to seek a judicial stay of the ruling. If these periods expire without action by the person who submitted the request, the materials will be returned to the person who submitted them or will be placed in a public file. Notice of denial and of the time for seeking review or a judicial stay will be given by telephone, with follow-up notice in writing.

(h) If the request is granted, the status of the materials is the same as that of materials listed in § 0.457. Any person wishing to inspect them may submit a request for inspection under § 0.461.

5. Section 0.460 is added, to read as follows:

§ 0.460 Requests for inspection of records which are routinely available for public inspection.

(a) Sections 0.453 and 0.455 list those Commission records which are routinely available for public inspection and the places at which those records may be inspected. Subject to the limitations set out in this section and to the provisions of § 0.466, a person who wants to inspect such records need only appear at the specified location and ask to see the records.

(b) A person who does not want a copy of the records must appear at the specified location during the office hours of the Commission and must inspect the records at that location. (Procedures governing requests for copies are set out in § 0.465.) However, arrangements may be made in advance, by telephone or by correspondence, to make the records available for inspection on a particular date, and there are many circumstances in which such advance arrangements will save inconvenience. If the request is for a large number of documents, for example, a delay in collecting them is predictable. Current records may be in use by the staff when the request is made. Older records may have been forwarded to another location for storage.

(c) The records in question must be reasonably described by the person requesting them so as to permit their location by staff personnel. The information needed to locate the records will vary, depending on the records requested. Advice concerning the kind of information needed to locate particular records will be furnished in advance upon request. Members of the public will not be given access to the area in which records are kept and will not be permitted to search the files.

(d) If it appears that there will be an appreciable delay in locating or producing the records (as where a large number of documents is the subject of a single request or where an extended search for a document appears to be necessary), the request shall be submitted in writing, either in person or by mail.

(e) Written requests shall be captioned "REQUEST FOR INSPECTION OF RECORDS", shall be dated, shall list the telephone number (if any) of the person making the request and, for each document requested, shall set out all information known to the person making the request which would be helpful in identifying and locating the document. Written requests shall, in addition, specify the maximum search fee the person making the request is prepared to pay (see § 0.466). If the specified maximum is reached before all of the records have been located, the search will be terminated, and the person making the request will be so notified.

(f) Written requests shall be delivered or mailed directly to the chief of the organizational unit having custody of the records, as listed in §§ 0.453 and 0.455. If the request is enclosed in an envelope, the envelope shall be marked, "REQUEST FOR INSPECTION OF RECORDS."

(g) When a written request is received by the custodian of the records, it will be date-stamped.

(h) All requests limited to records listed in §§ 0.453 and 0.455 will be granted. Requests for records listed in those sections shall not be combined with requests for other records.

(i) The records will be produced for inspection at the earliest possible time.

6. Section 0.461 is revised to read as follows:

§ 0.461 Requests for inspection of materials not routinely available for public inspection.

Any person desiring to inspect Commission records which are not listed in § 0.453 or § 0.455 shall file a request for inspection meeting the requirements of this section.

(a) The records in question must be reasonably described by the person requesting them, so as to permit their location by staff personnel. See § 0.460(c).

(b) Requests shall be captioned, "REQUEST FOR INSPECTION OF RECORDS", shall be dated, shall list the telephone number (if any) of the person making the request and, for each document requested, shall set out all information known to the person making the request which would be helpful in identifying and locating the document. The request shall, in addition, specify the maximum search fee the person making the request is prepared to pay (see § 0.466). If the specified maximum is reached before all of the records have been located, the search will be terminated and the person making the request will be so notified.

(c) If the records are of the kinds listed in § 0.457 or if they have been withheld from inspection under § 0.459, the request shall, in addition, contain a statement of the reasons for inspection and the facts in support thereof. In the case of other materials, no such statement need accompany the request; but the custodian of the records may require the submission of such a statement if he determines that the materials in question may lawfully be withheld from inspection.

(d)(1) Requests shall be delivered or mailed to the Executive Director, who will determine the identity of the custodian of the records and deliver the request to him. (If the request is to be acted on by the officer presiding at a hearing pursuant to paragraph (j) of this section, the Executive Director will deliver the request to the presiding officer rather than to the custodian of the records.)

(2) If the request is enclosed in an envelope, the envelope shall be marked, "REQUEST FOR INSPECTION OF RECORDS."

(3) An original and two copies of the request shall be submitted. If the request is for materials not open to routine public inspection under § 0.457(d) or § 0.459, one copy of the request will be mailed by the custodian of the records to the person who originally submitted the materials to the Commission.

(e) When the request is received by the Executive Director, it will be date-stamped.

(f) Except as provided in paragraph (j) of this section, requests for inspection of records will be acted on as follows by the custodian of the records.

(1) If the Commission is prohibited from disclosing the records in question,

the request for inspection will be denied with a statement setting forth the specific grounds for denial.

(2) If the records are the property of another agency, the request will be referred to that agency and the person who submitted the request will be so advised, with the reasons therefor.

(3) If it is determined that the Commission does not have authority to withhold the records from public inspection, the request will be granted.

(4) If it is determined that the Commission does have authority to withhold the records from public inspection, the considerations favoring disclosure and non-disclosure will be weighed in the light of the facts presented, and the request will be granted, either conditionally or unconditionally, or denied.

(5) If there is a statutory basis for withholding part of a document only from inspection, that part will be deleted and the remainder will be made available for inspection.

(g) The custodian of the records will make every effort to act on the request within 10 working days after it is received by the Executive Director. If it is not possible to locate the records and to determine whether they should be made available for inspection within 10 working days, the custodian may, in any of the following circumstances, extend the time for action by up to 10 working days:

(1) It is necessary to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) It is necessary to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) It is necessary to consult with another agency having a substantial interest in the determination of the request or among two or more components of the Commission.

If these circumstances are not present of if it is not possible to locate the records and make the determination within the extended period, the person who made the request will be advised of his rights and asked to consent to an extension or further extension. If he agrees to an extension, the custodian of the records will confirm the agreement in a letter specifying the length of the agreed-upon extension. If he does not agree to an extension, the request will be denied, on the ground that the custodian has not been able to locate the records and/or to make the determination within the period for an initial ruling mandated by the Freedom of Information Act, 5 U.S.C. 552. In that event, the custodian will continue to search for and/or assess the records and will advise the person who made the request of further developments; but that person may file an application for review by the Commission. When action is taken by the custodian of the records, the person who made the request and the person who originally submitted, the materials to the Commission (if any) will be notified and advised of their rights by telephone, with followup notice in writing.

(h) In the case of records not open to routine inspection under § 0.457(d) or § 0.459, the person who originally submitted the records to the Commission may file an application for review of an action by the custodian of the records granting a request for inspection. The application for review shall be filed within 5 working days after the date of the action. No other pleadings shall be filed. If an application for review is not filed within this period, the records will be produced for inspection. If the application for review is denied, the person who submitted the records to the Commission will be notified and advised of his rights by telephone, with follow-up notice in writing, and will be afforded 5 working days in which to obtain a judicial stay of the Commission's action. If a stay is not obtained within this period, the records will be produced for inspection. Because of the statutory constraints imposed upon the Commission, no extensions of time will be granted to seek either Commission review or a judicial stay.

(i) Except as provided in paragraph (h) of this section, an application for review of an initial action on a request for inspection may be filed only by the person who made the request. The application for review shall be filed within 30 days after the date of the action by the custodian of the records. No other pleadings shall be filed.

(j) If the request is for inspection of records for use in a proceeding which has been designated for hearing and is filed by a party to the proceeding, it will be acted on by the presiding officer under the criteria and procedures set out in this section rather than by the custodian of the records.

(k) The Commission will make every effort to act on an application for review of an action on a request for inspection of records within 20 working days after it is filed. If it is not possible to locate the records and to determine whether they should be made available for inspection within 20 working days, the General Counsel may, in the following circumstances and to the extent time has not been extended under paragraph (g) of this section, extend the time for action by up to 10 working days. (The total period of extensions taken under this paragraph and under paragraph (g) of this section without the consent of the person who submitted the request shall not exceed 10 days.):

(1) It is necessary to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) It is necessary to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) It is necessary to consult with another agency having a substantial interest in the determination of the request or among two or more components of the Commission.

If these circumstances are not present or if it is not possible to locate the records and make the determination within the extended period, the person who made the request will be advised of his rights and asked to consent to an extension or further extension. If he agrees to an extension, the General Counsel will confirm the agreement in a letter specifying the length of the agreed-upon extension. If he does not agree to an extension, the Commission will continue to search for and/or assess the records and will advise the person who made the request of further developments; but that person may file a complaint in an appropriate United States district court.

[FR Doc.75-4303 Filed 2-18-75;8:45 am]

[Docket No. 20236; FCC 75-179]

Freedom of Information Act Regulations

In the matter of fees for searching for records requested under the Freedom of Information Act.

1. A notice of proposed rulemaking in this proceeding was released on January 22, 1975 (FCC 75-30, 50 FCC 2d, 40 FR 4155, January 28, 1975). The notice proposed a schedule of fees to cover the direct costs of searching for records requested under the Freedom of Information Act and invited the submission of comments on or before February 5, 1975. Comments have been submitted by GTE Service Corporation (GTE) and by the Communications Workers of America (CWA). Reply comments were not invited. Related procedural rules were released by the Commission on February 11, 1974 (FCC 74-134).

2. While approving generally of the fee provision,, GTE takes the position that a search fee should not be charged in the case of "informal" requests for records which are routinely available for public inspection. It has since been established that the taking of this position is based on a misconception of the Commission's intentions, due to our inability to publish procedural rules implementing the 1974 amendments to the Freedom of Information Act prior to the filing date for comments in this proceeding. The search fee is, in fact, applicable only to "formal" requests; i.e., those which the rules require to be submitted in writing. In the case of materials which are routinely available, "a person who wants to inspect such records need only appear at the specified location and ask to see the records." (§ 0.460(a), as added by FCC 74-134). A written request is required only by § 0.460(d), which reads as follows:

(d) If it appears that there will be an appreciable delay in locating or producing the records (as where a large number of documents is the subject of a single request or where an extended search for a document ap-

pears to be necessary), the request shall be submitted in writing, either in person or by mail.

In such circumstances, there is a possibility that we may not be able to locate the records (or all of them) within 10 days and to produce them promptly after the end of that period. There is therefore a need for a written record of the request. Since the burden of making the search would be essentially the same as the burden of searching for records which are not routinely available for inspection in the same circumstances, a search fee is equally justified. This being understood, GTE has no objection to the fee provision.

3. GTE also takes the position that the fee should not be charged in the case of searches made pursuant to the Commission's discovery procedure (47 CFR 1.311 (b) (3)), to searches for statements to be produced under the Jencks rule (47 CFR 1.362), or to searches for documents relied on by the Commission in hearing cases. We agree, and the fee provision will not be so applied. It would be inappropriate for one party to a hearing proceeding (i.e., a Commission Bureau) to impose a charge on another party for producing papers pursuant to an order by the presiding judge. Jencks statements and documents relied on by the Commission, moreover, should be readily available, and producing them should not require a search.

4. CWA takes the position that § 0.466 "will be usable to deny information to the public, or at least to delay production thereof". No explanation is offered as to how the search fee provision could be used for such purposes, and we can see no connection between the provision and such uses. Certainly, there is no intent on our part to so use the provision. The purpose of this provision is simply to compensate the Government for the direct cost of searches for records which are requested, as contemplated by 5 U.S.C. 552(a) (4) (A).

5. CWA also objects to the fact that the Rule Making Notice herein was issued, and that comments on the fee provision were required, before related procedures implementing the Freedom of Information Act amendments were issued. We note that relevant provisions of the related procedures were summarized in a footnote to § 0.466, as proposed in the Rule Making Notice. We nevertheless regret that the procedures could not be published simultaneously with the related fee provision. The necessity to publish both the procedures and the fee provision prior to February 19, 1975, the effective date of the Freedom of Information Act, and the requirement that comment be sought on the fee provision, made our actions necessary. Considering the statutory deadline of February 19, it is clearly not feasible to defer implementation of the fee provision, as urged by CWA.

6. The new search fee provision is set out below. Authority for this rule is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and in 5 U.S.C. 552.

7. Because the Freedom of Information Act amendments take effect on February 19, 1975, good cause exists for making the fee provision effective on that date and less than 30 days after publication of the final rule in the FEDERAL REGISTER.

8. Accordingly, *It is ordered*, effective February 19, 1975, That Part 0 of the Commission's rules is amended as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1036, 1082; 47 U.S.C. 154, 303, and 5 U.S.C. 552)

Adopted: February 12, 1975.

Released: February 18, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
Secretary.

In Part 0 of Chapter I of Title 47 of the Code of Federal Regulations, § 0.466 is revised to read as follows:

§ 0.466 Search fee.

(a) Subject to the provisions of this section, a fee of $5 per hour, and for any fraction of an hour, is charged for recovery of the direct costs of searching for records requested under § 0.460(d) or § 0.461. Sections 0.465 and 0.467 deal with charges for providing copies of records made available for inspection.

(b) No search fee will be charged if:

(1) The records are not located;

(2) The records are located but are not made available for inspection;

(3) The search does not exceed one hour in duration.

(c) The search fee will be waived or reduced by the General Counsel, upon a showing that waiver or reduction is in the public interest.

(d) The fee charged will not exceed an amount based on the time normally required to locate records of the kind requested. (For example, the person making the request will not be charged for the extra time required to locate records which have been misplaced or misfiled.)

(e) In most cases, the request for inspection shall specify the maximum search fee that the person making the request is prepared to pay. See § 0.460 (d) and (e) and § 0.461(b). If the specified maximum is reached before all of the records have been located, the search will be terminated and the person making the request will be so notified.

(f) When the search has been completed, the custodian of the records will give notice of the charges incurred to the person who made the request.

(g) The fee shall be paid to the Fee Unit, Financial Management Division, Office of Executive Director, or as otherwise directed by the Commission.

(h) Evidence of payment shall be presented to the custodian of the records before the records are made available for inspection.

(i) Records shall be inspected within 7 days after notice is given that they have been located and are available for inspection. After that period, they will be returned to storage, and additional charges may be imposed for again producing them.

(j) Record searches will not be undertaken on the request of any person who has incurred but has not paid charges for producing records.

[FR Doc.75-4417 Filed 2-18-75;8:45 am]

[1] Commissioner Hooks dissenting; Commissioner Quello concurring in the result.

Title 32—National Defense

CHAPTER XXI—NATIONAL SECURITY COUNCIL

PART 2101—FREEDOM OF INFORMATION ACT REQUESTS FOR CLASSIFIED DOCUMENTS—PROCESSING, FEES, REPORTS, APPLICABLE MATERIAL, DECLASSIFICATION CRITERIA, PARTIAL RELEASE

FEBRUARY 19, 1975.

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2101.54 Substantive criteria under E.O. 11652 for material over ten years old.

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2101.62 Downgrading of classified material reviewed under the FOI Act.

AUTHORITY: E.O. 11652, as amended by Pub. L. 93-502, unless otherwise noted.

Subpart A—Introduction

§ 2101.1 The amended Freedom of Information Act.

The amended Freedom of Information Act, Pub. L. 93-502 (5 U.S.C. 552), provided, and to the extent, it is applicable to the National Security Council Staff, provides expanded opportunities for the public to secure the release of classified material under the control of, or of primary interest to, the NSC Staff. The amended Act sets more restrictive time periods within which requests must be

processed, modifies the criteria upon which denials of such requests can be based, and permits appeals to district courts of denials of requests. As a result of these changes, modified procedures are required from those followed in the case of requests for the release of classified material over ten years old made under Executive Order 11652. These regulations are intended to guide the NSC Staff response to requests for classified material under the amended Freedom of Information Act, insofar as it is applicable.

§ 2101.2 Purpose of amended Act.

The underlying purpose of the amended Freedom of Information Act is to insure that the public is informed to the fullest extent possible about governmental policies and actions, consistent with the requirement to protect certain categories of sensitive information. In the case of classified material, the Act is intended to protect the public against the improper classification of information, particularly to conceal inefficiency or administrative error or to prevent embarrassment to a person or department. provisions of Executive Order 11652 and the implementing NSC Directive of May 17, 1972, which regulate and control the protection and management of national security information. The provisions of these documents relating to the criteria, authority and procedures for classifying and safeguarding national security material remain unaffected by the amended Act.

Subpart B—Processing Requests for Classified Material

§ 2101.11 Receipt of requests.

(a) Request for classified documents under the FOI Act should be addressed to:

National Security Council
ATTN: Staff Secretary
Old Executive Office Building
Washington, D.C. 20506

Oral requests received by the Staff Secretary or other members of the NSC Staff will be rejected and the requester informed that his request should be made in writing and directed to the Staff Secretary.

(b) All time limits are based on the date of receipt by the NSC Staff of a request. Consequently, this "key date" must in all cases be accurately recorded.

(c) If a request is misdirected to the NSC Staff, the requestor will be promptly notified in writing.

(d) Requests for declassification of material forwarded by National Archives and Records Service (or other Agencies) should be submitted with three copies of the requested material attached.

§ 2101.12 Initial processing.

(a) Requested material will be rapidly gathered (when not received with the request) screened, and disseminated to appropriate reviewing officers.

(1) Initial dissemination of material to reviewing officers will be made by the Secretariat, with review by the Staff Secretary.

(2) Material to be reviewed will be disseminated utilizing "highly visible" and clearly distinguishable orange folders.

(3) Deadline for submitting recommendations will be indicated in all cases and must be adhered to.

(b) Dissemination of material to other Agencies for comment will be made by the Staff Secretary to responsible officials of these Agencies.

(c) Strict accounting of status and location of all material disseminated will be maintained by the Secretariat.

§ 2101.13 Requests for time extensions.

(a) Requestors will be promptly notified by the Staff Secretary of a time extension (indicating the new date by which a determination will be dispatched) due to the following three "unusual circumstances":

(1) need to search for or collect records from field facilities or other establishments separate from the office of request;

(2) need to search for, collect and examine voluminous amounts of records;

(3) need to consult with other agencies because of their having substantial subject-matter interests.

(b) Time extensions will not exceed ten working days in the aggregate, either solely in the initial or the review stage, or divided between them.

(c) The Staff Secretary will authorize all time extensions.

(d) Prior to requesting a court authorized time extension, requestors will be contacted by the Staff Secretary in an attempt to arrange informal agreement on a time extension (any verbal agreement will be quickly formalized in writing).

(e) The Staff Secretary will authorize all requests to courts for time extensions based on "exceptional circumstances" and "due diligence". Formal approaches to courts for time extensions will be conducted by the Department of Justice.

§ 2101.14 Initial review period.

(a) A total of ten working days is available for submitting an initial response to requests.

(1) Time period allowed reviewing officers will be the maximum period consistent with time required for administrative processing and final review of recommendations and preparation of reply by Staff Secretary.

(2) Reviewing officers will be periodically reminded of approaching due dates in order to insure recommendations are received in a timely manner.

(b) Primary reviewing officers will delegate reviewing authority in the event they are unavailable to conduct reviews.

§ 2101.15 Initial reply to request.

(a) The Staff Secretary will review the recommendations of primary reviewing officers and approve initial replies.

(b) An initial response will *always* be made *even* if processing has not been completed.

(c) If processing has not been completed but an interim negative reply has been dispatched, processing will continue.

(d) Accurate record of replies will be maintained by Secretariat.

(e) If a negative or partial denial response is dispatched, requester will be notified of his right to appeal.

(f) If some or all material is approved for release, the Staff Secretary will insure it is expeditiously dispatched to the requestor or grant authority to NARS or other Agency to release the material.

§ 2101.16 Processing of appeals to "Head of Agency".

(a) Replies to appeals will be approved by the Assistant to the President for National Security Affairs, or the Deputy Assistant acting in the name of the Assistant to the President.

(b) The Staff Secretary will be responsible for preparing material required by the above appeal review officer in making a final determination.

(1) Views of primary reviewing officers will again be solicited.

(2) Opinion of Office of the White House Counsel and/or Department of Justice on legal ramifications will be solicited.

(c) Staff Secretary will insure replies to appeals are dispatched within 20 working days of receipt or before exhaustion of time of an authorized time extension.

§ 2101.17 Appeals to Federal District Courts.

(a) Staff Secretary will coordinate the NSC Staff's support (to include background data, affidavits, etc.) to USG lawyers defending against court appeals for denied NSC classified documents.

(b) If court judgment is against USG, Staff Secretary will arrange release of documents to litigant.

Subpart C—Schedule of Fees and Method of Payment for Services Rendered

§ 2101.21 Fees schedule.

(a) Fees schedule for the search and reproduction of information available under the Freedom of Information Act (5 U.S.C. 552), as amended:

(1) *Search for records.* $5.00 per hour when the search is conducted by a clerical employee. $8.00 per hour when the search is conducted by a professional employee. No charge for searches of less than 1 hour.

(2) *Duplication of records.* Records will be duplicated at a rate of $.25 per page for all coyping of 4 pages or more. There is no charge for duplicating documents of 3 or less pages or the first three pages of documents of greater length.

(3) *Other.* When no specific fee has been established for a service, or the request for a service does not fall under one of the above categories due to the amount or type thereof, the Staff Secretary is authorized to establish an appropriate fee based on "direct costs" as provided in the Freedom of Information Act. Examples of services covered by this provision include searches involving computer time or special travel, transportation, or communications costs.

(b) If records requested under the Act are stored elsewhere than the headquarters of the National Security Council Staff at Washington, D.C., the special

costs of returning such records to the headquarters for review will be added to the search costs. Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made, or if the NSC Staff determines that a record which has been requested, but which is exempt from disclosure under the Act, is to be withheld. Processing of a request for records will not be undertaken until a requestor has paid in full for search and duplication charges for any previous document request under the Act.

(c) Where it is anticipated that the fees chargeable under this section will amount to more than $25, and the requestor has not indicated in advance his willingness to pay fees as high as are anticipated, the requestor shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In instances where the estimated fees will greatly exceed $25, an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requestor to consult with knowledgeable NSC Staff personnel—designated by the Staff Secretary—in an attempt to reformulate the request in a manner which will reduce the fees and meet the needs of the requestor. Dispatch of such a notice or request shall suspend the running of the period for response by the NSC Staff until a reply is received from the requestor.

(d) Fees must be paid in full prior to issuance of requested copies.

§ 2101.22 Fee payments.

(a) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the Treasury of the United States and mailed to the Staff Secretary, National Security Council, Washington, D.C. 20506.

(b) A receipt for fees paid will be given only upon request. Refund of fees paid for services actually rendered will not be made.

(c) The Staff Secretary, National Security Council, may in accordance with the Freedom of Information Act, as amended, waive all or part of any fee provided for in this section when it is deemed to be in either the interest of the NSC Staff or of the general public.

SUBPART D—REPORTS

§ 2101.31 Quarterly Index of Publications.

(a) The NSC Staff is required to publish and distribute to the public on a quarterly basis an index of the following material promulgated after July 4, 1967:

(1) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(2) Those statements of policy and interpretations which have been adopted and are not published in the FEDERAL REGISTER; and

(3) Administrative staff manuals and instructions to staff that affect a member of the public.

(b) A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent against a party other than an agency only if:

(1) It has been indexed and either made available or published as provided by the Act; or

(2) The party has actual and timely notice of the terms thereof.

(c) The legislative history of this requirement indicated that only material having "precedential significance" are to be included in the Index.

(d) Matters specifically excluded from release under the Freedom of Information Act are not required to be included in the Index. In the case of the NSC Staff, this particularly includes matters that are:

(1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order (see section E, below);

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from disclosure by statute (see Part VII, below);

(4) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(5) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(e) Because of the considerations outlined under sections 3. and 4., above, it is anticipated that the NSC Staff will normally have little or nothing to report in its quarterly index.

§ 2101.32 Annual Report to Congress.

(a) On or before March 1st of each calendar year, a report of the NSC Staff's activities over the preceding calendar year relating to the Freedom of Information Act will be submitted to the Speaker of the House of Representatives and the President of the Senate.

(b) The above report will include:

(1) The number of determinations made by the NSC Staff not to comply with requests for records made to it under the Act and the reasons for each such determination;

(2) The number of appeals made by persons under the Act, the results of such appeals, and the reason for the action by the NSC Staff upon each appeal that results in a denial of information;

(3) The names and titles or positions of each person responsible for the denial of records requested under the Act, and the number of instances of participation for each;

(4) The results of each (Civil Service Commission) proceeding conducted pursuant to the Act, including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) A copy of every rule made by the NSC Staff regarding the Act;

(6) A copy of the fee schedule and the total amount of fees collected by the NSC Staff for making records available under the Act; and

(7) Such other information as indicates efforts by the NSC Staff to administer fully the Act. (This should include, to the extent possible, data on the costs to the NSC Staff of administering the Act.)

(c) The NSC Staff, based in part on the information compiled for its annual report to Congress will provide—upon request—assistance to the Department of Justice in the preparation of its annual report (also due each March 1st) to Congress concerning judicial cases arising under the provisions of the Act.

SUBPART E—APPLICABLE MATERIAL

§ 2101.41 Primary review by NSC staff.

(a) The NSC Staff will have primary and authoritative review responsibility for Freedom of Information Act requests for the following types of classified material.

(1) Material originally classified by a properly authorized member of the NSC Staff and maintained under its control;

(2) Material produced for and processed by the NSC Staff even if not originally classified by an authorized member of the Staff;

(3) Material classified by a President, his White House Staff, the NSC Staff on his behalf, or special committee or commission appointed by him and which the Archivist of the United States has in his custody at any archival depository, including a Presidential Library, and which is concerned with "national defense or foreign policy" matters of "primary subject-matter interest" to the NSC Staff;

(4) Verbatim or extensively paraphrased NSC material appearing in documents originally classified by another agency.

(b) Requests received by other agencies for the material described above should be forwarded to the NSC Staff for action.

§ 2101.42 Recommendations to other agencies.

The NSC Staff will, at the request of another agency, make recommendations on the release of material concerning "national defense or foreign policy" originally classified by another agency but which is of *significant* subject-matter interest of the NSC Staff.

SUBPART F—DECLASSIFICATION CRITERIA

§ 2101.51 Criteria for denying a request for release of classified material.

(a) The amended Freedom of Information Act does not apply to matters that are:

(1) Specifically authorized under criteria established by an Executive Order (E.O. 11652) to be kept secret in the interest of national defense or foreign policy;

(2) Are in fact properly classified pursuant to (both procedural and substantive criteria contained in) such Executive Order;

(3) Or, are specifically exempted from disclosure by statute.

§ 2101.52 Procedural Criteria under E.O. 11652.

(a) The material must have been classified by a properly authorized individual;

(b) The material must have been properly marked. For documents prepared after the effective date of Executive Order 11652 (June 1, 1972), this must especially include its classification, whether it is subject to or exempt from the General Declassification Schedule, and the highest level individual that authorized classification in each case. Documents prepared prior to June 1, 1972, must have been properly marked pursuant to the rules of the appropriate Executive Order then applicable.

§ 2101.53 Substantive criteria under E.O. 11652 for material under ten years old.

(a) Material must be classified "solely on the basis of national security considerations. In no case (may material be classified) in order to conceal inefficiency or administrative error, to prevent embarrassment to a person or Department, to restrain competition or independent initiative, or to prevent for any other reason the release of information which does not require protection in the interest of national security."

(b) To be classified "Top Secret," it must reasonably be expected that unauthorized disclosure of the material would "cause exceptionally grave damage to the national security." Examples are:

(1) Armed hostilities against the United States or its allies;

(2) Disruption of foreign relations vitally affecting the national security;

(3) The compromise of vital national defense plans or complex cryptologic and communications intelligence systems;

(4) The revelation of sensitive intelligence operations; and

(5) The disclosure of scientific or technological developments vital to the national security.

(c) To be classified "Secret," it must reasonably be expected that unauthorized disclosure of the material would "cause serious damage to the national security." Examples are:

(1) Disruption of foreign relations significantly affecting the national security;

(2) Significant impairment of a program or policy directly related to the national security;

(3) Revelation of significant military plans or intelligence operations; and

(4) Compromise of significant scientific or technological developments relating to national security.

(d) To be classified "Confidential," it must be reasonably expected that unauthorized disclosure of the material would "cause damage to the national security."

(e) Examples of material exempt from release because it is classified pursuant to a statute are:

(1) Restricted Data (42 U.S.C. 2162);

(2) Communication information (18 U.S.C. 798);

(3) Material relating to intelligence sources and methods (50 U.S.C. 403(d)(3) and (9)).

§ 2101.54 Substantive criteria under E.O. 11652 for material over ten years old.

(a) Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence;

(b) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods;

(c) Classified information or material disclosing a system, plan, installation, project or specific foreign relations matter the continuing protection of which is essential to the national security;

(d) Classified information or material the disclosure of which would place a person in immediate jeopardy.

Subpart G—Partial Release

§ 2101.61 Release of "Reasonably segregable portion" of requested classified material.

(a) The amended Freedom of Information Act requires that "any reasonably segregable portion of a record shall be provided . . . after deletion of the portions which are exempt."

(b) Determination of which portion(s) of classified material are to be released, and what portion(s) are to remain classified, will be made on the basis of the criteria outlined in Subpart F.

§ 2101.62 Downgrading of classified material reviewed under the FOI Act.

(a) Classified material reviewed for release under the Freedom of Information Act which no longer meets the criteria established for its original classification should be recommended for downgrading to a lower classification if appropriate.

(b) Downgraded material which retains a classification will be exempted from release.

Effective date. The amended Freedom of Information Act is effective February 19, 1975. This regulation shall become effective on that date. It is subject to revision upon review by the Interagency Classification Review Committee.

JOHN H. MURPHY,
Chief, Information Support Systems, Secretariat, National Security Council.

[FR Doc.74-4468 Filed 2-18-75;2:39 pm]

Title 22—Foreign Relations

PART 706—PUBLIC INFORMATION

CHAPTER VII—OVERSEAS PRIVATE INVESTMENT CORPORATION

SUBCHAPTER A—ADMINISTRATIVE PROVISIONS

Freedom of Information Act Regulations

Pursuant to the authority delegated to me by the President of the Overseas Private Investment Corporation (the "Corporation") under Redelegation of Authority No. A-71-5, December 26, 1973, subchapter A of Title 22, Chapter VII is hereby amended as follows:

PARTS 701–704 [RESERVED]

1. By reserving Parts 701 through 704.

PART 705 and 730—[REDESIGNATED]

2. By redesignating Part 730, Employee Responsibilities and Conduct, as Part 705 and thereby renumbering §§ 730.735-101 through 730.735-114 as §§ 705.735-101 through 705.735-114; and

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PART 706—PUBLIC INFORMATION

3. By adding a new Part 706, Public Information, which shall be effective upon the date hereof. Although prior notice and comment with respect to the adoption of part 706 is not required under the Administrative Procedure Act (5 U.S.C. 553), interested persons may submit written comments, suggestions, data or arguments to the Vice President for Public Affairs, Overseas Private Investment Corporation, Washington, D.C. 20527, on or before April 7, 1975. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Until such time as further changes are made, however, part 706, Subchapter A, as set forth herein shall remain in effect, thus permitting the public business to proceed more expeditiously.

Part 706, Subchapter A, shall read as follows:

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—Procedures and Fees

Sec.
706.31 Requests for inspection of records.
706.32 Fees.

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93-502.

Subpart C—Procedures and Fees

§ 706.31 Requests for inspection of records.

(a) Access by any member of the public to the Corporation's public information files, or to the index thereto, which are maintained in accord with the provisions of 5 U.S.C. 552(a)(2), shall be granted by appointment only. Persons desiring such access may request an appointment either by reporting in person to the receptionist at the principal offices

of the Corporation between 8:45 a.m. and 5:30 p.m., except Saturdays, Sundays and official holidays, by telephoning the Office of Public Affairs of the Corporation at (202) 632-1854 during such hours or by writing the Corporation to the attention of the Vice President of Public Affairs. Although the Corporation will endeavor to grant an appointment at the time requested, some delay may be required at times because of the small size of the Corporation's staff. Persons desiring access to the public information files should seek an appointment at least twenty-four (24) hours in advance.

(b) Access to any records of the Corporation not otherwise made available by the Corporation to the public under the provisions of 5 U.S.C. 552(a) (1) and (2), or the duplication of such records by the Corporation, shall be granted only upon specific written request to the Corporation, addressed to the attention of the Vice President for Public Affairs, which shall be deemed not to have been received by the Corporation until actual receipt thereof by the Corporation's Office of Public Affairs. Such request shall to the maximum extent required under the law, accurately describe the records to which access to or duplication of is requested such as, by way of example only, the subject matter, format, date, and where pertinent, the country, project or person involved. Any such request which does not describe such records sufficiently enough to permit the staff of the Corporation to promptly locate such records shall be returned to the requester.

§ 706.32 Fees.

(a) The following schedule of fees representing direct costs shall be charged for services rendered by the Corporation under 5 U.S.C. 552(a) in furnishing information to members of the public:

Service

(1) Searching for records, etc., $15.00 per hour per person.
(2) Other facilitative assistance, $15.00 per hour per person.
(3) Photocopy duplication, .20 per page.
(4) Certification of a true copy, $3.50.
(5) Certified statement of negative results of a search, $3.50.

(b) Notwithstanding the provisions of paragraph (a) of this section, the Vice President for Public Affairs may waive or reduce any fee otherwise due under paragraph (a) of this section for the preparation, release or distribution of any document, instrument, publication or class thereof, for which he determines that waiver or reduction of such fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

Issued in Washington, D.C. on February 14, 1975.

DAVID GRECG III,
Executive Vice President.

[FR Doc.75-4637 Filed 2-18-75;8:45 am]

Title 10—Energy

CHAPTER III—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PART 709—PUBLIC RECORDS

The Energy Research and Development Administration (ERDA) was established by the Energy Reorganization Act of 1974, Pub. L. 93-438, 88 Stat. 1233, and the Act was made effective on January 19, 1975 by Executive Order 11834 dated January 15, 1975, which Executive Order was published on January 17, 1975, at 40 Fed. Reg. 2971.

Consistent with the establishment of ERDA, a new Chapter III of Title 10, Code of Federal Regulations, is established consisting at this time of Part 709, Public Records, which is set forth below.

On an interim basis, the rules and regulations of the Atomic Energy Commission contained in Chapter I of Title 10, Code of Federal Regulations (Parts 0 through 170 of Chapter I of Title 10, CFR, respectively), except Part 9 thereof, approved as of the effective date of the reorganization (January 19, 1975) including any proposed rules thereunder, are applicable to ERDA to the extent they are not inconsistent with applicable law, for all ERDA activities under the Energy Reorganization Act of 1974, the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577), and other applicable law.

Pursuant to the authority vested in me by section 105(a) of the Energy Reorganization Act of 1974, and pursuant to the provisions of section 552 of Title 5, United States Code, as amended by Pub. L. 93-502 (the Freedom of Information Act, as amended), Part 709 of Chapter III, Title 10, Code of Federal Regulations, which Part is entitled "Public Records" and implements for ERDA the Freedom of Information Act, including the 1974 amendments thereto is hereby issued.

Except as provided below, Part 709 is a statement of ERDA policies and procedures for implementing the Freedom of Information Act, as amended, and the relevant provisions of 5 U.S.C. 553 requiring notice of proposed rule making, opportunity for public participation and delay in effective date, are inapplicable.

On page 2714 of the FEDERAL REGISTER of January 15, 1975, there was published a notice of proposed rule making regarding a proposed uniform schedule of fees for document search and duplication. No comments have been received in response to that notice and no changes have been made to the charges proposed for searching and duplicating. These charges for document search and duplication are set forth in § 709.12 below.

While these regulations are effective February 19, 1975, the public is invited to submit comments thereon, provided they are received within 90 days of publication of these regulations. Any comments submitted should be in writing and submitted to the Office of the General Counsel, Enery Research and Development Administration.

Effective date: February 19, 1975.

ROBERT C. SEAMANS, Jr.,
Administrator.

Sec.
709.1 Applicability.
709.2 Policy.
709.3 Definitions.
709.4 Statement of organization, functions, procedure, and substantive rules, final opinions, statement of policy, staff manuals and instructions.
709.5 Freedom of information officers.
709.6 Requesting records.
709.7 Handling of FOI requests.
709.8 Denial of records.
709.9 Matters exempt from disclosure.
709.10 Administrative appeal of initial denial of records.
709.11 Requests for classified records.
709.12 Fees for search and duplication of records.
709.13 Matters in litigation.
709.14 Annual report.

AUTHORITY: 5 U.S.C. 552 and sec. 105(a), Pub. L. 93-438.

§ 709.1 Applicability.

(a) This part implements section 552 of Title 5, United States Code, and prescribes rules governing the availability to the public of the records of the Energy Research and Development Administration (ERDA).

(b) This part only applies to requests which (1) reasonably describe records and (2) are made in accordance with this part.

(c) Under section 552 of Title 5 there is no obligation to compile or create a record solely for the purpose of satisfying a request for records.

(d) Nothing in this part shall inhibit the dissemination of scientific, technical, or other information in accordance with established ERDA policies or programs for such dissemination.

(e) Except where specifically noted otherwise, this part applies to all records whether they predate or postdate July 4, 1967.

(f) This part supersedes any other ERDA policy, rule, or regulation to the extent inconsistent with this part.

(g) This part shall be interpreted so as to be consistent with the "Privacy Act of 1974," Pub. L. 93-579.

§ 709.2 Policy.

(a) In implementing section 552 of Title 5, United States Code, it is the policy of ERDA to make records available to the public to the greatest extent possible in keeping with the spirit of that section. Therefore, all records of ERDA which are requested in accordance with this part shall be made available promptly, except those that ERDA specifically determines in accordance with this part (1) are exempt from disclosure under § 709.9, and (2) that dislosure is contrary to the public interest or will adversely affect the rights of any person.

(b) If records requested contain material exempt from disclosure, any reasonably segregable portion of a record shall be provided to a person requesting such record after deletion of the portions which are exempt from disclosure. However, the entire record will be exempt where exempt material in that record is inextricably intertwined with nonexempt material.

(c) Requests made under this part shall be considered without regard to any showing of need.

§ 709.3 Definitions.

As used in this part:

(a) "ERDA" means the Energy Research and Development Administration established by the Energy Reorganization Act of 1974 (Pub. L. 93-438).

(b) "ERDA personnel" means employees, consultants, and members of advisory boards, committees and panels of ERDA; members of boards designated by the Administrator, Deputy Administrator, or other designee of the Administrator or Deputy Administrator to preside at adjudicatory proceedings; and officers or employees of Government agencies, including military personnel, assigned to duty at ERDA.

(c) "Administrator" means the Administrator of Energy Research and Development provided for in section 102(a) of the Energy Reorganization Act of 1974.

(d) "Deputy Administrator" means the Deputy Administrator provided for in section 102(b) of the Energy Reorganization Act of 1974.

(e) "Assistant Administrator" means an Assistant Administrator provided for in section 102(d) of the Energy Reorganization Act of 1974 or such other Assistant Administrator as the Administrator may appoint under section 102(f) of the Energy Reorganization Act of 1974.

(f) "Government" means the United States of America.

(g) "Agency" is defined as provided in section 551(1) of Title 5, United States Code, and includes any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

(h) "Record" includes any book, paper, map, photograph, brochure, punch card, magnetic tape, paper tape, sound recording, pamphlet, slide, motion picture, or other documentary material regardless of form or characteristics, which evidences ERDA organization, functions, policies, decisions, procedures, operations, programs or other activities, and which was made by, in the possession of, or under the control of ERDA pursuant to ERDA contracts, or Federal law or in connection with the transaction of public business. "Records" do not include objects or articles such as structures, furniture, tangible objects or models, or vehicles and equipment, nor formulas, designs, and the like which are significant not as records but as items of valuable property.

(i) "Freedom of Information Officer" has the meaning as set forth in § 709.5 below.

(j) Except as otherwise provided in § 709.11(c), "Authorizing Official" means the Assistant Administrator for International Affairs, the Assistant Administrator for Planning and Analysis, and Directors of Offices and Divisions in ERDA Headquarters, and Directors of Energy Research Centers and Managers of Operations Offices for ERDA field organizations, who are authorized to make the initial determination for ERDA to grant or deny, in whole or in part, requests for records under this part. The officials designated above may in their discretion redelegate the above authority without power or further redelegation.

(k) Except as otherwise provided in § 709.11(e) "Freedom of Information (FOI) Appeal Panel" means a panel consisting of the following three officials: (1) The Assistant Administrator for Administration or his designee, who shall be Chairman of the panel, (2) the Director of the Office of Public Affairs, or his designee, and (3) such other ERDA official as the Chairman shall designate to consider a specific appeal. The appointment of the third panel member shall be made with due regard to the particular records involved. It is contemplated that such panel members shall be Assistant Administrators, Deputy Assistant Administrators, or other high ranking ERDA officials in keeping with the policy stated in § 709.2. No member of the FOI Appeal Panel shall have been involved in the determination from which the appeal under consideration is being taken.

§ 709.4 Statement of organization, functions, procedure, and substantive rules, final opinions, statement of policy, staff manuals and instructions.

(a) As required by section 552, Title 5, United States Code, a statement as to the sources of information concerning the following subjects may be found in § 701 of this chapter: (1) A description of the central and field organization of ERDA and the established places at which, the offices from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions, except for Freedom of Information requests which requests shall be made in accordance with the procedures set forth in § 709.6 of this part; (b) statements of the general course and method by which ERDA functions are channeled and determined, including the nature and requirements of all formal and informal procedures available; (c) ERDA rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; (d) ERDA substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by ERDA; and (e) every amendment, revision, or repeal of the foregoing.

(b) As required by section 552, Title 5, United States Code, the following records are made available for public inspection and copying at the ERDA Public Document Room at 1717 H Street NW., Washington, D.C.:

(1) All final opinions (including concurring and dissenting opinions) and all orders in the adjudication of cases.

(2) Statements of policy and interpretations which have been adopted by ERDA and are not published in the FEDERAL REGISTER.

(3) ERDA rules and regulations.

(4) ERDA Manuals and instructions to ERDA personnel that affect any member of the public.

(c) The records specified in § 709.4(b) (3) and (4) above are also made available for public inspection and copying at any one of the ERDA field organizations identified in § 701 of this chapter.

(d) The ERDA Public Document Room will be open between 8:30 a.m. and 5:15 p.m. on Mondays through Fridays. The Public Document Room at the ERDA field organizations referenced above will be open during regular office hours on Mondays through Fridays.

(e) Indexes (or supplements thereto) of those records specified in § 709.4(b) (1), (2) and (4) of this section, and issued, adopted, or promulgated after July 4, 1967, will be published and made available for sale to the public at no more than quarterly intervals, unless it is determined by the Administrator or Deputy Administrator, by order published in the FEDERAL REGISTER, that such publication would be unnecessary and impracticable, in which case there shall be provided copies of such index on request at a cost not to exceed the direct cost of duplication. Inclusion of a record in the index does not constitute a determination that such record is required by law to be indexed.

§ 709.5 Freedom of information officer.

(a) There is appointed at ERDA Headquarters, Washington, D.C. 20545 a Freedom of Information (FOI) Officer whose duties shall hereinafter be described.

(b) There shall be designated by each Director of an Energy Research Center and Manager of an Operations Office for each of the following ERDA field organizations a Freedom of Information (FOI) Officer whose duties shall hereinafter be described:

(1) Bartlesville Energy Research Center, ERDA
P.O. Box 1398
Bartlesville, Oklahoma 74003

(2) Grand Forks Energy Research Center, ERDA
P.O. Box 8213, University Station
Grand Forks, North Dakota 58201

(3) Laramie Research Center, ERDA
P.O. Box 3395, University Station
Laramie, Wyoming 82070

(4) Morgantown Research Center, ERDA
P.O. Box 880
Morgantown, West Virginia 26505
(5) Pittsburgh Energy Research Center, ERDA
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213
(6) San Francisco Energy Research Center, ERDA
1429 Appraisers Building
630 Sansome Street
San Francisco, California 94111
(7) Albuquerque Operations Office, ERDA
P.O. Box 5400
Albuquerque, New Mexico 87115
[NOTE.—This office has cognizance over the following area offices: Amarillo, Burlington, Dayton, Kansas City, Los Alamos, Pinellas, Rocky Flats, and Sandia.]
(8) Chicago Operations Office, ERDA
9800 South Cass Avenue
Argonne, Illinois 60439
[NOTE.—This office has cognizance over the Batavia and Brookhaven area offices and the New Brunswick laboratory.]
(9) Idaho Operations Office, ERDA
550 2nd St.
Idaho Falls, Idaho 83401
(10) Nevada Operations Office, ERDA
P.O. Box 14100
Las Vegas, Nevada 89114
(11) Oak Ridge Operations Office, ERDA
P.O. Box E
Oak Ridge, Tennessee 37830
(12) Richland Operations Office, ERDA
P.O. Box 550
Richland, Washington 99352
(13) San Francisco Operations Office, ERDA
1333 Broadway, Wells Fargo Building
Oakland, California 94616
(14) Savannah River Operations Office, ERDA
P.O. Box "A"
Aiken, South Carolina 29801

(c) The FOI Officers shall make no determinations to deny requests received under this part but shall receive and log each request by time and date, shall ascertain where the documents requested are located, shall acknowledge receipt of requests by letter to the requester, shall refer the request to the proper Authorizing Official and shall make such reports and perform such other functions as are hereinafter set forth or otherwise delegated.

§ 709.6 Requesting records.

(a) A request need not be in any particular format, but it (1) must be addressed to any one of the FOI Officers listed in § 709.5 above, (2) must be in writing, (3) must be clearly identified both on the envelope and in the letter as a Freedom of Information Act or FOIA request, (4) must reasonably describe the records sought to permit identification, and (5) must state that the requester promptly will pay the fees chargeable under § 709.12.

(b) Because of the strict statutory time limits it would be helpful if the request could be addressed to the FOI Office where the desired records are located or are believed to be located, or to the FOI Officer who is in the office which has, or it is believed has, cognizance over the records. However, it is not the responsibility of the requester to ascertain the location of the records requested.

§ 709.7 Handling of FOI requests.

(a) Promptly upon receipt of a request made in accordance with § 709.6 above, the FOI Officer shall log the date and time of receipt, ascertain the location of the records requested and the identity of the appropriate Authorizing Official, immediately dispatch the request to such Authorizing Official by the fastest available means advising him of the date and time of receipt and when the ten working days permitted for a determination will expire, and acknowledge receipt in writing of the request stating the time and date of receipt and the appropriate Authorizing Official to whom the request has been directed.

(b) Any request not made in accordance with § 709.6 shall be promptly brought to the attention of a FOI Officer by the ERDA Official or employee receiving such a request, or the requester shall be referred to the FOI Officer, as appropriate. The FOI Officer shall assist the requester in making the request in accordance with § 709.6.

(c) All Freedom of Information requests properly made in accordance with § 709.6 shall be deemed to have been received when date and time stamped by a FOI Officer.

(d) If a request can be immediately complied with in accordance with this part, it should be.

(e) The Authorizing Official shall advise the requester in writing within ten working days of the receipt of the request by the FOI Officer (see paragraph (c) of this section) whether the request is to be complied with. A copy of the letter to the requester shall be sent to the appropriate FOI Officer. Where a determination is made to comply with a request in whole or in part, the records shall be made available to the requester promptly in accordance with this part, subject to the requirement for payment under § 709.12.

(f)(1) The Freedom of Information Act, as amended, section 552(a)(6)(B), Title 5, United States Code, provides that:

> In unusual circumstances . . . the time limits prescribed . . . [the 10-day initial determination limit or the 20-day administrative appeal limit] may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. . . . . '[U]nusual circumstances' means, but only to the extent reasonably necessary to the proper processing of the particular request—
>
> (i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
>
> (ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or
>
> (iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(2) The ten working day extension provided for in unusual circumstances permits more than one extension, either divided between the initial and appeal stages (see § 709.10 below concerning appeal procedures) or within a single stage, so long as the total extended time does not exceed ten working days with respect to a particular request.

(3) The Authorizing Official has the discretion unilaterally to invoke any or all of the ten working day extension, if the unusual circumstances exist and if the additional time is considered as reasonably necessary to the proper processing of the particular request. This discretionary authority can only be invoked after consultation with counsel.

(4) The requester must be promptly notified in writing of the extension, setting forth the reasons of the extension, and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days, over and above the ten working days allowed for the initial determination.

(5) The FOI Officer shall be advised by copy of a letter to the requester or otherwise of any extension invoked.

(g) The Authorizing Official or FOI Officer, shall consult with the appropriate agency when records are requested, which are in the possession of ERDA, but which were originated by another agency. Unless the other agency agrees that the document may be released by ERDA, the request shall be forwarded to the other agency for their disposition. The requester shall be advised in writing when a request is referred to another agency (see § 709.11 regarding classified documents or information originated by another agency).

(h) Nothing in this part shall preclude the Authorizing Official and a requester from agreeing to an extension of time for the initial determination on a request. Any such agreement shall be confirmed in writing and shall clearly specify the total time agreed upon for the initial determination.

§ 709.8 Denial of records.

(a) Any record, or any portion of a record may be denied to a requester by the Authorizing Official only if he determines it contains matters specified in § 709.9 below and further determines that disclosure of such matters is contrary to the public interest or will adversely affect the rights of any person. The Authorizing Official shall make such determinations only after consultation with counsel. A subsequent request for identical records previously denied shall be considered on its own merits.

(b) Any reasonably segregable portion of a record shall be provided after deletion of the portions exempt under § 709.9 below. Those portions of documents which are deleted shall be identified in an appropriate manner, e.g., by placing

the word "DELETED" in the space where material is deleted.

(c) (1) If the Authorizing Official determines that a request will be denied in whole or in part, a written notice of the determination shall be promptly dispatched to the requester within the appropriate time period set forth in § 709.7 above. Such notice shall be sent by certified or registered mail, return receipt requested. Such notice shall appropriately advise the requester of the reasons for denying the request or any portion thereof and that the Authorizing Official signing the determination is the person responsible for that determination. If other Authorizing Officials, or appropriate officials of other agencies are responsible for denying any portion of a record requested, their names and titles or positions shall be listed in the notice of denial and it shall be clearly indicated what portion or portions they were responsible for denying.

(2) The reasons for denying the request shall where possible be more than a recitation of the statutory exemptions listed in § 709.9 below. Where material has been deleted from a record furnished, there shall also be furnished a brief explanation of why the material was deleted (each deletion may be coded as to what exemption is being used).

(3) The notification of the denial determination shall also advise the requester of the right to appeal to the FOI Appeal Panel as provided in § 709.10 below. A copy of the denial determination should be provided to the appropriate FOI Officer.

§ 709.9 Matters exempt from disclosure.

(a) The following items are the matters exempt from disclosure under the Freedom of Information Act, section 552 (b) of Title 5, United States Code, with the statutory language being underlined: *(1) (i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (ii) are in fact properly classified pursuant to such Executive order;* Exemption (1) matters are those matters classified as National Security Information under Executive Order 11652, or other matters authorized to be kept secret under other Executive Orders now or hereafter issued. Restricted Data and Formerly Restricted Data under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), are covered by this exemption as well as the exemption in (3) below.

(2) *Related solely to the internal personnel rules and practices of an agency;*

(3) *Specifically exempted from disclosure by statute;* Restricted Data and Formerly Restricted Data come within the meaning of this exemption (see (1) above).

(4) *Trade secrets and commercial or financial information obtained from a person and privileged or confidential;* Whenever a record is requested which comes within or might come within this exemption, it is necessary that the person whose information it is, be notified immediately to see if there is any objection to its release. Criteria applicable in making a determination concerning this exemption include, but are not necessarily limited to the following:

(A) Whether the information has been held in confidence by its owner;

(B) Whether the information is of a type customarily held in confidence by its owner and whether there is a reasonable basis therefor;

(C) Whether the information was transmitted to and received by the agency in confidence; and

(D) Whether the information is available in public sources.

(ii) This exemption may be invoked for the benefit of the person who has provided the information, even though the agency has no interest in withholding the information.

(iii) Records held in confidence which identify procedures for safeguarding special nuclear material or detailed security measures for the physical protection of a facility or plant comes within this exemption except to the extent that portions thereof come within any other exemption.

(iv) Naval nuclear propulsion information which is held in confidence by ERDA, its contractors or subcontractors is deemed to come within this exemption except to the extent that portions thereof come within any other exemption. This exemption also applies to material obtained in confidence from a foreign source.

(5) *Interagency or intragency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;*

(i) This exemption includes all internal memoranda which would not routinely be disclosed to a party other than a Government agency through the discovery process in litigation with ERDA or the Government, such as internal drafts or memoranda between officials or agencies; opinions, interpretations, and evaluations prepared by staff personnel, contractors or consultants for the use of ERDA; records of the deliberations of ERDA staff groups; staff criteria or guidelines used for auditing or inspection purposes; and documents or information which ERDA has received or generated before it completes the process of awarding a contract or issuing an order, decision, or regulation; ERDA plans or materials that are in process of preparation or development and are likely to be revised before being finalized, such as budget proposals, long range plans or studies, drafts of speeches or statements, or legislative proposals; ERDA plans (such as those included in budget justification material) which, even though finalized, the disclosure of which would be harmful to public or private interests, if made available in advance of the effective date; documents awaiting patent review; and working papers of ERDA attorneys and documents which come within the attorney-client privilege.

(ii) This exemption is intended to allow the withholding the type of records indicated above to the extent they reflect deliberative or policy making decisional processes, including advice, opinions, or recommendations that are part of ERDA's deliberative or policy making decisional processes.

(iii) While the policy set forth under § 709.2(b) applies to the exemption, where materials reflecting deliberative or policy making processes are inextricably intertwined with factual material in a particular record, the entire record may be withheld.

(iv) The withholding of records, or portions thereof, under this exemption is discretionary on the part of the Authorizing Official, and whether such exemption should be invoked is to be considered on a case-by-case basis in accordance with the policy set forth in § 709.2 above.

(6) *Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;*

(7) *Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source, and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;*

(i) The scope of this exception against disclosure of "investigative techniques and procedures" shall not be interpreted to include routine techniques and procedures already well known to the public, such as ballistics tests, fingerprinting, and other scientific tests or commonly known techniques.

(ii) This exemption shall not be interpreted to include records falling within the scope of subsection 552(a) (2) of Title 5, United States Code, (see § 709.4 above) such as administrative staff manuals and instructions to staff that affect a member of the public.

(iii) "Confidential source" in (7) (d) includes the identity of a person other than a paid informer who may be protected if the person provided information under an express assurance of confidentiality or in circumstances from which such an assurance could be reasonably inferred. In every case where the investigatory records sought were compiled for law enforcement purposes—either civil or criminal in nature—the agency can withhold the names, addresses, and other information that would reveal the identity of a confidential source who furnished the information. However, where the records are compiled by a criminal law enforcement authority, all of the information furnished only by a confidential source may be withheld if the information was compiled in the course of a

criminal investigation. In addition, where the records are compiled by an agency conducting a lawful national security intelligence investigation, all of the information furnished only by a confidential source may also be withheld. The term "criminal law enforcement authority" is to be narrowly construed to include the Federal Bureau of Investigation and similar investigative authorities. Likewise, "national security" is to be strictly construed to refer to military security, national defense, or foreign policy. The term "intelligence" used in (7)(d) is intended to apply to positive intelligence-gathering activities, counter-intelligence activities, and background security investigations by governmental units which have authority to conduct such functions. The term "an agency" is intended to include criminal law enforcement authorities as well as other agencies. Personnel, regulatory, and civil enforcement investigations are intended to be covered by the first clause authorizing withholding of information that would reveal the identity of a confidential source but are not encompassed by the second clause authorizing withholding of all confidential information under the specified circumstances.

(iv) Disclosure of information about a person to that person does not constitute an invasion of his privacy.

(8) *Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or*

(9) *Geological and geophysical information and data, including maps, concerning wells.*

By memorandum dated February 1975, the Attorney General of the United States has provided agency guidance with respect to the amendments to the Freedom of Information Act, section 552 of Title 5, United States Code.

§ 709.10 Administrative appeal of initial denial of records.

(a) Any person, whose request for records made under procedures set forth in this part, is denied in whole or in part, as provided in § 709.8, shall have the right to appeal such initial determination of denial to an FOI Appeal Panel.

(b) Appeals shall be made by written notice mailed to the Freedom of Information Officer, ERDA Headquarters, and shall be filed within sixty days after receipt of an initial denial letter by the person requesting the records. Both the letter and envelope must clearly identify that a Freedom of Information appeal is being made. The sixty-day time limit may be waived by the FOI Appeal Panel for good cause shown.

(c) Notices of appeal received by ERDA shall be processed in a manner similar to request for records under § 709.7 including mutual agreements which may be made with the requester by the FOI Officer at ERDA Headquarters or the Chairman of the FOI Appeal Panel to extend the twenty-day period set forth in (e) below. Appeals shall be deemed to have been received when date and time stamped by the FOI Officer at ERDA Headquarters.

(d) Upon receipt of an appeal, the FOI Officer, ERDA Headquarters, will promptly advise the Chairman of the FOI Appeal Panel who will then promptly constitute the Panel as provided in § 709.3(k). The FOI Officer shall promptly notify the Authorizing Official who was responsible for the original denial and arrange to have the appropriate records transmitted to ERDA Headquarters as may be necessary to consider the appeal.

(e) The FOI Appeal Panel shall have twenty working days from date of receipt of the appeal by the FOI Officer to make a final decision on such an appeal.

(f) The FOI Appeal Panel shall consult with counsel prior to making a final decision.

(g) A decision of the FOI Appeal Panel to uphold in whole or in part an initial decision to deny access to records shall be by a simple majority vote of the Panel members and shall be in writing, and shall make the necessary determinations stating the reasons therefore in the manner provided for in § 709.8, as necessary to sustain, modify, qualify, or expand the initial denial.

(h) The written decision of the FOI Appeal Panel upholding in whole or part the initial denial determination shall state that the decision is a final decision of the Administrator. The decision shall also advise the requester of the provisions for judicial review of the decision, as set forth in section 552(a)(4), of Title 5, United States Code, and shall set forth the names and titles or positions of each person responsible for the denial, including the person or persons who made the initial denial determination. The term "responsible persons" is limited to the Authorizing Official who signed the initial notice of denial and other Authorizing Officials or officials of other agencies listed in the initial notice of denial as being responsible for any portion of the initial denial (see § 709.8) and those members of the FOI Appeal Panel who concur in whole or in part with the initial denial.

(i) Decisions of the FOI Appeal Panel shall be final decisions of the Administrator.

(j) The FOI Appeal Panel may invoke that portion of the 10-day extension period set forth in § 709.7(f), if the "unusual circumstances" as defined therein are applicable. The FOI Officer shall advise the Panel if any of the 10-day extension period had been used at the initial denial stage.

(k) The FOI Officer shall take all appropriate steps to obtain the necessary files, including the initial written denial from the Authorizing Official, for the FOI Appeal Panel to review.

§ 709.11 Requests for classified records.

(a) Requests for classified records including requests made to field organizations shall be subject to the provisions of this part 709 with the special qualifications noted below.

(b) Any request for records made in accordance with this part, except those requests for access to classified records which are made specifically pursuant to the mandatory review provisions of Executive Order 11652 shall be automatically considered a Freedom of Information Act request under this part.

(c) The Director, Division of Classification shall be the Authorizing Official for all requests for classified records. In this capacity he shall advise the office originating the records, or who has cognizance or responsibility for the records, of the request and consult with such office or offices prior to making a determination under this section.

(d) The written notice of a determination to deny records, or portions of records, which contain both classified material and other exempt material shall be signed by the appropriate Authorizing Official listed in (c) above. If other Authorizing Officials or appropriate officials of other agencies are responsible for denying any portion of the record, their names and titles or positions shall be listed in the notice of denial and it shall be clearly indicated what portion or portions they were responsible for denying.

(e) The Assistant Administrator for National Security or his designee shall replace the Director of the Office of Public Affairs as a member of the FOI Appeal Panel to the extent the appeal involves records or portions thereof which have been denied because they are classified. Other provisions of § 709.3(k) shall remain applicable.

(f) Requests for ERDA records containing classified information received from another agency, or records prepared jointly by ERDA and other agencies, will be treated as requests for ERDA records except that coordination will be effected by the ERDA Authorizing Official with the appropriate official of the other agency. Such coordination will be done on an expedited basis, for the purpose of determining whether the agency official wishes to deny the request (as far as it concerns another agency's classified material) and obtaining the other agency denying official's certification, signature, and identity on a record copy of the document being requested. The notice of determination to the requester, in the event part or all of the record is denied by the other agency shall cite the other agency denial official, as well as the ERDA Authorizing Official if a denial by ERDA is also involved.

(g) If the request specifically cites a document from another agency, the request will be referred directly to the proper official in the other agency and the requester will be so notified of the referral together with a copy of the referral. The notification to the requester should also include the statement that the ten-day time period will start when that request is received by the other agency.

§ 709.12 Fees for search and duplication of records.

(a) Requests for the duplication of records at the ERDA Public Document Room located in Washington, D.C. will be honored upon payment of the following charges:

(1) Sizes up to 8½ x 14 inches made on office copying machines—$0.08 per page copy. Microfiche—paper copy enlargement up to 8½ inches x 11 inches—$0.15 per page copy.

(2) Unless waived as provided below, the charge for duplicating records other than those specified above will be computed on the basis of ERDA's direct cost.

(3) Unless waived as provided below, the charges of duplication for requests made in accordance with § 709.6 will be the same as paragraph (a) (1) and (2) of this section.

(4) The cost of searching as provided in § 709.12(c) below.

(b) Requests for copies of records to be duplicated and furnished by ERDA at all locations, except ERDA's Public Document Room located in Washington, D.C., will be honored upon payment of the following charges unless the charges are waived as provided below:

(1) Sizes up to 8½ x 14 inches made on office copying machines—$0.10 per page copy. Larger sizes—$0.10 for each 8½ x 14 inch unit or fraction thereof per page copy.

(2) The charge for duplicating records other than those specified above will be computed on the basis of ERDA's direct cost.

(3) The cost of searching as provided in § 709.12(c) below.

(c) If a request is for records not already available for public inspection in the Public Document Room the rates for searching are $5.70 per hour for clerical personnel and $16.00 per hour for nonclerical personnel. Fractional parts of an hour will be charged on a pro rata basis. When a computer search is necessary in order to fulfill a request, the computer search charge will be the actual direct cost of the computer search.

(d) No records shall be made available to a requester until all charges as provided herein are paid in full. Checks, drafts, or other negotiable instruments shall be made payable to the Energy Research and Development Administration.

(e) Transcripts by a reporting firm under contract with ERDA, may be purchased directly from the reporting firm or ERDA at the cost of reproduction as provided for in the ERDA contract with the reporting firm.

(f) Material which has been copyrighted will not be reproduced in violation of the copyright laws.

(g) Documents shall be furnished without charge or at a reduced charge where the Authorizing Official initially considering the FOI request, or the FOI Appeal Panel, determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the public interest. Except for records reproduced in an ERDA Public Document Room or by a reporting firm under contract with ERDA or another Government agency, no charge shall be made under this part where the cost of search and duplication of records does not exceed $10.00.

(h) No charge will be made when no record responsive to a request has been found or when a request is denied in whole.

(i) Unless the request made under § 709.6 specifically states that whatever cost is involved will be acceptable, or acceptable up to a specified limit that covers anticipated costs, a request will not be deemed to have been received in accordance with § 709.7 until the requester is advised of the estimated costs of searching and duplicating and agrees in writing to bear the cost.

§ 709.13 Matters in litigation.

(a) Any request for records shall be processed to initial determination or determination on appeal without regard to the pendency of litigation on a request under this part.

(b) When a matter is in litigation at the time the initial determination is made, the Authorizing Official shall file an appeal under § 709.10 on his own motion if the initial determination is to deny in whole or in part any of the request.

§ 709.14 Annual report.

(a) On or before March 1 of each calendar year, ERDA shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include—(1) the number of determinations made by ERDA not to comply with requests for records made to ERDA under this part and the reasons for each such determination;

(2) The number of appeals made by persons under this part, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) The names and titles or positions of each person responsible for the denial of records requested and the number of instances of participation for each; this listing shall include those persons responsible for this initial determination to deny records, or parts thereof as well as those persons responsible for denial on appeal;

(4) The results of each proceeding conducted pursuant to subsection 552(a)(4)(F) of Title 5, United States Code, including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) A copy of every rule made by the agency regarding the Freedom of Information Act, section 552, Title 5, United States Code;

(6) A copy of the fee schedule and the total amount of fees collected by the agency for making records available under this part; and

(7) Such other information as indicates efforts to administer fully this part.

(b) The Freedom of Information Officer, ERDA Headquarters, shall prepare the annual report for the Administrator's signature, which shall be transmitted to the respective Houses on or before March 1 of each calendar year.

(c) The Freedom of Information Officers in the field shall forward the necessary information concerning their activities to the Freedom of Information Officer, ERDA Headquarters, within thirty days after the end of the calendar year.

[FR Doc.75-4665 Filed 2-18-75;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER II—TENNESSEE VALLEY AUTHORITY

PART 301—PROCEDURES

Availability of TVA Records and Publications

The Freedom of Information Act (5 U.S.C. 552) was recently amended by Pub. L. 93-502. These amendments change the exemptions relating to classified material and investigative records and require agencies to institute certain procedures to ensure prompt availability of nonexempt agency records. Accordingly, the Tennessee Valley Authority hereby revises § 301.1 to reflect these changes.

This revision of § 301.1 makes certain other changes which include:

1. Provision of an agency appellate procedure to be followed in case of an initial determination not to comply with a request for records;

2. Clarification of TVA's practice that the availability of certain classes of nonexempt records is deferred where premature disclosure might interfere with accomplishment of TVA's statutory responsibilities; and

3. A statement of TVA's determination that records relating to special nuclear material and nuclear facilities are exempt from public disclosure.

These regulations are effective on February 19, 1975. Since the material contained herein concerns rules involving agency procedure and public property, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

The regulations are issued under the authority of 16 U.S.C. 831-831dd and Pub. L. 93-502.

By direction of The Board of Directors.

Dated: February 18, 1975.

H. N. Stroud,
Assistant General Manager.

Effective February 19, 1975, § 301.1 of Title 18 is revised to read as follows:

§ 301.1 Records.

(a) *Records available.* TVA's records will be made available for inspection and copying upon request as provided in this section, except that records are exempt and are not made available if they are (1) (i) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (ii) are in fact properly classified pursuant to such Executive order; (2) related solely to the internal personnel rules and practices of TVA; (3) specifically exempted from disclosure by statute; (4) trade secrets and commercial or financial information obtained from any person and privileged or confidential; (5) inter-agency or inter-agency memorandums or letters which would not be available by law to a private party in litigation with TVA, including without limitation records relating to control and accounting for special nuclear material and to the physical security plans for the protection of TVA's nuclear facilities; (6) personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel; (8) contained in or related to examination, operation, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institution; or (9) geological and geophysical information and data, including maps, concerning wells. The availability of certain classes of nonexempt records is deferred for such time as TVA may determine is reasonably necessary to avoid interference with the accomplishment of its statutory responsibilities. Such records include bids and information concerning the identity and number of bids received prior to bid opening; all nonexempt records relating to bids between the time of bid opening and award; and all nonexempt records relating to negotiations in progress involving contracts or agreements for the acquisition or disposal of real or personal property by TVA prior to the conclusion of such negotiations. Any reasonably segregable portion of an available record shall be provided to any person requesting such record after deletion of the portions which are exempt under this paragraph.

(b) *Requests.* Requests to inspect and copy TVA records shall be directed to the Director of Information, Tennessee Valley Authority, Knoxville, Tennessee 37902. A request shall:

(1) be in writing,

(2) state in the text that it is a request for records pursuant to the Freedom of Information Act or the regulations in this section,

(3) reasonably describe the records requested with sufficient specificity to permit their location and identification; and

(4) include a statement (if such is the case) that the person making the request will pay all applicable fees under § 301.2, or a statement of the amount of the maximum applicable fee that such person is willing to pay without further notification from TVA. Requests may be made personally or by mail, but to permit expeditious processing, a mailed request should be identified on the envelope as a Freedom of Information Act request.

(c) *Processing of requests.* (1) *Initial determination.* (i) Within 10 days (excluding Saturdays, Sundays, and legal public holidays) after a request is received by TVA, and subject to paragraph (c) (3) of this section, TVA shall make an initial determination as to whether to comply with the request, and shall immediately give written notice of the determination to the person making the request. Initial determinations shall be made by the Director or Assistant Director of Information. If the initial determination is not to comply with the request, the notice to the person making the request shall include a statement of the reasons for the denial of the request; a notice of the right of the person making the request to appeal the denial to TVA's General Manager, and the time limits therefor; and the name and job title of the person responsible for the initial determination.

(ii) For purposes of this paragraph, a request is deemed to be received by TVA only when it is physically delivered to Office of the Director of Information and meets all the requirements of paragraph (b) of this section. If the request does not contain a sufficient description of the record as required by paragraph (b) (3) of this section, TVA will promptly notify the person making the request of the need for clarification, and the request will not be deemed received until clarification is obtained. If the request does not contain a statement as required by paragraph (b) (4) of this section, or if the amount of anticipated search fees exceeds the higher of the amount stated or $25, TVA will promptly notify the person making the request of the amount of the anticipated fee. Such notice shall include an offer to confer in order to determine if the request can be reformulated so as to meet the person's needs at lower cost, and the request will not be deemed received until agreement is reached concerning fees.

(2) *Appeal.* (i) If the initial determination is to deny the request, the person making the request may appeal such action to TVA's General Manager. Such an appeal must be taken within 30 days after the person's receipt of the initial determination, and is taken by delivering a written notice of appeal to the General Manager, Tennessee Valley Authority, Knoxville, Tennessee 37902. Such notice shall include a statement that it is an appeal from a denial of a request under the Freedom of Information Act and shall indicate (A) the date on which the denial was issued, and (B) the date on which the denial was received by the person making the request.

(ii) Within 20 days (excluding Saturdays, Sundays, and legal public holidays) after an appeal is received, and subject to paragraph (c) (3) of this section, TVA shall make a final determination on the appeal. In making such a determination, TVA will consider whether or not to waive the provisions of any exemption contained in paragraph (a) of this section, except that without the written permission of the person involved, TVA will not waive the exemptions contained in paragraph (a) (4), (6) and (7) of this section. Determinations of appeals under this section shall be made by the General Manager, the Assistant General Manager, or an Assistant to the General Manager. If the determination on the appeal is to deny the request for records, TVA shall notify the person making the request of such determination, including the reason for the denial; a notice of the person's right to judicial review of the denial; and the name and job title of the TVA official responsible for the determination of the appeal.

(3) *Extensions of time.* (i) The 10-day time limit provided in paragraph (c) (1) of this section may be extended by TVA for unusual circumstances as set forth in this paragraph upon written notice to the person making the request specifying the reason for such extension and the date on which an initial determination is expected to be dispatched to such person. Such extension may not exceed 10 working days, and a decision to make such extension shall be made by the Director of Information or the Assistant Director of Information.

(ii) The 20-day time limit provided in paragraph (c) (2) of this section may be extended by TVA for unusual circumstances as set forth in this paragraph upon written notice to the person appealing a denial of a request for records. The notice shall specify the reasons for the extension and the date on which a determination of the appeal is expected to be dispatched. The aggregate length of an extension under this paragraph when combined with any extension provided under paragraph (c) (3) (i) of this section shall not exceed 10 working days. A decision to make an extension under this paragraph shall be made by the General Manager, Assistant General Manager, or an Assistant to the General Manager.

(iii) For the purposes of this paragraph, unusual circumstances means, to the extent reasonably necessary to the proper processing of the particular request or appeal:

(A) Time necessary to search and collect requested records from segments of the agency separate from the office processing the request;

(B) Time necessary to search for, collect, and appropriately examine the voluminous number of records demanded in a single request; or

(C) Time necessary for consultation with another agency having a substantial interest in the determination of the request, or among two or more components of the agency which have an interest in the subject matter of the request.

(d) *Manner of making records available.* When TVA determines to comply with a request for records, the records are made available promptly for inspection and copying at the place it considers most feasible. TVA will notify the person requesting the records of the place at which the records will be made available and the amount of the applicable fee pursuant to § 301.2, and will request the person to set up a mutually convenient time for inspection. Applicable fees are payable prior to actual inspection of the records or prior to receipt of requested copies after inspection, respectively. If TVA deems it more convenient to do so, it may furnish copies of available requested records in lieu of permitting physical inspection thereof. In such case payment of applicable fees is due within 30 days after receipt of the copies.

(e) *Publications.* TVA publishes and sells to the public at nominal cost various materials concerning its activities and other matters within its statutory responsibilities, and also provides for the sale of other materials, such as maps prepared by other agencies, at prices prescribed by such agencies. Such services are not performed under the Freedom of Information Act, and requests for the purchase of such materials are not covered by the provision of subsections (a) through (d) of this section. A price list and order form for some of the most frequently asked for TVA publications and reports is contained in TVA Form 3077, which may be obtained by writing the Director of Information, Tennessee Valley Authority, Knoxville, Tennessee 37902. Information about other informational material available for sale or distribution by TVA may be obtained at the same address.

(16 U.S.C. 831–831dd)

[FR Doc.75-4683 Filed 2-18-75;8:45 am]

Title 22—Foreign Relations

CHAPTER II—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

[A.I.D. Reg. 12]

PART 212—PUBLIC INFORMATION

On November 21, 1974, Congress amended the Freedom of Information Act (5 U.S.C. 552). These amendments (Pub. L. 93-502) change the directives under which the former Public Information regulations of the Agency for International Development were issued and require changes in the procedures by which information requests are processed. Accordingly, Part 212 is hereby repealed and a new Part 212 is substituted therefor setting forth new procedures for requests, appeals and processing such requests and appeals under the Freedom of Information Act.

Since the Freedom of Information amendments require persons making requests to follow published rules stating the time, place, fees, and procedures to be followed, it is considered in the public interest to publish promptly the required rules of this Agency. It would be impractical to delay the effective date of the regulations beyond the effective date of the Freedom of Information amendments. Therefore, pursuant to 5 U.S.C. 553(d), these regulations shall be effective on February 19, 1975 without the normal 30-day notice being given.

However, in accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments, suggestions, data or arguments to the Director, Office of Public Affairs, Agency for International Development, Department of State, 21st and Virginia Ave., NW., Washington, D.C. 20523, on or before March 25, 1975. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal.

Subpart A—General

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212.1 Statement of policy.

Subpart B—Publication in the Federal Register

212.11 Materials to be published.
212.12 Effect of nonpublication.
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Subpart C—Availability of Information for Public Inspection and Copying

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Subpart D—Access to Agency Records

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212.33 Procedure for making requests.
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212.36 Denial of request for access to records.
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Subpart E—Exemptions from Disclosure

212.41 Exemptions from the publication and disclosure requirements of Subparts B, C, and D.

Subpart F—Opening of Records for Nonofficial Research Purposes

212.51 General policy.

AUTHORITY: The provisions of Part 212 are issued under Sec. 621, the Foreign Assistance Act of 1961, as amended, 75 Stat. 445 (22 U.S.C. 2402), Executive Order 10501, as amended by Executive Order 10816, sec. 3, Administrative Procedure Act, 60 Stat. 237, as revised by Pub. L. 89-487, 80 Stat. 250 as amended by Pub. L. 93-502, 88 Stat. 1561 (5 U.S.C. 552).

Subpart A—General

§ 212.1 Statement of policy.

(a) It is the policy of the Agency for International Development that information about its objectives and operations be freely available to the public in accordance with the provisions of Pub. L. 89-487 (80 Stat. 250) as amended by Pub. L. 93-502. The Director, Office of Public Affairs is responsible for administration of the provisions of the regulations of this part.

(b) All records of the Agency for International Development shall be made available to the public upon compliance with the procedures established in this regulation, except to the extent a determination is made to withhold a record exemptable under 5 U.S.C. 552(b). Such a determination shall be made pursuant to procedures set forth in §§ 212.36 and 212.37.

(c) The term "record" includes all books, papers, maps, photographs, or other documentary material, or copies thereof, regardless of physical form or characteristics, made in or received by the Agency for International Development (including its Missions abroad), and preserved as evidence of its organization, functions, policies, decisions, procedures, operations, or other activities. It does not include copies of the records of other Government agencies, foreign governments, international organizations, or non-governmental entities which do not evidence organization, functions, policies, decisions, procedures, operations, or activities of the Agency for International Development.

Subpart B—Publication in the Federal Register

§ 212.11 Materials to be published.

(a) The Agency separately states and currently publishes in the FEDERAL REGISTER for the guidance of the public:

(1) Descriptions of its central and field organization and the established places at which, the officers from whom and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

(2) Statements of the general course and method by which its functions are channelled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Agency; and

(5) Every amendment, revision or repeal of the foregoing.

(b) A.I.D. Public Notice No. 1 and the A.I.D. Regulations published in Chapter

II of Title 22 and in Sub-Title A. Chapter 7 of Title 41 of the Code of Federal Regulations, implement the provisions of this section.

§ 212.12 Effect of nonpublication.

Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by any A.I.D. matter required to be published in the FEDERAL REGISTER and not so published.

§ 212.13 Incorporation by reference.

For purposes of this Subpart B, A.I.D. matter which is reasonably available to the class of persons affected thereby is deemed to be published in the FEDERAL REGISTER when it has been incorporated by reference therein with the approval of the Director of the FEDERAL REGISTER.

Subpart C—Availability of Information for Public Inspection and Copying

§ 212.21 Public records.

In accordance with this subpart, A.I.D. makes the following information and materials available for public inspection and copying:

(a) All final opinions (including concurring and dissenting opinions), and all orders made in the adjudication of cases;

(b) Those statements of policy and interpretations which have been adopted by the Agency and are not published in the FEDERAL REGISTER; and

(c) Administrative staff manuals and instructions to staff that affect any member of the public.

§ 212.22 Protection of personal privacy.

To the extent required to prevent a clearly unwarranted invasion of personal privacy, the Agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction, and will, in each such case, explain in writing the justification for the deletion.

§ 212.23 Current index.

The Agency maintains and makes available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after July 4, 1967, and which is required by § 212.21 to be made available or published. Publication of an index is deemed both unnecessary and impractical. However, copies of the index are available upon request for a fee of the direct cost of duplication.

§ 212.24 Effect of noncompliance.

No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public will be relied upon, used, or cited as precedent by the Agency against any private party unless it has been indexed and either made available or published as provided by this subpart, or unless that private party shall have actual and timely notice of the terms thereof.

§ 212.25 Procedures for obtaining materials under this subpart.

(a) The materials required to be made available for public inspection and copying in accordance with this subpart are available to members of the public at the Agency for International Development Public Reading Room, Room 4943, Department of State Building, 21st and Virginia Ave., NW., Washington, D.C. which is open from 9 a.m. to 5 p.m., Monday through Friday, except on Holidays.

(b) Requests for materials which are available under this subpart should follow the procedures under Subpart D.

(c) The direct costs of any necessary duplication will be charged in accordance with the fee schedule set forth in § 212.35.

(d) The USAID Missions in countries abroad are not responsible for the maintenance of the index and materials available under this subpart. However, in so far as they do have these materials, they will make them available to citizens of the United States who are present in their respective countries upon either in person application or writing to the Director, USAID, c/o American Embassy in the applicable country.

Subpart D—Access to Agency Records

§ 212.31 Availability of Agency Records.

Upon receiving a request for a record, which reasonably describes such record, and which is made in accordance with the provisions of this Subpart, the Agency for International Development will make such records promptly available to any person, except the following: (a) matters published in the FEDERAL REGISTER pursuant to Subpart B; (b) matters made available to the public pursuant to Subpart C; and (c) matters exempt from disclosure pursuant to § 212.41.

§ 212.32 Identification of records.

The request for a record by a member of the public must contain a reasonably specific description of the particular record sought so that an officer of the Agency who is familiar with the subject matter of the request may be able to locate the record with a reasonable amount of effort. A description that includes as much information as possible, such as the subject matter, format, approximate date, and where pertinent, the name of the country or person involved, will facilitate the search for the requested record.

§ 212.33 Procedure for making requests.

(a) Requests for reasonably described records may be made by a member of the public either in person or by writing to the Director, Office of Public Affairs, Agency for International Development, Department of State, 21st and Virginia Ave., NW., Washington, D.C. 20523. The request and the envelope must be plainly marked "FOI Request." Requests may be made in person by going to the Agency for International Development Public Reading Room, Room 4943, Department of State Building, 21st and Virginia Ave., NW., Washington, D.C., which is open from 9 a.m. to 5 p.m., Monday through Friday, except on Holidays. Telephonic requests cannot be accepted.

(b) Requests for reasonably described records may be made directly to USAID missions abroad only by citizens of the United States who are present in their respective countries by either personal application or by written application to the Director, USAID, care of American Embassy in the applicable country. Any written request and its envelope must be plainly marked "FOI Request."

(c) If a request not properly marked "FOI Request" on the request and envelope is inadvertently delayed in reaching the Director, Office of Public Affairs, or is erroneously sent to a USAID mission abroad, it will not be deemed received by the Agency until actually received by the Director, Office of Public Affairs. In such event, the person making the request will be furnished a notice of the effective date of receipt.

§ 212.34 Procedures for responding to requests for records.

(a) Upon receipt of the request by the Director, Office of Public Affairs, a maximum of 10 working days will normally be taken to determine to what extent the Agency can provide the information requested, and upon the making of the determination, the person making the request will be immediately informed. Copies of the releasable documents shall be made available promptly thereafter upon receipt of appropriate fees as set forth in § 212.35.

(b) In unusual circumstances, the Agency may not be able to determine the availability of the requested documents within 10 working days, in which event the person making the request will be informed by written notice of the delay, the reasons for the delay and the date on which a determination may be expected. The maximum time in making a determination of availability will be 20 working days from receipt of the request. If only part of the permissible 10 working days extension is used, the Agency reserves the right to use any remainder of the time for an extension of time for the determination of an appeal, if one is made, and the unusual circumstances require an extension of time to decide an appeal. A time extension for unusual circumstances will be used as reasonably necessary for a particular request in the following instances:

(1) When there is a need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) When there is a need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) When there is a need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two

or more components of the agency having substantial subject-matter interest therein.

(c) If, in spite of diligent efforts, circumstances are such that the Agency cannot make a complete and final determination even within the 10-day extension period, a denial of the request may be made. However, the Agency will continue the determination process and the denial will contain a statement to this effect with a date when final determination is expected. As soon as a final determination can be made, the person making the request will be further notified. This provision does not in any way limit or abridge the person's right to appeal the initial denial. It is only an informal process that may exist in addition to the appeal procedure in an attempt to prevent the necessity of appeal when the denial is issued without a full determination but solely in order to meet the Agency's time deadlines.

(d) If a request is made to this Agency for material that is controlled or held by another agency, the request will be referred to the appropriate agency for action and the person making the request will be immediately notified of the referral, unless the other agency has, by public regulation, delegated the release authority to this Agency. If release authority has been delegated, this Agency will follow the procedures authorized by the delegation in determining whether to release the information. If a request for material is referred to this Agency from another agency, the time period for determination of release of the information will not start until the request is received by the Director, Office of Public Affairs. The person making the request will be immediately notified of the referral and the date the request was received in this Agency. This Agency will not accept referral of requests unless and until the Director, Office of Public Affairs, determines that the material requested is actually within the scope and control of the release authority of the Agency for International Development.

(e) If only a part of a record is exempt from disclosure, then any reasonably segregable portion of such record shall be furnished after deletion of the portions which are exempt, provided that the segregable portion constitutes an intelligible record which is not distorted out of context or contradictory to the substance of the entire record before segregation.

§ 212.35 Schedule of fees and method of payment for services rendered.

(a) The following specific fees shall be applicable with respect to services rendered to members of the public under this part:

(1) Searching for records, per hour, after 1st hour	$9.00
(2) Copies made by photostat or otherwise (per page). (Maximum of 2 copies will be provided.)	.10
(3) Duplication of architectural photographs and drawings	2.00

(b) When no specific fee has been established for a service, for example, when the search involves computer time or special travel, transportation, or communications costs, the Director, Office of Public Affairs, is authorized to determine the direct costs of the service and include such costs in the fees chargeable under this section.

(c) Where it is anticipated that the fees chargeable under this section will amount to more than $25, and the requester has not indicated in advance his willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In appropriate cases an advance deposit may be required. The requester is at any time welcome to confer with knowledgeable Agency personnel in an attempt to formulate the request in a manner which will reduce the fees and meet the needs of the requester. A request will not be deemed to have been received until the requester has agreed to pay the anticipated fees and has made an advance deposit if one is required.

(d) Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts or if the Agency determines that a record which has been requested but which is exempt from disclosure under this part is to be withheld.

(e) Fees must be paid in full prior to issuance of requested copies.

(f) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, a postal money order, or cash. Remittances shall be made payable to the order of the Treasury of the United States and mailed to the Director, Freedom of Information Staff, Office of Public Affairs, Agency for International Development, Washington, D.C. 20523. The Agency will assume no responsibility for cash which is lost in the mail.

(g) A receipt for fees paid will be given only upon request. Refund of fees paid for services actually rendered will not be made.

(h) The Director, Office of Public Affairs, or an officer designated by the Director may waive all or part of any fee provided for in this section when the Director or the designated officer deems it to be in either the Agency's interest or in the general public's interest.

§ 212.36 Denial of request for access to records.

(a) If it is determined that the Agency cannot comply with all or part of a request for records, the person making the request shall be immediately notified of the determination, the reasons for the determination, the name and title of each officer responsible for the denial, and the right of the person to appeal the adverse determination.

(b) The denial of a request for records may be made only by the Director, Office of Public Affairs or his delegate. The General Counsel shall be consulted prior to a decision to deny access.

(c) Any person who has been denied access to records pursuant to this section may appeal the adverse decision not later than 60 days after the date of the notification of denial or, in the case of a partial denial, after the date the releasable documents are actually furnished the person making the request, whichever is later. The appeal shall be in writing addressed to the Administrator or Deputy Administrator, Agency for International Development, 21st and Virginia Ave., NW., Washington, D.C. 20523. In order to make a timely response to the appeal, both the appeal and the envelope must be plainly marked "FOI Appeal". The appeal should contain a reasonable description of the record sought and withheld, a copy of the initial decision to deny access and any other information that will enable the Administrator or Deputy Administrator to make the final decision.

§ 212.37 Procedures for Agency consideration of appeals.

(a) Upon receipt of the appeal by the Administrator or Deputy Administrator, a maximum of 20 working days will normally be taken to decide the appeal. In unusual circumstances, as defined in § 212.34, the 20 working days may be extended by 10 working days or by the number of days not used in the original denial of the request.

(b) If the appeal is granted, the person making the appeal shall be immediately notified and copies of the releaseable documents shall be made available promptly thereafter upon receipt of appropriate fees as set forth in 212.35. If the appeal is denied in whole or part, the person making the request shall be immediately notified of the decision and of the provisions of judicial review of the Agency's denial of the request.

(c) In the event a determination is not issued within the appropriate time limit and the person making the request chooses to sue the Agency, the determination process shall continue and the Administrator or Deputy Administrator may review any initial denial of the requested records.

(d) If appeals not properly marked "FOI Appeal" on the appeal and envelope are inadvertently delayed in reaching the Administrator or Deputy Administrator, they will not be deemed received by the Agency until actually received by the Administrator or Deputy Administrator. In such event, the person making the appeal will be furnished a notice of the effective date of receipt.

Subpart E—Exemptions From Disclosure

§ 212.41 Exemptions from the publication and disclosure requirements of Subparts B, C, and D.

None of the provisions of Subparts B, C, and D which provide for publication and disclosure of certain information and records shall be applicable to matters that are:

(a) (1) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (2)

are in fact properly classified pursuant to such Executive order;

(b) Related solely to the internal personnel rules and practices of the agency;

(c) Specifically exempted from disclosure by statute;

(d) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(g) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (1) interfere with enforcement proceedings, (2) deprive a person of a right to a fair trial or an impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (5) disclose investigative techniques and procedures, or (6) endanger the life or physical safety of law enforcement personnel;

(h) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and

(i) Geological and geophysical information and data (including maps) concerning wells.

Subpart F—Opening of Records for Nonofficial Research Purposes

§ 212.51 General policy.

(1) In accordance with the policy of the Department of State, the Agency for International Development will open its records on an equitable basis to all individuals engaged in private research as soon as such action may be taken without adversely affecting the national security, the maintenance of friendly relations with other nations, the efficient operation of the agency, and the administrative feasibility of servicing requests for access to such records.

(2) Access for research in the classified foreign policy records in A.I.D.'s custody will be governed by the regulations of the Department of State in respect thereto, as set forth in Part 6, Chapter II of Title II of the Code of Federal Regulations. Application for such access may be made to the Director, Public Affairs, Agency for International Development, 21st and Virginia Avenue NW., Washington, D.C. 20523. The Director, Public Affairs, in consultation with the Director, Historical Office, Department of State, will determine the action to be taken and advise the researcher.

Effective date. This regulation is effective February 19, 1975.

Dated: February 14, 1975.

JOHN E. MURPHY,
Deputy Administrator, Agency for International Development.

[FR Doc.75-4684 Filed 2-18-75;9:20 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 265—RELEASE OF INFORMATION

Freedom of Information Act Regulations

The purpose of this document is to adopt revised regulations to govern the release of records to the public and to establish procedures implementing the Freedom of Information Act, as amended, insofar as it applies to the Postal Service.

The revised regulations are placed in Part 265 of Title 39, Code of Federal Regulations, and supersede regulations adopted by the former Post Office Department presently appearing as Parts 261 and 262 of Title 39, Code of Federal Regulations. While continuing generally the organization of Parts 261 and 262, the new regulations have been substantially rewritten in the interest of clarity, and have been modified as necessary in the light of recent statutory developments, principally §§ 410 and 412 of Title 39, United States Code, as enacted by Pub. L. 91-375, and the Freedom of Information Act Amendments, Pub. L. 93-502.

For purposes of analysis, the new regulations may be divided roughly into two groups of sections. The first group, consisting of §§ 265.1 through 265.6, states the policy of the Postal Service on the release of records and lists the principal categories of records that are available to the public as of right and those that are exempt from mandatory disclosure. The second group, consisting of §§ 265.7 through 265.9, establishes the procedures to be followed by the public in submitting requests for records and by the Postal Service in responding to those requests.

Discussed below are the major changes effected by the revision. There are in addition minor changes, not discussed, which have been made in the light of either statutory changes or the experience of the Postal Service under the previous regulations.

In order to conform the regulations to § 410(c) of Title 39, U.S.C., several categories of records have been added to the list of those exempt from mandatory disclosure contained in § 265.6 (formerly § 261.2). Of particular interest among these may be paragraphs (b)(3), relating to commercial information, and (d), relating to the names and addresses of postal customers. Paragraph (e)(1) of § 265.6 is a new provision added to reflect the prohibition of the disclosure by the Postal Service to the public of mailing lists, which is contained in 39 U.S.C. 412. Paragraph (e)(2) of § 265.6, although not altogether new, has been revised to reflect the changes effected by Pub. L. 93-502 in 5 U.S.C. 552(b)(1) relating to classified defense and foreign policy materials. Paragraph (c) of § 265.6, relating to disclosure of investigatory records, has similarly been revised to state the policy of the Postal Service normally to make investigatory records available to the public when disclosure would be required by 5 U.S.C. 552(b)(7) as amended by Pub. L. 93-502, even though withholding would be authorized by 39 U.S.C. 410(c)(6).

The new regulations generally continue the system of procedures for responding to Freedom of Information Act requests that has been in effect under the prior regulations. Under this system, a request is submitted to the head of the facility at which the record is maintained. This custodian makes the initial determination whether to grant or deny the request. If it is denied, an appeal may be taken to the General Counsel whose decision is final within the Postal Service.

The sections relating to procedures and fees for requesting access to records, viz, §§ 265.7 and 265.8, have been substantially rewritten and expanded to conform to the requirements of the 1974 Amendments and to provide additional guidance to the public and to postal employees in submitting and responding to requests for records. The procedures which have been adopted are designed to take account of the fact that postal records are maintained at more than 30,000 post offices and other facilities located throughout the United States and its overseas territories. If the statutory time limits for response to requests are to be met, expeditious handling is essential. To facilitate the identification of requests for records so that priority treatment may be given them, § 265.7(a)(1) requires that a person desiring a response to his request within the statutory period label it as a Freedom of Information Act request or use a designated Postal Service form and that any envelope bear the same label. Requests not fulfilling this requirement will, of course, be given prompt treatment, but they will not be deemed as coming within the framework of these formal procedures. Such treatment seems, moreover, consistent with our experience that many inquiries which could be treated formally are, in fact, casual in nature, and can be answered informally to the greater satisfaction of the inquirer.

Paragraph (a)(2) of § 265.7 requires that requests be submitted to the custodian of the requested record, i.e., the head of the facility at which it is maintained. If it is submitted to some other facility it will, of course, be forwarded to the proper one, but it will be deemed to have been received by the Postal Service for purposes of computing the response period when it has been received by the actual custodian. If the location of the record is not known to the requester he may obtain this information from the Postal Service Records Officer or he may submit his request to the

Records Officer who will forward it to the proper custodian.

The section which establishes the fee schedule (§ 265.8), was previously published in the FEDERAL REGISTER (40 FR 3220) as a proposed revision of § 262.7 of Title 39, CFR, and comments were requested from members of the public. We received one letter of comment, the suggestions of which we have adopted in part. We have redesignated the proposed §§ 262.7 as 265.8. We also made some modifications to the text.

The proposed increase in the fee for clerical search time has been reconsidered and the prior rate of $2.00 per quarter hour will be retained. The proposed treatment of computer fees has been similarly reconsidered. We have determined to adopt the information Services Price List for computer services fees in its entirety, rather than to attempt to treat analysts' time and the reproduction of records separately. § 265.8 (b)(3). The list, which is also used for other purposes within the Postal Service, is subject to periodic revision in the light of experience and cost adjustments. Charges will be based on the price list in effect at the time the services are performed. The list in effect on February 19, 1975, is published as Appendix A to Part 265 to provide an illustration of the services covered and the current charges per unit of work.

A new paragraph (1) has been added to § 265.8(d) to provide that when sufficient stock exists, printed materials will be made available at their established price, or at cost if no price has been established, rather than at the per-page reproduction fee. In this respect we have adopted a suggestion made in the letter of comment.

The problem of providing meaningful advance notice of the cost of particular requests while complying with statutory deadlines for responses continues to be troublesome. The proposed rule provided for the giving of advance notice if fees were expected to exceed $25.00. We have concluded that the $25.00 figure would exceed the expectations of many members of the public, particularly those unfamiliar with these regulations. We consider, however, that a fee not in excess of $10.00 would not be considered exorbitant, § 265.8(e)(2).

The proposed rule provided further that the ten-day response period would not begin until the requester had been notified and had agreed to bear the estimated costs. The comment to this proposal expressed concern that this system would permit unwarranted delays in giving notice. It was suggested that notice be required within a short, fixed period and include an explanation of the basis for the estimate. We consider that this suggestion has merit and have modified the rule to require that notice of estimated costs in excess of $10.00 be given within five working days of receipt by the custodian and that it explain briefly the basis of the estimate. The comment suggested further that the response period begin to run with the physical receipt of the request and be tolled by the giving of notice. We are not persuaded, however, that the potential saving of time by tolling the response period, rather than starting it with the requester's response, is significant, and we believe that the approach adopted permits a simpler, more readily computed response period.

We have considered but not adopted two additional suggestions which we believe require discussion. The first is that the right of the public to obtain copies of postal records which are not exempt, as distinct from an opportunity merely to inspect the records, be made absolute. We believe, however, that this is not required either by statute or by considerations of fairness. Conditions in post offices, including the availability of copying equipment, may vary considerably. Section 265.8(c)(3) does not give the custodian unfettered discretion to refuse copies.

The second suggestion is that fees for search time be waived in all cases in which no records are made available. The comment expressed concern that the possibility that the requester may be liable for significant search costs, even though records are not found or are withheld, may have a chilling effect on all substantial requests. Such is not, of course, the intended result and a waiver of search costs in this situation is stated as the normal rule § 265.8(e)(4). It is not reasonable, moreover, that the Postal Service, meaning the taxpayers or mail users, should be required in all possible situations to bear the costs of search.

As noted above, § 265.8 was previously published for public comment. As to the balance of the part, since many of the changes are necessary to achieve compliance with the amendments to the Freedom of Information Act which become effective February 19, 1975, there is no time to receive and evaluate public comment. We intend, nonetheless, to reexamine this part in the light of our experience and that of citizens requesting access to records pursuant to its provisions. Interested persons are also invited to submit written comments on these regulations at any time to the General Counsel, United States Postal Service, Washington, D.C. 20260. Attention: Legal Affairs Office.

ROGER P. CRAIG,
Deputy General Counsel.

The following changes become effective February 19, 1975.

Accordingly, 39 CFR Parts 261 and 262 are revised and redesignated as new Part 265, which is set forth below. 39 CFR Parts 261 and 262 are then vacated and reserved.

PART 261—[RESERVED]

PART 262—[RESERVED]

PART 265—RELEASE OF INFORMATION

Sec.
265.1 Purpose and scope.
265.2 Policy.
265.3 Responsibility.
265.4 Inquiries.
265.5 Public reading room.
265.6 Availability of records.
265.7 Procedures for inspection and copying of records.
265.8 Schedule of fees.
265.9 Annual reports.
265.10 Compliance with subpoena duces tecum court orders and summonses.

APPENDIX A

AUTHORITY: 39 U.S.C. 401; 5 U.S.C. 552 as amended by Pub. L. 93-502, 88 Stat. 1561.

§ 265.1 Purpose and scope.

This part contains the regulations of the Postal Service relating to the availability to the public of Postal Service records. Included in this part are the regulations which implement section 552 of Title 5, United States Code, the "Freedom of Information Act," insofar as it applies to the Postal Service.

Official records of the Postal Service made available pursuant to the requirements of the Act shall be furnished to members of the public as prescribed by this part.

§ 265.2 Policy.

(a) It is the policy of the Postal Service to make its official records available to the public to the maximum extent consistent with the public interest. This policy requires a practice of full disclosure subject only to the specific exceptions required or authorized by law.

(b) The exemptions from mandatory disclosure provided by section 552(b) of Title 5, and section 410(c) of Title 39, United States Code, for various types of records, reflect the fact that under some circumstances the public interest may be better served by leaving the disclosure of particular records to the discretion of the Postal Service than by requiring their disclosure. As to those records the disclosure of which is not prohibited by statute, Executive Order, or regulation, the discretion vested in the Postal Service should be exercised after giving consideration to the following: the effect of non-disclosure on the public's right to know about a particular matter; the effect of disclosure on the right of privacy of any affected individuals; the effect of disclosure on the public interest in the economical, efficient, and orderly operation of the nation's mail system; and any other factors that may be relevant under the circumstances.

§ 265.3 Responsibility.

(a) *Custodian.* Official records are in the custody of the postmaster or other head of the facility, such as a postal data center, mail bag depository, sectional center facility, district office or regional headquarters, or of a group or department of Headquarters, at which they are maintained. These custodians are responsible for responding in the first instance to requests from members of the public for Postal Service records.

(b) *Records officer.* The Records Officer, Management Information Systems Department, United States Postal Service, Washington, D.C. 20260, is responsible for the overall administration

of this part, including the issuance of detailed instructions to custodians.

(c) *General counsel.* The General Counsel decides timely appeals authorized by this part.

§ 265.4 Inquiries.

Inquiries regarding the availability of Postal Service records should be directed to the head of the post office, postal data center, mail bag depository, sectional center facility, district office, regional headquarters or other facility, or group or department of Headquarters, at which the official records are maintained. If the appropriate custodian is not known, inquiries should be directed to the Records Officer, Management Information Systems Department, United States Postal Service, Washington, D.C. 20260, telephone number (202) 245-4000.

§ 265.5 Public reading room.

The Library of the Postal Service Headquarters, 475 L'Enfant Plaza, West, SW., Washington, D.C. 20260, serves as public reading room for the materials which are listed paragraphs (a)(2) and (a)(3) of § 265.6 as available for public inspection and copying.

§ 265.6 Availability of records.

(a) *Records available to the public upon request.* (1) *General.* Postal Service records are available for inspection or copying at the request of any person, in accordance with the provisions of this part, except as otherwise provided by law or regulations, including but not limited to, § 265.(b) through 265.(f) of this part. Certain categories of records of particular interest are available on a continuing basis as provided in paragraphs (a)(2) and (a)(3) of this section and are listed in a public index as provided in paragraph (a)(4). Access to other records may be requested on an individual basis in accordance with the procedures provided in § 265.7. Official records which are maintained on an electronic storage medium will normally be made available, in accordance with this part, as an exact duplicate of the requested original in a form readable by the human eye, such as a computer print-out.

(2) *Opinions.* All final opinions and orders made in the adjudication of cases by the Judicial Officer, Administrative Law Judges, and Board of Contract Appeals, and all advisory opinions concerning the private express statutes issued pursuant to § 310.6 of title 39, Code of Federal Regulations, all bid protest decisions and all decisions on appeals pursuant to this part, rendered by the Law Department are on file and available for inspection and copying in the Headquarters Library, United States Postal Service, 474 L'Enfant Plaza, West, SW., Washington, D.C. 20260.

(3) *Administrative Manuals and Instructions to Staff.* The manuals, instructions, and other publications of the Postal Service that affect members of the public are available through the Headquarters Library, United States Postal Service, Washington, D.C. 20260, and at many post offices and other postal facilities. Those which are available to the public but are not listed for sale may be inspected in the Library or at any postal facility which maintains a copy. Copies of publications which are not listed as for sale or as available free of charge may be obtained by paying a fee in accordance with § 265.8 below.

(4) *Public index.* (i) A public index is maintained in the Headquarters Library of all final opinions and orders made by the Postal Service in the adjudication of cases, Postal Service policy statements which may be relied on as precedents in the disposition of cases, and administrative staff manuals and instructions that affect the public.

(ii) The index mainly contains matters issued after July 4, 1967. However, the Postal Service may include prior matters.

(iii) Any person may arrange for the inspection of any matter in the public index in accordance with the procedures of § 265.7.

(iv) Copies of the public index and of matters listed in the public index may be purchased through the Headquarters Library upon payment of fees as listed in the index or as provided in § 265.8.

(b) *Records not subject to mandatory public disclosure.* Certain classes of records are exempt from mandatory disclosure under exemptions contained in the Freedom of Information Act and in section 410(c) of Title 39, United States Code. The Postal Service will exercise its discretion, in accordance with the policy stated in § 265.2, as implemented by instructions issued by the Records Officer with the approval of the General Counsel in determining whether the public interest is served by the inspection or copying of records that are:

(1) Related solely to the internal personnel rules and practices of the Postal Service.

(2) Trade secrets, or privileged or confidential commercial or financial information, obtained from any person.

(3) Information of a commercial nature, including trade secrets, whether or not obtained from a person outside the Postal Service, which under good business practice would not be publicly disclosed. This class includes, but is not limited to:

(i) Information pertaining to methods of handling valuable registered mail.

(ii) Records of money orders, except as provided in Chapter 1 of the Postal Service Manual.

(iii) Technical information concerning postage meters and prototypes submitted for Postal Service approval prior to leasing to mailers.

(iv) Reports of market surveys conducted by or under contract in behalf of the Postal Service.

(v) Records compiled within the Postal Service which would be of potential benefit to persons or firms in economic competition with the Postal Service.

(vi) Information which, if publicly disclosed, could materially increase procurement costs.

(4) Interagency or internal memoranda or letters that would not be available by law to a private party in litigation with the Postal Service.

(5) Reports and memoranda of consultants or independent contractors, except to the extent they would be required to be disclosed if prepared within the Postal Service.

(6) Files personal in nature, including medical and personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) Information prepared for use in connection with proceedings under Chapter 36 of Title 39, United States Code, relating to rate, classification, and service changes.

(8) Information prepared for use in connection with the negotiation of collective bargaining agreements under Chapter 12 of Title 39, United States Code, or minutes of, or notes kept during, negotiating sessions conducted under such chapter.

(9) Other matter specifically exempted from disclosure by statute.

(c) *Investigatory records.* (1) Investigatory files compiled for law enforcement purposes, whether or not considered closed, are exempt by statute from mandatory disclosure except to the extent otherwise available by law to a party other than the Postal Service, 39 U.S.C. 410(c)(6). As a matter of policy, however, the Postal Service will normally make investigatory records available upon request unless the production of these records would:

(i) Interfere with enforcement proceedings,

(ii) Deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Constitute an unwarranted invasion of personal privacy,

(iv) Disclose the identity of a confidential source, and, in the case of a record compiled by the Postal inspection Service in the course of a criminal investigation or of a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(v) Disclose investigative techniques and procedures, or

(vi) Endanger the life or physical safety of law enforcement personnel.

(2) Authority to disclose investigatory records to persons outside the Postal Service must be obtained from the Chief Postal Inspector, United States Postal Service, Washington, D.C. 20260, or his designee.

(d) *Disclosure of names and addresses of customers.* The addresses of postal customers will be made available only in accordance with the following:

(1) The new address of any specific customer who has filed a change of address order will be furnished to any person upon payment of the fee prescribed in paragraph (d)(3) of § 265.8.

(2) The name and address of the holder of a bulk mail permit, permit imprint or similar permit, or postage meter permit, and the name of any person applying for a permit in behalf of a holder, will be furnished to any person upon the payment of any fees authorized by § 265.8.

(3) The recorded post office box address of a customer whose mail is redirected to a post office box will be furnished to any person upon payment of the fee prescribed in paragraph (d)(3) of § 265.8.

(4) The business name and address of the holder of a post office box being used for the purpose of doing or soliciting business with the public, and any person applying for a box in behalf of a holder, will be furnished to any person without charge. The postmaster may furnish this information when he is satisfied from the entries appearing on Form 1093, Application for Post Office Box, or from evidence furnished by the requestor, such as an advertising circular, that a box is being used for such a business purpose. When the postmaster is unable to determine whether a business use is involved, he shall refer the request to Regional Counsel for advice.

(5) Except as provided in (d)(4) above, the name or address of the boxholder will be furnished only to:

(i) A Federal, State, or local government agency upon prior written certification that the information is required for the performance of its duties,

(ii) A person empowered by law to serve legal process upon prior written certification that the information is required to effect service, or

(iii) In compliance with a subpoena or other court order.

(6) The mailing address of any customer sought in connection with jury service, if known, will be furnished without charge upon prior written request to a court official, such as a judge, court clerk, or jury commissioner.

(7) If the location of a residence or a place of business is known to a Postal Service employee, whether as a result of his official duties or otherwise, he may, but need not, disclose the location or give directions to it. No fee shall be charged for such information.

(e) *Information not available for public disclosure.* (1) The Postal Service and its officers and employees shall not make available to the public by any means or for any purpose any mailing list or other list of names or addresses (past or present) of postal patrons or other persons.

(2) Records or other documents which are classified or otherwise specifically authorized by Executive Order to be kept secret in the interest of the national defense or foreign policy are not subject to disclosure pursuant to this part.

(3) Records consisting of trade secrets or confidential financial data, the disclosure of which is prohibited by section 1905 of Title 18, United States Code, are not subject to disclosure pursuant to this part.

(4) Other records, the disclosure of which is prohibited by statute, are not subject to disclosure pursuant to this part.

(f) *Protection of the right of privacy.* If any record required or permitted by this part to be disclosed contains the name of, or other identifying details concerning, any person, including an employee of the Postal Service, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, the name or other identifying details shall be deleted before the record is disclosed. A notice such as, "The names of individuals and other identifying details have been deleted to prevent an unwarranted invasion of the personal privacy of the individuals involved" shall be placed on any record from which this material has been deleted.

(g) *Disclosure in part of otherwise exempt record.* Any reasonably segregable portion of a record shall be provided after deleting the information which is neither subject to mandatory disclosure nor available as a matter of discretion.

§ 265.7 Procedure for inspection and copying of records.

(a) *Submission of requests.* (1) *Form and content of request.* To permit expeditious handling and timely response in accordance with the provisions of this part, a request to inspect or to obtain a copy of an identifiable Postal Service record shall be in writing and bear the caption "Freedom of Information Act Request" or otherwise be clearly and prominently identified as a request for records pursuant to the Freedom of Information Act. Form 1478 Freedom of Information Request may be used for this purpose. If submitted by mail or otherwise submitted in an envelope or other cover, a request shall be clearly and prominently identified as such on the envelope or other cover. Other requests for information will be considered informal requests and will be handled as expeditiously as practicable but not necessarily within the time limitations set forth in § 265.7(b). An informal request will be granted or denied according to the substantive rules in § 265.6, if found to be a request for a record. A Freedom of Information Act request shall identify the record sought as completely as possible, by name, description, or subject matter, and be sufficient to permit the custodian to locate it with a reasonable amount of effort. The request may state the maximum amount of fees for which the requester is willing to accept liability without prior notice. See paragraph (e)(2) § 265.8. If no amount is stated the requester will be deemed willing to accept liability for fees not to exceed $10.00.

(2) *To whom submitted.* A request shall be submitted to the custodian of the requested record. If the location of the record is not known, inquiry should be directed to the Records Officer, Management Information Systems Department, United States Postal Service, Washington, D.C. 20260, telephone (202) 245–4000. If a request is submitted to a facility other than that at which the record is maintained, it shall be promptly transmitted to the appropriate custodian with a copy of the transmittal furnished to the requester. A request which is not initially submitted to the appropriate custodian shall be deemed to have been received by the Postal Service for purposes of computing the time for response is accordance with § 265.7(b) at the time that it is actually received by the appropriate custodian. If a request seeks records maintained at two or more facilities, the custodian shall be deemed to be the next senior common supervisor of the heads of the facilities, e.g., sectional center manager, district manager, Regional Postmaster General.

(3) *Reasons for request.* In view of the possibility that some or all of the records may be exempt from mandatory disclosure, the requestor may state any reasons why the record should nevertheless be made available to him even if exempt.

(4) *Request for waiver of fees.* The requestor may ask that fees, the advance payment of fees, or the advance deposit of estimated fees be waived in whole or in part and may state any reasons in support thereof. See § 265.8(e)(6).

(5) *Categorical requests.* A request for all or substantially all of the records within a specific category will be deemed a reasonable description of those records only if it is possible, without further information, to determine which particular records are sought. See para. (b)(3) of § 265.7 concerning the providing of additional information.

(6) *Request for records located at numerous facilities.* A request for records which are, or may be, located at all or a substantial number of post offices or other postal facilities will be deemed to be a reasonable description only of such of those records as are maintained at the post office or other facility to which the request is submitted, and of those records maintained at any other post offices or facilities specifically identified in the request. See paragraph (a)(2) of this section concerning the custodian of records of two or more facilities.

(b) *Responsibilities of the custodian.* (1) The custodian of the requested record is the person responsible for determining whether to comply with or to deny the request. A custodian who is not an Officer as defined in § 221.7, however, should not deny a request, until he has obtained the advice of Regional Counsel. If denial of a request appears necessary the custodian should seek advice as soon as possible after receipt of the request so as to provide adequate time for legal review.

(2) The custodian shall make his determination within ten working days, i.e., exclusive of Saturdays, Sundays, and holidays, of receiving the request, and more rapidly if feasible. The custodian and the requester may, by mutual agreement, preferably in writing establish a different response period from those provided in paragraph (a) of this section.

(3) If a requested record cannot be located from the information supplied, the requester should be given an opportunity to supply additional information and, if feasible, to confer with the custodian or his representative, in an attempt to provide a reasonable description of the records sought. If additional information is furnished, the request will be deemed to have been received by the

custodian when sufficient additional information to identify and locate the record with a reasonable amount of effort has been received.

(4) The ten working day response period allowed above may be extended by the custodian, after consultation with or with the General Counsel if the custodian is at Headquarters, Regional Counsel, for a period not to exceed an additional ten working days when, and to the extent, reasonably necessary to permit the proper processing of a particular request, under one or more of the following unusual circumstances:

(i) The request requires a search for and collection of records from a facility other than that processing the request;

(ii) The request requires the search for, and collection and appropriate examination of, a voluminous amount of separate and distinct records; or

(iii) The request requires consultation (A) with another agency having a substantial interest in the determination of whether to comply with the request or (B) among two or more components of the Postal Service having substantial subject matter interest in the determination of whether to comply with the request.

(5) When the custodian finds that the additional time is required, he shall acknowledge the request in writing within the initial ten day response period, state the reason for the delay, and indicate the date on which a decision as to disclosure is expected.

(6) If the custodian has been unable to comply with the applicable time limit provisions of this section, in spite of the exercise of due diligence, he shall nonetheless make a determination as promptly as possible. He shall notify the requester of the exceptional circumstances preventing timely compliance and of the date by which it is expected that the determination will be made. A copy of this notification shall be sent to the General Counsel, U.S. Postal Service, Washington, D.C. 20260.

(7) If a requested record is known to have been destroyed, disposed of, or otherwise not to exist, the requester shall be so notified.

(c) *Compliance with request upon affirmative determination by custodian.* (1) When a requested record has been identified and is to be disclosed in whole or in part, the custodian shall ensure that the record is made available promptly and shall immediately notify the requester where and when and upon what reasonable conditions, if any, including the payment of fees, the record will be available for inspection or copies will be available. Postal Service records will normally be available for inspection and copying during regular business hours at the postal facilities at which they are maintained. The custodian may, however, designate other reasonable locations and times for inspection and copying of some or all of the records within his custody.

(2) Any fees, authorized or required by § 265.8 shall be paid by the requester before the record is made available or a copy is furnished unless payment is waived or deferred pursuant to § 265.8 (e). See also para. (e) (2) of § 265/8 concerning advance notice of fees.

(3) A custodian complying with a request may designate a representative to monitor any inspection or copying.

(d) *Denial of request.* (1) A reply denying a request in whole or in part shall be in writing, signed by the custodian or his designee, and shall include:

(i) A statement of the reason for, or justification of, the denial, e.g., the nonexistence of the record, including, if applicable, a reference to the provision or provisions of § 265.6 authorizing the withholding of the record and a brief explanation of how each provision applies to the records requested;

(ii) The name and title or position of the person responsible for the denial of the request (see paragraph (d) (2) of § 265.7); and

(iii) A statement of the right to appeal and of the appeal procedure within the Postal Service (described in § 265.7 (e)).

(2) The custodian is ordinarily the person responsible for the denial of the request. If the denial of a particular request has been directed by higher authority, however, the name and title or position of the person directing the denial shall be given in the reply to the requester in place of the custodian as the person responsible for the denial, and a copy of the denial shall be sent to that person.

(e) *Appeal procedure.* (1) If a request to inspect or to copy a record is denied, in whole or in part, if no determination is made within the period prescribed by this section, or if a request for waiver of fees is not granted, the requester may appeal to the General Counsel, U.S. Postal Service, Washington, D.C. 20260.

(2) The requester shall submit his appeal in writing within 30 days of the date of the denial or of the other action complained of, or within a reasonable time if the appeal is from a failure of the custodian to act. The General Counsel may, in his discretion, consider late appeals.

(3) In the event of the denial of a request or of other action or failure to act on the part of a custodian from which no appeal is taken, the General Counsel may, if he considers that there is doubt as to the correctness of the custodian's action or failure to act, review the action or failure to act as though an appeal pursuant to this section had been taken.

(4) A letter of appeal should include, as applicable:

(i) A copy of the request, of any notification of denial or other action, and of any other related correspondence;

(ii) A statement of the action, or failure to act, from which the appeal is taken;

(iii) A statement of the reasons why the requester believes the action or failure to act is erroneous; and

(iv) A statement of the relief sought.

(f) *Action on appeals.* (1) The decision of the General Counsel or his designee constitutes the final decision of the Postal Service on the right of the requester to inspect or copy a record. The decision will normally be made within twenty working days from the time of the receipt by the General Counsel. The 20 day response period may be extended by the General Counsel or his designee for a period not to exceed an additional ten working days when reasonably necessary to permit the proper consideration of an appeal, under one or more of the unusual circumstances set forth in paragraph (b) (4) of § 265.7 above. The aggregate number of additional working days utilized pursuant to this paragraph (f) (1) and paragraph (b) of § 265.7, however, may not exceed ten.

(2) The decision on the appeal shall be in writing. If the decision sustains a denial of a record, in whole or in part, it shall state the justification therefor and shall specify any exemption or exemptions relied on and the manner in which they apply to the record withheld, and shall inform the requester of his right to judicial review. An indexed file of decisions on appeals shall be maintained by the General Counsel and be made available to the public.

(3) If not prohibited by or under law, the General Counsel or his designee may direct the disclosure of a record even though its disclosure is not required by law or regulation.

§ 265.8 Schedule of fees.

(a) *Policy.* The purpose of this section is to establish fair and equitable fees to permit the furnishing of records to members of the public while covering the direct costs incurred by the Postal Service.

(b) *Record retrieval.* (1) The fee for each quarter hour spent by clerical personnel in searching for records other than by computer is $2.00. If no more than one quarter hour of clerical search time is required in connection with a request or a series of related requests, no charge for search time shall be made.

(2) When a search cannot be performed by clerical personnel and must be performed by professional or managerial personnel, the fee for each quarter hour in searching for records other than by computer is $2.75 for each quarter hour.

(3) The fee for retrieving data by computer is the actual cost of the retrieval as calculated in accordance with the Information Services Price List in effect at the time that the retrieval services are performed. The list is subject to periodic revision. A copy of the list is included within the public index. (See Appendix A for the list in effect on February 19, 1975.)

(4) Paragraphs (b) (1), (b) (2), and (c) of this section also apply to information stored within micrographic systems.

(c) *Reproduction.* (1) The fee for reproducing any record or publication,

other than a change of address order, is $.10 per page. The reproduction fee is in addition to any fee authorized by paragraph (b) of this section for the retrieval of the same records.

(2) The Postal Service may at its discretion make coin-operated copy machines available at any location or otherwise give the requester the opportunity to make copies of Postal Service records at his own expense. Unless authorized by the Records Officer, however, no offsite copying shall be permitted of records which, if lost, could not be replaced without inconvenience to the Postal Service.

(3) The Postal Service will normally furnish only one copy of any record. If duplicate copies are furnished at the request of the requester, the per-page fee shall be charged for each copy of each page. At his discretion, when it is reasonably necessary because of a lack of adequate copying facilities or other circumstances, the custodian may make the requested record available to the requester for inspection under reasonable conditions and need not furnish a copy thereof.

(d) *Other costs.* (1) *Publications.* Publications and other printed materials may, to the extent that they are available in sufficient quantity, be made available at the established price, if any, or at cost to the Postal Service.

(2) *Other charges.* When a response to a request requires services or materials other than the common ones listed in paragraphs (b) and (c) of this section, the direct cost of such services or materials to the Postal Service may be charged, but only if the requester has been notified of the nature and estimated amount of such cost before it is incurred.

(3) *Change of address orders.* Although change of address information is not required by the Freedom of Information Act to be made available to the public, the fee for obtaining this information in accordance with § 265.641 is included in this section as a matter of convenience to the public. The fee for searching for and reproducing change of address orders is $1.00 per change of address. The fee is not refundable.

(e) *Payment and Waiver of Fees.* (1) *Liability and payment.* The requester is responsible, subject to limitations on liability provided by this section, for the payment of all fees for services resulting from his request, whether or not any of the requested records are made available to him. Payment shall be made before any record is made available or any copy is furnished unless payment is waived or deferred pursuant to paragraph (e)(4)–(5) of this section. Checks in payment of fees shall be made payable to "United States Postal Service."

(2) *Advance notice.* To protect members of the public from unwittingly incurring liability for unexpectedly large fees, a request that is expected to result in fees in excess of $10.00 will be deemed not to have been received until the requester is notified of the estimated cost and agrees to bear it. The notification shall be transmitted as soon as possible after physical receipt of the request, but in any event within five working days, giving the best estimate then available. It shall include a brief explanatory statement of the nature and extent of the services upon which the estimate is based and shall offer the requester an opportunity to confer with the custodian or his representative in an attempt to reformulate the request so as to meet his needs at lower cost. No notification is required if the request specifically states that whatever cost is involved is acceptable or is acceptable up to a specified amount that covers estimated costs or if payment of all fees in excess of $10.00 has been waived.

(3) *Advance deposits.* When it is estimated that the fees chargeable under this section will amount to more than $100.00, an advance deposit of not less than 50 percent of estimated fees shall be required, unless the payment of fees in excess of $100.00 has been waived. The deposit should be made within 5 working days of receipt by the requester of notice of the requirement. The determination of the availability of the records sought by the requester shall not be delayed to await this deposit, if such determination will involve search charges of less than $25.00. In other cases, however, the determination of the availability of the records shall be delayed to await the deposit and the request will not be deemed to have been received until the deposit is received.

(4) *Waiver of fees where records are not disclosed.* Ordinarily, fees shall not be charged if the requested records are not found, or if all of the records located are withheld as exempt. However, search fees may be charged if the time spent in searching for the requested record warrants charges in excess of $25.00 and the requester was notified of the estimated cost, either pursuant to paragraph (e)(2) of this section or in a separate notification, and of the fact that it could not be determined in advance whether any records would be made available and that he might be responsible for search fees even though no records are made available, unless the requester promptly withdraws or modifies his request upon receipt of such notification.

(5) *Fees not charged for certain services.* Fees shall not be charged where they would amount, in the aggregate, for a request or series of related requests, to less than $3.00. This general waiver shall not apply to the fee for providing change of address information.

(6) *Waiver of fees by custodian.* The custodian may waive, in whole or in part, a fee not in excess of $25.00 or the requirement for the advance payment of such a fee, when he determines, in accordance with guidelines established by the Records Officer, that the furnishing of the records is primarily for the benefit of the general public, or that charging the fee otherwise required would impose an undue hardship or inconvenience on the requester. If the custodian determines that waiver is appropriate, but the amount of the fee or the deposit is in excess of his authority to waive, he shall promptly submit a recommendation for such a waiver to the Officer exercising jurisdiction over his post office or facility or to the General Counsel. Until the Officer has acted on the recommendation, the custodian shall require any advance deposit or advance payment otherwise warranted by this section to be made but shall inform the requester that waiver is under consideration and may defer any action requiring deposit or payment, if desired by the requester, until waiver has been granted or denied.

(7) *Waiver by officer.* Any Officer of the Postal Service, as defined in § 221.7 or his designee, may waive in whole or in part any fee required by this part or the requirement for advance payment or advance deposit of any fee.

(8) *Waiver of fee for changes of address.* The fee prescribed by paragraph (d) of this section is waived in the following circumstances for providing change of address information for:

(i) Telegraph companies when the sender of the telegram is the U.S. Government.

(ii) Federal, state, and local public health officials when the persons being sought are infected with or exposed to contagious diseases.

(iii) Federal, state, and local government agencies, upon certification that the change of address is required for the performance of their duties, and all other known sources for obtaining the change of address have been exhausted. This waiver does not apply to fees for services performed in accordance with § 122.5 of the PSM.

(iv) Postage meter manufacturers when they are attempting to locate a missing meter.

(f) *Accounting for fees.* Custodians shall account for fees paid in accordance with this section as follows:

(1) *Deposit fees received as postal funds.* Record the amounts collected as write-in entries to A/C 49299, Miscellaneous, Other than U.S. Government Agencies, in the cashbook and statement of account. Record the manner paid, the amount received, and the number of hours used to compile lists or prepare copies of other records released on the request for this information. Attach written replies to the customer's request stating the number of hours required to prepare information and the amount to be charged in lieu of the above notation. File materials chronologically.

(2) Forward fees received for information furnished by postal data centers, automatic data processing centers (ADPC), and regional offices to the disbursing officer at the appropriate postal data center for deposit, specifying the proper account number to be used for recording the amounts collected. Postal data centers, ADPC's, and Headquarters offices providing record retrieval as described in paragraph (b)(3) of this section, plus the fees covered in paragraphs (b)(1) and (2), (c) and (d) of this section will enter the fees in A/C 40990, Miscellaneous; ADPC complexes will enter in A/C 49299, Miscellaneous, Other than U.S. Government Agencies. Other

installations will enter all fees deposited in A/C 40990.

§ 265.9 Annual reports.

A report concerning the administration of the Freedom of Information Act and this part for the preceding calendar year is to be submitted to the Congress by March 1 of each year. To permit the timely compilation and submission of this annual report, each custodian shall submit to the Records Officer a report of each request received pursuant to § 265.7 (a) (1) immediately following the custodian's action on it. The Records Officer shall prescribe the form and content of the report and may vary the time for the submission of reports by individual custodians to avoid undue duplication or frequency of submissions.

§ 265.10 Compliance with subpoena duces tecum court orders and summonses.

(a) *Compliance with subpoena duces tecum.* (1) Except as required by Part 262, produce other records of the Postal Service only in compliance with a subpoena duces tecum or appropriate court order.

(2) Time, leave, and payroll records of postal employees are subject to production when a subpoena duces tecum or appropriate court order has been properly served. The custodian of the records may designate a postal employee to present the records. The presentation by a designee rather than the employee named in the subpoena or court order must meet with the approval of the attorneys for each side. In addition, such records may be released if authorized in writing by the employee.

(3) If the subpoena involves a job-connected injury, the records are under the exclusive jurisdiction of the Bureau of Employees' Compensation, Department of Labor. Requests for authorization to produce these records shall be addressed to: Bureau of Employees' Compensation, U.S. Department of Labor, Washington, DC 20210. Also notify the attorney responsible for the issuance of the subpoena or court order.

(4) Employee medical records are primarily under the exclusive jurisdiction of the U.S. Civil Service Commission. The Commission has delegated authority to the Postal Service and to the Commission's Regional Directors to release medical information, in response to proper requests and upon competent medical advice, in accordance with the following criteria:

(i) Except in response to a subpoena or court order, do not release any medical information about an employee to any non-Federal entity or individual without authorization from the employee.

(ii) With authorization from the employee, the Regional Postmasters General, Postal Data Center Directors, or regional counsels will respond as follows to a request from a non-Federal source for medical information:

(*a*) If, in the opinion of a Federal medical officer, the medical information indicates the existence of a malignancy, a mental condition, or other condition about which a prudent physician would hesitate to inform a person suffering from such a condition as to its exact nature and probable outcome, do not release the medical information to the employee or to any individual designated by him, except to a physician, designated by the employee in writing. If a subpoena or court order was issued, the responding official shall caution the moving party as to the possible dangers involved if the medical information is divulged.

(*b*) If, in the opinion of a Federal medical officer, the medical information does not indicate the presence of any condition which would cause a prudent physician to hesitate to inform a person of the exact nature and probable outcome of his condition, release it in response to a subpoena or court order, or to the employee or to any person, firm, or organization he authorizes in writing.

(*c*) If a Federal medical officer is not available, refer the request to the Civil Service Commission regional office with the medical certificates or other medical reports concerned.

(5) Do not release any records containing information as to the employee's security or loyalty.

(6) Honor subpoenas or court orders only when disclosure is authorized.

(7) When authorized to comply with a subpoena duces tecum, do not leave the original records with the court.

(b) *Compliance with summons.* (1) Comply with a summons requiring an appearance in court. Do not testify as to any matters for which an exemption under § 261.2(c) may be claimed. Call the Regional Counsel for instructions relating to exemptions.

(2) Do not present inspectors' reports or inspection Service records in either State or Federal courts in which the United States is not a party in interest, unless authorized by the Regional Chief Inspector, who will make a decision after consulting with Regional Counsel. If an attempt is made to compel the production of matters, decline to produce the information or matter, and state it may be exempted and cannot be disclosed or produced without specific approval of the Regional Chief Inspector, who will make a decision after consulting with Regional Counsel. The Postal Service will offer every possible assistance to the courts, but the questions of disclosing information for which an exemption may be claimed is a matter of discretion.

APPENDIX A

INFORMATION SERVICES PRICE LIST IN EFFECT FEBRUARY 19, 1975

System utilization charges:	
Processor utilization S/360 Model 65	$150.00/process hour.
Selector channel utilization	52.40/channel hour.
Multiplexor channel utilization	18.52/channel hour.
System occupancy charges:	
Processor storage	.53/K/occupancy hour.
Extended core storage	.24/K/occupancy hour.
2314 Disk	23.38/occupancy hour.
2400 Tape drive	14.50/occupancy hour.
1288 Scanner	48.44/occupancy hour.
3330 Disk	9.12/occupancy hour.
System spooling charges:	
Local card reading	.17/1,000 cards.
Remote card reading	.17/1,000 cards.
Local printing	.20/1,000 lines.
Remote printing	.20/1,000 lines.
Local punching	.51/1,000 cards.
Remote punching	.51/1,000 cards.
Peripheral charges:	
H-1200 Processing	67.25 hours.
Keypunch	3.80 100 cards.
Programming support	19.60 hours.
Programming support O/T	29.40 hours.
Systems analysis support	22.50 hours.
Systems analysis support O/T	33.75 hours.
Data transmission	46.00 hours.
Special forms, 1 part	0.015 per page.
Special forms, 2 part	0.025 per page.
Special forms, 3 part	0.0300 per page.
Special forms, 4 part	0.0400 per page.
Special forms, 6 part	0.0500 per page.
Special forms, multilith	0.0600 per page.
Statistical services and support:	
Statistical system design and development	$31.00 hour.
System maintenance and operation	31.00 hour.
Special statistical projects	31.00 hour.
Model development and analysis	31.00 hour.
Management science or services	31.00 hour.
System implementation	31.00 hour.

[FR Doc.75-4631 Filed 2-18-75;8:45 am]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 4—DESCRIPTION OF OFFICE, PROCEDURES, PUBLIC INFORMATION

Freedom of Information Act Regulations

On November 21, 1974, Pub. L. 93-502 was enacted. This law, referred to as the 1974 Amendments to the Freedom of Information Act, amended 5 U.S.C. 552. It is necessary for the Comptroller of the Currency to amend §§ 4.16 and 4.17 of Part 4 of 12 CFR and add a new § 4.17a to Part 4 of 12 CFR to bring the regulation into conformity with 5 U.S.C. 552 as amended by Pub. L. 93-502.

These amendments are issued under authority of the national banking law (12 U.S.C. 1 et seq.) and 5 U.S.C. 552. Since the amendments add information to and clarify the regulation setting out the availability of public information, and the procedures to acquire access to records, notice and public procedure are found to be unnecessary and not in the public interest. Accordingly, the amendments will become effective upon publication.

In 12 CFR Part 4, § 4.16 is revised to read as follows:

§ 4.16 Other records available to public; exceptions.

(a) In addition to the records referred to in § 4.15 of this part, all other records of the Comptroller of the Currency are available to any person for inspection and copying in accordance with §§ 4.17 and 4.17a, except as provided in paragraph (b) of this section.

(b) Except as specifically authorized by the Comptroller of the Currency, the following records, or portions thereof, are not available to the public:

(1) A record, or portion thereof, which is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and which is, in fact, properly classified pursuant to such Executive order.

(2) A record, or portion thereof, relating solely to the internal personnel rules and practices of an agency.

(3) A record, or portion thereof, specifically exempted from disclosure by statute.

(4) A record, or portion thereof, which is privileged or contains trade secrets and commercial or financial information which relates to the business, personal, or financial affairs of any person and is furnished in confidence.

(5) An intra-agency or interagency memorandum or letter that would not be routinely available by law to a private party in litigation, including, but not limited to, memoranda, reports, and other documents prepared by the personnel of the Comptroller of the Currency and records of deliberations and discussions at meetings of the personnel of the Comptroller of the Currency.

(6) A personnel, medical, or similar record, including a financial record, or any portion thereof, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) Investigatory records compiled for law enforcement purposes, including investigatory records relating to a proceeding for the issuance of a cease and desist order or order of suspension or removal under the Financial Institutions Supervisory Act of 1966, and the granting, withholding, or revocation of any approval, permission, or authority, but only to the extent that the production of such records would (i) interfere with enforcement proceedings; (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel.

(8) A record, or portion thereof, containing or relating to an examination, operating, or condition report prepared by, or on behalf of, or for the use of, the Comptroller of the Currency or any other agency responsible for the regulation or supervision of financial institutions, relating to the affairs of any bank or affiliate thereof, bank holding company or subsidiary, broker, finance company, or any other person engaged, or proposing to engage, in the business of banking, extending credit, or managing or controlling banks.

(9) A record, or portion thereof, which contains or is related to geological and geophysical information and data, including maps, concerning wells.

(c) Even if an exemption described in paragraph (b) of this section may be reasonably applicable to a requested record, or portion thereof, the Comptroller of the Currency may elect under the circumstances of any particular request not to apply the exemption to such requested record, or portion thereof. The fact that the exemption is not applied by the Comptroller of the Currency to any requested record, or portion thereof, has no precedential significance as to the application or nonapplication of the exemption to any other requested record, or portion thereof, no matter when the request is received.

(d) Reasonably segregable portions of a record shall be provided to any person properly requesting such record in accordance with §§ 4.17 and 4.17a of this Part after deletion of the portions which are exempt under paragraph (b) of this section.

In 12 CFR Part 4, § 4.17 is revised to read as follows:

§ 4.17 Location of public reading rooms, requests for identifiable records; and service of process.

(a) *General.* This section identifies the locations of the public reading rooms at which records of the Comptroller of the Currency are available for public inspection and copying, the titles of officers designated to make the initial and appellate determinations with respect to requests, the officer designated to receive service of process, the addresses for delivery of requests, appeals and service of process, and the required content of requests.

(b) *Public reading rooms.* Public reading rooms or public reading areas for the Comptroller of the Currency are maintained at the following locations for the records as stated in paragraph (c) of this section:

(1) *Central office.* (i) *Mailing address.*

Special Assistant for Public Affairs
Comptroller of the Currency
Washington, D.C. 20219

(ii) *Location.*

Sixth Floor
490 L'Enfant Plaza East, SW
Washington, D.C.

(2) *Regional offices.* (i) The mailing address and location for each respective region is the same and is set forth in § 4.1a(b) of this Part.

(c) *Locations of certain records.* All public records of the Comptroller of the Currency, except the public portions of applications by national banking associations to establish a branch or seasonal agency and the public portion of applications to organize a national banking association during the period such applications are in the investigatory process in the respective regions, are available in the central office listed in paragraph (b) (1) of this section. During this investigatory period, the public portions of these applications will be available in the respective regions as listed in § 4.1a(b) of this Part.

(d) *Where to send requests for records.* (1) Initial determinations as to whether to grant requests for (i) Consolidated Reports of Condition (Domestic), (ii) Consolidated Reports of Condition (Foreign and Domestic), (iii) Consolidated Reports of Income, (iv) Annual Reports of Equity Security Holdings for Banks having Trust Powers and Equity Security Holdings of $75 Million or More, or (v) Quarterly Reports of Stock Transactions of Banks Submitting the Report of Equity Security Holdings listed in part (vi) of this subparagraph (1), will be made by the Director of Statistical Division or his delegate. Requests for records listed in this paragraph (d) (1) shall be submitted to:

(i) *Mailing address.*

Director of Statistical Division
Comptroller of the Currency
Washington, D.C. 20219

(ii) *Location.*

Sixth Floor
490 L'Enfant Plaza East, SW
Washington, D.C.

(2) Initial determinations as to whether to grant requests for all records of the Comptroller of the Currency available under §§ 4.15 and 4.16 of this Part, other than those described in paragraph (d)(1) of this section and other than those described in paragraph (c) of this section as being located in the Regional Offices, will be made by the Special Assistant for Public Affairs or his delegate. Requests for all records, other than those listed in paragraph (d)(1) of this section and other than those described in paragraph (c) of this section as being located in the Regional Offices, shall be submitted to:

(i) *Mailing address.*

Special Assistant for Public Affairs
Comptroller of the Currency
Washington, D.C. 20219

(ii) *Location.*

Sixth Floor
490 L'Enfant Plaza East, SW
Washington, D.C.

(3) Initial determination as to whether to grant requests for records described in paragraph (c) of this section as being located in the Regional Offices shall be made by the Regional Administrator of National Banks for each respective region. All requests for such records shall be submitted to the respective Regional Administrator at the location set forth in § 4.1a(b) of this part.

(e) *Administrative appeal of initial determination to deny records.* Appellate determinations with respect to records of the Comptroller of the Currency will be made by the Comptroller or his delegate. All appeals shall be submitted in writing within 30 days of the initial denial and shall state the circumstances, reasons or arguments advanced for insistence upon disclosure of the requested records, and be submitted to:

(1) *Mailing address.*

Special Assistant for Public Affairs
Comptroller of the Currency
Washington, D.C. 20219

(2) *Location.*

Sixth Floor
490 L'Enfant Plaza East, SW
Washington, D.C.

(f) *Delivery of process.* Service of process will be received by the Chief Counsel, Comptroller of the Currency and shall be delivered to the following location:

(1) *Mailing address.*

Chief Counsel
Comptroller of the Currency
Washington, D.C. 20219

(2) *Location.*

Office of the Chief Counsel
Comptroller of the Currency
Sixth Floor, 490 L'Enfant Plaza, East, SW
Washington, D.C. 20219

(g) *Content of request.* A request for records of the Comptroller of the Currency available under §§ 4.15 and 4.16 of this Part must be in writing and state the full name, address and telephone number of the person requesting access to such records and a reasonable description of the records sought. A reasonable description shall include sufficient detail to enable the personnel of the Comptroller of the Currency who are familiar with the subject area of the request to locate the records with a reasonable amount of effort.

(h) *Fees.* A person requesting access to a record of the Comptroller of the Currency shall pay a fee of $5 for the cost of locating and preparing the record for inspection and copying. Additional fees of ten cents per page will be charged for providing a copy of the record and of $1.25 for each quarter hour spent beyond the first hour in locating, preparing, or copying the record.

In 12 CFR, Part 4 is amended by adding a new § 4.17a reading as follows:

§ 4.17a Request procedures.

(a) *Date of receipt of request or appeal.* (1) A request for records shall be deemed to have been received on the date which;

(i) the requirements of paragraph (g) of § 4.17 of this Part have been satisfied, and

(ii) it is received in the office of the initial determining officer for the request as set out in § 4.17 of this Part; except

(iii) where the provisions of paragraphs (a)(1) (i) and (ii) of this section are satisfied, but the requester has asked the Comptroller of the Currency to submit a notice of anticipated fees, in which case the date of receipt of the request shall be deemed to be the date a response in writing stating that the anticipated fees are acceptable to the requester is received in the office of the initial determining officer for the request as set out in § 4.17 of this part, or

(iv) where the provisions of subparagraph (1)(i) and (ii) of this paragraph (a) are satisfied and a request for an agreement to pay the anticipated fees or deposit is required by the Comptroller of the Currency, and the requester is notified of such requirement, the date of receipt of the request shall be deemed to be the date the affirmative response agreeing to pay the anticipated fees or the amount of the requested deposit is received in the office of the initial determining officer for the request.

(2) An appeal of a denial of a request for records, or a portion thereof, which request was deemed received by reason of satisfying the requirements of subparagraph (1) of this paragraph (a) shall be deemed received when the requirements of paragraph (e) of § 4.17 of this part have been satisfied and the appeal is received in the office designated in paragraph (e) of § 4.17 of this part.

(b) *Initial determination.* Initial determinations as to whether to grant a request for records will be made by the initial determining officer for the request as set out in § 4.17 of this part.

(1) *If request is granted.* When a request for access to records is granted, in whole or in part, a copy of the records made available pursuant to the request shall promptly be delivered to the requester or made available for his inspection, whichever was requested. Records will be made available for inspection, or for duplication when copies of records are requested to be delivered, at such reasonable and proper times as not to interfere with their use by the Comptroller of the Currency or to exclude other persons from making inspections. Reasonable limits may be placed on the number of records which may be inspected by a person on any given date.

(2) *If request is denied.* When a request for access to records is denied, in whole or in part, the requester shall be notified by mail. The notification shall contain a brief statement of the reasons for the denial, set forth the name and title or position of the official making the decision, and advise the requester of his right to an administrative appeal in accordance with § 4.17 of this part.

(c) *Determination of appeals.* (1) *If an appeal is granted.* When an administrative appeal is granted, in whole or in part, the request shall be treated as if it were originally granted, in whole or in part, by the initial determining officer and the provisions of paragraph (b)(1) of this section shall apply.

(2) *If appeal is denied.* If an administrative appeal is denied, in whole or in part, the requester shall be notified by mail. Such notification shall contain a brief statement of the reasons for the denial, set forth the name and title or position of the official making the decision and advise the requester-appellant of his right to judicial review of the denial under 5 U.S.C. 552(a)(4).

(d) *Time limits.* (1) The initial determination to grant or deny a request for records shall be made and notification shall be mailed within ten (10) days (excepting Saturdays, Sundays and legal holidays) after the date the request is deemed received pursuant to paragraph (a) of this section, except as stated in paragraph (d)(3) of this section.

(2) The determination to grant or deny an administrative appeal shall be made and notification shall be mailed within twenty (20) days (excepting Saturdays, Sundays and legal holidays) after the date the appeal is deemed received pursuant to paragraph (a) of this section, except as stated in subparagraph (3) of this paragraph (d).

(3) *Time extensions by administrative action.* The time limitations set forth in paragraphs (d)(1) and (2) of this section may be extended in unusual circumstances for a maximum of ten (10) days by written notice to the person making the request or appeal. Such notification shall contain the reasons for such extension and the date on which the determination is expected to be dispatched. As used in this subparagraph (3), "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request or appeal,

(i) The need to search for and collect the requested records from field facilities or other buildings that are separate from the building in which the office

of the official to whom the request or appeal is made is located,

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request or appeal, or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the Comptroller of the Currency having substantial subject matter interest therein, other than consultation with the legal staff, the public affairs staff or with the Department of Justice.

(4) *Time extension by agreement.* A requester may agree to an extension of the time limits specified in paragraphs (d)(i) and (ii) of this section. In event of such an agreement, the respective specified time limit shall not be considered as having expired until the period of the extension of time agreed to by the requester has expired.

(5) *Time extension by judicial action.* If a suit is properly instituted against the Comptroller of the Currency by a requester, the court may, pursuant to 5 U.S.C. 552(a)(6)(c), allow the Comptroller of the Currency additional time to complete the review of the records requested.

Effective date. These amendments are effective February 19, 1975.

Dated: February 14, 1975.

THOMAS G. DESHAZO,
Acting Comptroller of the Currency.

[FR Doc.75-4673 Filed 2-18-75;8:45 am]

CHAPTER VI—FARM CREDIT ADMINISTRATION

PART 602—RELEASING INFORMATION

Freedom of Information Act Regulations

The Farm Credit Administration publishes herewith amendments to its regulations in order to conform them to the requirements of the Freedom of Information Act as amended by Pub. L. 93-502, 88 Stat. 561. These amendments (1) clarify which records are exempted from disclosure, (2) determine that the publication of an index of records available for public inspection and copying is unnecessary and impracticable, (3) prescribe time limits for responses to requests, (4) prescribe a time limit within which an appeal must be taken, and (5) revise the uniform schedule of fees which may be charged for requested records. These amendments make extensive revisions in regulations pertaining to the Freedom of Information Act. Therefore, for convenience of the public, all of such regulations of the Farm Credit Administration are included in this publication.

On January 14, 1975, the Farm Credit Administration published in the FEDERAL REGISTER (40 FR 2590) a proposed revision of the uniform schedule of fees, and stated that prior to final adoption consideration would be given to any written comments received no later than February 14, 1975. No comments have been received.

As to the amendment pertaining to the uniform fee schedule, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) and the Freedom of Information Act (5 U.S.C. 552(a)(4)(A)) for public participation, and delay in effective date have been followed. Because the remaining regulation amendments pertain to matters of procedure and policy and are necessary to achieve compliance with the amendments to the Freedom of Information Act which become effective on February 19, 1975, such relevant provisions of the Administrative Procedure Act are inapplicable. Accordingly, the amendments published herewith become effective on February 19, 1975.

Chapter VI of Title 12 of the Code of Federal Regulations is amended by revising Subpart B of Part 602 to read as follows:

PART 602—RELEASING INFORMATION

* * * * *

Subpart B—Availability of Records of the Farm Credit Administration

Sec.

602.250 Official records of the Farm Credit Administration.
602.251 Current index.
602.255 Identification of records requested.
602.260 Request for records.
602.261 Response to requests for records.
602.265 Fees for provision of records.

* * * * *

Subpart B—Availability of Records of the Farm Credit Administration

§ 602.250 Official records of the Farm Credit Administration.

(a) The Farm Credit Administration shall, upon any request for records which reasonably describes them and is made in accordance with the provisions of this Subpart B, make the records available as promptly as is practicable to any person, except exempt records which include the following:

(1) Records specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order;

(2) Records related solely to the internal personnel rules and practices of the Farm Credit Administration, including matters which are for the guidance of agency personnel;

(3) Records which are specifically exempted from disclosure by statute;

(4) Commercial or financial information obtained from any person or organization and privileged or confidential;

(5) Interagency or intra-agency memorandums or letters which would not be available by law to a private party in litigation in which the United States, as real party in interest on behalf of the Farm Credit Administration, is a party, or from a bank or association supervised by the Farm Credit Administration to a private party in litigation with such bank or association if such memorandums or letters are records of such bank or association;

(6) Personnel and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(b) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

§ 602.251 Current index.

The Farm Credit Administration will make available for public inspection and copying a current index to provide identifying information as to any matter required by 5 U.S.C. 552(a)(2)(C) to be made available or published in the FEDERAL REGISTER. Because of the infrequent requests in the past for material required to be indexed, it is determined that the publication of the index in the FEDERAL REGISTER is unnecessary and impractical. However, the Farm Credit Administration will provide a copy of such index to a member of the public upon request therefor at a cost not in excess of the direct cost of duplication.

§ 602.255 Identification of records requested.

A member of the public who requests records from the Farm Credit Administration shall provide a reasonable description of the records sought including, where possible, specific information as to dates, titles, and subject matter, so that such records may be located without undue search or inquiry. If a record is not identified by a reasonable description, the request therefor may be denied.

§ 602.260 Request for records.

Requests for records, other than records identified in § 602.265(a) which are available in a public reference facility in the offices of the Farm Credit Administration, shall be in writing, in an envelope clearly marked "FOIA Request," and addressed to the Director of Information, Office of Administration, Farm Credit

Administration, Washington, D.C. 20578. A request improperly addressed will be deemed not to have been received for purposes of the ten-day time period set forth in § 602.261(a) until it is received, or would have been received with the exercise of due diligence by Agency personnel, in the Office of the Director of Information. Records requested in conformance with this Subpart B and which are not exempt records may be received in person or by mail as specified in the request. Records to be received in person will be available for inspection or copying during business hours on a regular business day in the public reference facility in the offices of the Farm Credit Administration which are located in Suite 4000, 490 L'Enfant Plaza East SW, Washington, D.C. 20578.

§ 602.261 Response to requests for records.

(a) Within ten days (excluding Saturdays, Sundays, and legal public holidays), or any extension thereof as provided in paragraph (d) of this section, of the receipt of a request in the office of the Director of Information, the Director shall determine whether to comply with or to deny such request and place a notice thereof in writing in the mails addressed to the requester.

(b) Within thirty days of the receipt of a notice denying, in whole or in part, a request for records, the requester may appeal the denial. The appeal shall be in writing addressed to the Deputy Governor, Office of Administration, Farm Credit Administration, and both the letter and envelope shall be clearly marked "FOIA Appeal." An appeal improperly addressed shall be deemed not to have been received for purposes of the twenty-day time period set forth in paragraph (c) of this section until it is received, or would have been received with the exercise of due diligence by Agency personnel, in the office of the Deputy Governor, Office of Administration.

(c) Within twenty days (excluding Saturdays, Sundays, and legal public holidays), or any extension thereof as provided in paragraph (d) of this section, of the receipt of an appeal in the office of the Deputy Governor, Office of Administration, the Deputy Governor shall act upon the appeal and place a notice of the determination thereof in writing in the mails addressed to the requester. If the determination on the appeal upholds in whole or in part the denial of the request for records, or, if a determination on the appeal has not been mailed at the end of the twenty-day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When a determination cannot be mailed within the applicable time limit, the appeal will nevertheless be processed. In such case, upon the expiration of the time limit the requester will be informed of the reason for the delay, of the date on which a determination may be expected to be mailed, and of his right to seek judicial review. The requester may be asked to forego judicial review until determination of the appeal.

(d) In unusual circumstances as specified in this paragraph the ten-day time limit prescribed in paragraph (a) of this section or the twenty-day time limit prescribed in paragraph (c), or both, may be extended by the Director of Information or the Deputy Governor, Office of Administration, as the case may be, provided that the total of all extensions shall not exceed ten days (excluding Saturdays, Sundays, and legal public holidays). Extensions shall be made by written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be mailed. As used in this paragraph, "unusual circumstances" means, but only to the extent necessary to the proper processing of the request:

(1) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

§ 602.265 Fees for provision of records.

(a) The Farm Credit Administration furnishes a member of the public free of charge a reasonable quantity of information that has been printed or otherwise reproduced for the purpose of making it available to the public without charge.

(b) The Farm Credit Administration furnishes a member of the public free of charge information that is requested and is not exempt from disclosure when the information is readily available and can be furnished by the Farm Credit Administration without charge.

(c) When a request for information which cannot be furnished under paragraphs (a) and (b) of this section is received, fees shall be charged in accordance with the schedule contained in paragraph (d) of this section for services rendered in response to requests for Farm Credit Administration records under this Subpart B unless the Deputy Governor, Office of Administration, determines that such charges or a portion thereof are not in the public interest because furnishing the information can be considered as primarily benefiting the general public. Fees shall not be charged where they would amount, in the aggregate, for a request or series of related requests, to less than $5. Fees shall not be charged if the records requested are not found, or if all of the records located are withheld as exempt. However, if the time expended in processing the request is substantial, and if the requester has been notified of the estimated cost pursuant to paragraph (d) of this section and has been specifically advised that it cannot be determined in advance whether any records will be made available, fees may be charged.

(d) For the services listed below expended in locating or making available records or copies thereof, the following fees shall be charged:

(1) For copies of documents (maximum of 10 copies will be supplied), $1.10 per copy of each page.

(a) For each one quarter hour spent by clerical personnel in excess of the first quarter hour in searching for and producing a requested record, including services to transport personnel to places of record storage, or records to the location of personnel for the purpose of search, $1.50.

(3) For certification of true copies, each, $1.

(4) For attestation under the seal of the Administration, $3.

(5) Where a search cannot be performed by clerical personnel, for example, where the task of determining which records fall within a request and collecting them requires the time of professional or managerial personnel, and where the amount of time that must be expended in the search and collection of the requested records by such higher level personnel is substantial, charges for the search may be made at a rate in excess of the clerical rate, namely for each one quarter hour spent in excess of the first quarter hour by such higher level personnel in searching for a requested record, $3.15.

(6) No charge shall be made for time spent in resolving legal or policy issues affecting access to records of known contents. In addition, no charge shall be made for the time involved in examining records in connection with determining whether they are exempt from mandatory disclosure and should be withheld as a matter of sound policy.

(7) Fees for services in processing requests maintained in whole or part in computerized form shall be in accordance with this section so far as practicable. Services of personnel in the nature of a search shall be charged for at rates prescribed in paragraph (b)(5) of this section unless the level of personnel involved permits rates in accordance with paragraph (b)(2) of this section. A charge shall be made for the computer time involved, based upon the prevailing level of costs to the Farm Credit Administration and upon the particular types of computer and associated equipment and the amounts of time on such equipment that are utilized. A charge shall also be made for any substantial amounts of special supplies or materials used to contain, present, or make available the output of computers, based upon prevailing levels of costs to the Farm Credit Administration and upon the type and amount of such supplies or materials that is used. Nothing in this paragraph shall be construed to entitle any person, as of right, to any

services in connection with computerized records, other than services to which such person may be entitled under the provisions, not including this paragraph (b), of this Subpart B.

(e) Where it is anticipated that the fees chargeable under this section will amount to more than $25, and the requester has not indicated in advance his willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. When the anticipated fees exceed $50 a deposit of 50 percent of the anticipated fees must be made within 5 business days of the Farm Credit Administration's notice to the requester. Unless the request specifically states that whatever cost is involved will be acceptable, or acceptable up to a specified limit, a request that is expected to involve fees in excess of $25 will not be deemed to have been received for purposes of this Subpart B until the requester is notified of the anticipated cost and his agreement to bear it is received. The notice or request for an advance deposit shall extend an offer to the requester to confer with identified Farm Credit Administration personnel in an attempt to reformulate the request in a manner which will reduce the fees and meet the needs of the requester.

(f) Payment shall be made by check or money order payable to the Farm Credit Administration.

(Secs. 5.9, 5.10, 5.12, 5.18, 85 Stat. 619, 620, 621; Pub. L. 93-502 amending 5 U.S.C. 552, 88 Stat. 1561)

W. M. HARDING,
Governor,
Farm Credit Administration.

[FR Doc.75-4726 Filed 2-18-75;11:00 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 1—ADMINISTRATIVE REGULATIONS

Subpart A—Official Records

FREEDOM OF INFORMATION

Subpart A, Part 1, Subtitle A of 7 CFR is revised to amend the procedures for making and acting upon requests for information under the Freedom of Information Act, and for the disclosure of records pursuant to compulsory process as follows:

Sec.
1.1 Purpose and scope.
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AUTHORITY: (5 U.S.C. 301, 552).

§ 1.1 Purpose and scope.

This subpart provides regulations of the Department of Agriculture implementing the Freedom of Information Act, 5 U.S.C. 552, pursuant to which official records may be obtained by any person. It also provides regulations pertaining to the disclosure of records pursuant to compulsory process. Unless prohibited by other laws, Executive Orders, or regulations, agencies of the Department may make available records which they are authorized to withhold under 5 U.S.C. 552 whenever they determine that such disclosure is in the public interest.

§ 1.2 Public access to certain materials.

(a) In accordance with 5 U.S.C. 552 (a)(2) each agency within the Department shall make the following materials available for public inspection and copying (unless they are promptly published and copies offered for sale):

(1) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(2) Those statements of policy and interpretation which have been adopted by the agency and are not published in the FEDERAL REGISTER; and

(3) Administrative staff manuals and instructions to staff that affect a member of the public.

(b) Each agency of the Department shall also maintain and make available current indexes providing identifying information regarding any matter issued, adopted or promulgated after July 4, 1967, and required by paragraph (a) of this section to be made available or published. Each agency shall publish and make available for distribution, copies of such indexes and supplements thereto at least quarterly, unless it determines by Notice published in the FEDERAL REGISTER that publication would be unnecessary and impracticable. After issuance of such Notice, the agency shall provide copies of any index upon request at a cost not to exceed the direct cost of duplication.

§ 1.3 Requests for records.

(a) Any person who wishes to inspect, or obtain copies of any record of an agency of the Department shall submit a request in writing and addressed to the official designated in regulations promulgated by the agency. All such requests for records shall be deemed to have been made pursuant to the freedom of Information Act, regardless of whether that Act is specifically mentioned. To facilitate processing of a request, the phrase "FOIA REQUEST" should be placed in capital letters on the front of the envelope.

(b) A request must reasonably describe the records to enable agency personnel to locate them with reasonable effort. Where possible, specific information regarding dates, titles, etc. which may help identify the records should be supplied by the requester. If the request relates to a matter in pending litigation, the court and its location should be identified.

(c) If an agency determines that a request does not reasonably describe the records, it shall inform the requester of this fact and extend an opportunity to confer promptly with knowledgeable agency personnel to attempt to identify the records he is seeking.

(d) Nothing in this subpart shall be interpreted to preclude an agency from honoring an oral request for information, but, if the requester is dissatisfied with the response, the agency official involved shall advise him to submit a written request in accordance with paragraph (a) of this section. The "date of receipt" of such a request for purposes of § 1.5(a) of this subpart shall be the date of receipt of the written request.

(e) If a request for records made under this subpart is denied, the person making the request shall have the right to appeal the denial. This appeal must be in writing and addressed to the official designated in regulations promulgated by the agency which denied the request. To facilitate processing of an appeal, the phrase "FOIA APPEAL" should be placed in capital letters on the front of the envelope.

§ 1.4 Agency implementing regulations.

Each agency of the Department shall promulgate regulations setting forth the following:

(a) The location and hours of operation of the agency office or offices where members of the public may gain access to those materials required by § 1.2 of this subpart to be made available for public inspection and copying.

(b) Information regarding the publication and distribution (by sale or otherwise) of indexes and supplements thereto which are maintained in accordance with the requirements of 5 U.S.C. 552(a)(2) and § 1.2(b) of this subpart.

(c) The title(s) and mailing address(es) of the official(s) of the agency who are authorized to receive requests for records submitted in accordance with § 1.3(a) of this subpart, and to make determinations regarding whether to grant or deny such requests. Authority to make such determinations includes authority to (1) extend the ten-day administrative deadline for reply pursuant to § 1.8 of this subpart, (2) make discretionary releases of records exempt from mandatory disclosure pursuant to § 1.11 (b) of this subpart, and (3) make determinations regarding the charging of fees pursuant to Appendix A of this subpart.

(d) The title and mailing address of the official of the agency who is authorized to receive appeals from denials of requests for records submitted in accordance with § 1.3(e) of this subpart and to make determinations regarding whether to grant or deny such appeals.

Authority to determine appeals includes authority to (1) extend the twenty-day administrative deadline for reply pursuant to § 1.8 of this subpart (to the extent the maximum extension authorized by § 1.8(c) was not used with regard to the initial request), (2) make discretionary releases pursuant to § 1.11(b) of this subpart, and (3) make determinations regarding the charging of fees pursuant to Appendix A of this subpart.

(e) Other information which would be of concern to a person wishing to request records from that agency in accordance with this subpart.

§ 1.5 Agency response to requests for records.

(a) 5 U.S.C. 552(a)(6) provides that each agency of the Department to which a request for records is submitted in accordance with § 1.3(a) of this subpart shall inform the requester of its determination concerning that request within ten days (excepting Saturdays, Sundays, and legal public holidays), plus any extension authorized under § 1.8 of this subpart, of its date of receipt. If the agency determines to grant the request, it shall inform the requester of any conditions (e.g., payment of fees) and the approximate date upon which compliance will be effected. If it grants only a portion of the request, it shall treat the portion not granted as a denial. If it determines to deny the request, it shall immediately inform the requester of that decision and of the following:

(1) The reasons for the denial;

(2) The requester's right to appeal such denial and the title and address of the official to whom such appeal is to be addressed;

(3) The requirement that such appeal be made within forty-five days of the date of the denial; and

(4) The name and title or position of each person responsible for denial of the request.

(b) If the agency official designated to receive and make determinations on appeals submitted in accordance with § 1.3(e) of this subpart is a person responsible for denying an initial request, the denial shall be deemed a final agency denial, and the requester shall be so notified and furnished the information required by paragraph (e) of this section. In these circumstances a denial shall be made in accordance with § 1.7(b) of this subpart.

(c) If the reason for not fulfilling the request is that the records requested are the records of another agency or Department, the agency shall inform the requester of this fact and shall forward the request to that agency or Department for processing in accordance with the latter's regulations. If the agency has no knowledge concerning the requested records it shall notify the requester of that fact.

(d) 5 U.S.C. 552(a)(6) provides that each agency in the Department to which an appeal from a denial of an initial request for records is submitted in accordance with § 1.3(e) of this subpart shall inform the requester of its determination concerning that appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays), plus any extension authorized by § 1.8 of this subpart, of its date of receipt. If the agency determines to grant the appeal it shall inform the requester of any conditions (e.g., payment of fees) and the approximate date upon which compliance will be effected. If it grants only a portion of the appeal, it shall treat the portion not granted as a denial. If it determines to deny the appeal, it shall inform the requester of that decision and of the following:

(1) the reasons for the denial;

(2) the right to judicial review of the denial in accordance with 5 U.S.C. 552(a)(4); and

(3) the name and title or position of each person responsible for denial of the appeal.

(e) If a charge is to be made for compliance with the request in accordance with Appendix A of this subpart, the agency's response shall inform the requester of the amount and basis for the charge. It may, in accordance with Appendix A of this subpart, require payment of the entire fee, or a portion thereof, before it provides the requested records.

(f) In the event compliance with the request involves inspection of records by the requester rather than the forwarding of copies, the agency response shall include the name, mailing address and telephone number of the person to be contacted to arrange a mutually convenient time for such inspection.

(g) In the event the records requested contain some portions which are exempt from mandatory disclosure and others which are not, the official responding to the request shall insure that all nonexempt portions are disclosed, and that all exempt portions are identified according to the nature of information contained and the specific exemption or exemptions which are applicable.

§ 1.6 Date of receipt of requests or appeals.

(a) The date of receipt of a request or appeal which contains the phrase FOIA REQUEST or FOIA APPEAL and is addressed in accordance with applicable agency regulations, shall be the date it is received in the mailroom serving the addressee.

(b) The date of receipt of a request or appeal which is hand-delivered to the address specified in agency regulations shall be the date of such hand delivery.

(c) The date of receipt of a request or appeal which does not comply with paragraphs (a) or (b) of this section shall be the date it is received by the official designated in agency regulations to make the applicable determination.

§ 1.7 Appeals.

(a) Each agency shall provide for review of appeals by an official different than the official or officials designated to make initial denials.

(b) Each agency, upon a determination that it wishes to deny an appeal, shall send a copy of the records requested (when practicable) and of all correspondence relating to the request to the General Counsel: Attention, Research and Operations Division. When the volume of records is so large as to make sending a copy impracticable, the agency shall enclose an informative summary of those records. The agency shall not deny an appeal until it receives a response from the Office of the General Counsel regarding the legal issues involved in the appeal.

(c) The Office of the General Counsel shall promptly review the matter (including necessary consultation with the Department of Justice and coordination with the Office of Communication) and render all necessary assistance to enable the agency to respond to the appeal within the administrative deadline or any extension thereof.

§ 1.8 Extension of administrative deadlines.

(a) In unusual circumstances as specified in this section either of the administrative deadlines prescribed in § 1.5 of this subpart may be extended by an authorized agency official. Written notice of the extension shall be sent to the requester within the applicable deadline, setting forth the reasons for such extension and the date a determination is expected to be dispatched. In no event shall the extension exceed a total of ten working days.

(b) As used in this section, "unusual circumstances" shall be limited to the following:

(1) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; and

(3) the need for consultation, which shall be conducted with all practicable speed, with another Department or agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein. (Note: consultation between an agency and the Office of the General Counsel, Office of Communication, or the Department of Justice, is not a basis for extension under this section).

(c) The ten-day extension authorized by this section may be divided between the initial and appellate reviews, but in no event shall the total extension exceed ten working days.

§ 1.9 Failure to meet administrative deadlines.

In the event an agency fails to meet either of the administrative deadlines set forth in § 1.5 of this subpart, plus any extension authorized by § 1.8 of this subpart, it shall notify the requester, state

the reasons for the delay, and the date by which it expects to dispatch determination. Although the requester may be deemed to have exhausted his administrative remedies under 5 U.S.C. 552(a)(6)(C) the agency shall continue processing the request as expeditiously as possible and dispatch the determination when it is reached in the same manner and form as if it had been reached within the applicable deadline.

§ 1.10 Fee schedule.

Pursuant to authority delegated in § 2.79 of this chapter, the Director, Office of Operations, has issued regulations, following notice and public comment, setting forth a uniform schedule of fees applicable to all agencies of the Department regarding requests for records under this subpart. (See Appendix A of this subpart). Any amendments thereto will be made by the Director pursuant to notice and opportunity for comment. Said regulations provide reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such duplication. The regulations provide that documents may be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

§ 1.11 Exemptions and discretionary release.

(a) All agency records, except those specifically exempted from mandatory disclosure by one or more provisions of 5 U.S.C. 552(b), shall be made promptly available to any person submitting a request under this subpart.

(b) Except where disclosure is specifically prohibited by Executive order, statute, or applicable regulations, an agency may release records exempt from mandatory disclosure under 5 U.S.C. 552(b) whenever it determines that such disclosure would be in the public interest.

(c) In no event shall release of any list of names and/or addresses of employees of the Department or of farmers, persons, organizations or firms, for political purposes be considered to be in the public interest; nor shall release for commercial solicitation purposes be considered to be in the public interest unless release is specifically authorized by the individuals named therein.

§ 1.12 Annual report.

(a) Each agency of the Department shall compile the following information for each calendar year:

(1) the number of determinations made by such agency not to comply with initial requests for records made to it under § 1.3(a) of this subpart, and the reasons for each such determination;

(2) the number of appeals made by persons under § 1.3(d) of this subpart, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the name and title or position of each person responsible for the denial of records requested under this subpart and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to 5 U.S.C. 552(a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) a copy of every rule made by the agency regarding this subpart;

(6) the total amount of fees collected by the agency for making records available under this subpart; and

(7) such other information as indicates efforts to administer fully this subpart.

(b) Each agency shall compile the information required by (a) above for the preceding calendar year into a report and submit this report to the Director of Communication by February 1 of each year.

(c) The Director of Communication shall combine the reports from the various agencies within USDA into a Departmental report, and shall arrange for submission of this report to the Speaker of the House of Representatives and President of the Senate by March 1 of each year in accordance with 5 U.S.C. 552(d).

§ 1.13 Compilation of new records.

Nothing in 5 U.S.C. 552, or this subpart require that any agency compile a new record in order to fulfill a request for records. Such compilation may be undertaken voluntarily if the agency determines this action to be in the public interest.

§ 1.14 Authentication.

When a request is received for an authenticated copy of a document which the agency determines to make available to the requesting party, the agency shall cause a correct copy to be prepared and sent to the Office of the General Counsel which shall certify the same and cause the seal of the Department to be affixed, except that the Judicial Officer, or the Hearing Clerk when directed by the Judicial Officer, may authenticate copies of documents in the records of the Hearing Clerk.

§ 1.15 Compulsory process.

(a)(1) In any case where it is sought by subpoena, order, or other compulsory process or demand (hereinafter in this section referred to as a "demand") to require the production or disclosure of any record or material which is exempt from disclosure under 5 U.S.C. 552(b) or information related thereto acquired by an employee of this Department in the performance of his official duties or because of his official status, the matter shall be referred to an official authorized by agency regulations to make releases pursuant to § 1.11(b) of this subpart. (2) Such official may authorize release. However, if such official determines that it would be improper to comply with the demand, he shall refer it to the agency head. The agency head may authorize release; however, if the agency head concurs with the initial conclusion, the matter shall be referred to the Secretary for final determination. (3) If the Secretary has determined that the records, material, or information should not be produced, or if no final determination has been made, the employee who appears in answer to the demand will respectfully decline to produce or disclose the records, material, or information demanded on the ground that the disclosure is prohibited by this section. The employee shall provide the court or other authority with a copy of this subpart and a copy (when available) of the Secretary's determination, and shall respectfully request the court or other authority to withdraw or stay the demand.

(b)(1) Whenever a demand of the type described in paragraph (a) of this section is made upon an employee of this Department not authorized to make releases pursuant to § 1.11(b) of this subpart, by a court or other authority while he is appearing before, or is otherwise in the presence of the court or other authority, the employee, or other appropriate Government official or attorney acting on behalf of the employee, shall (i) immediately inform the court or other authority that this section prohibits the employee from producing or disclosing the information or material demanded and (ii) offer to refer the demand for the prompt consideration of authorized officials, providing the court or other authority a copy of this subpart and respectfully requesting that the demand be stayed pending his receipt of appropriate instructions concerning the demand. (2) If the employee is authorized to make a release pursuant to § 1.11(b) of this subpart but determines that such release would be improper, he shall offer to refer the demand for the prompt consideration of the agency head and/or Secretary and shall otherwise comply with (1)(ii) above.

(c) If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with paragraph (a) or (b) of this section pending the receipt by the employee of instructions or directions, or if the court or other authority rules adversely on any assertion made in conformity with the provisions of this subpart, the employee upon whom the demand has been made may tender the records, material, or information, demanded with a request they be held in camera until an appeal can be taken from the adverse ruling.

§ 1.16 Records in formal adjudication proceedings.

Records in formal adjudication proceedings are on file in the Office of the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, and shall be made available to the public.

Effective date: February 19, 1975.

Done at Washington, D.C., this 14th day of February, 1975.

EARL L. BUTZ,
Secretary of Agriculture.

APPENDIX A—FEE SCHEDULE

The Department of Agriculture solicited in 40 FR 3604 public comment on proposed regulations implementing the 1974 Freedom of Information Act amendments as they affect the fees which may be charged requesters for services performed under that Act. The regulations also cover fees for services performed under other authority. No comments from the public were received.

The following changes have been made. The Department has determined that these changes are not such as to require further public comment.

Sec. 5. An additional paragraph is included specifying the availability of transcripts under the Departments reporting service contract.

Sec. 7. The paragraph requiring agreement in writing to pay when an estimate exceeds $20.00 has been dropped.

The paragraph requiring a 50% deposit on estimates over $150.00 has been changed by deletion of redundant language and by reducing the amount at which a deposit is required to $50.00.

The paragraph regarding "fair prior notice" has been deleted.

A new paragraph has been inserted advising requesters that, in the event of the possibility of an unproductive or extensive search, the requester will be given the opportunity to confer with agency personnel to possibly reform his request to meet his needs at a lower fee.

Sec. 8.e. Information regarding the St. Louis Computer Center location and rates, and a comment on commercial time-sharing sources have been added.

Sec. 8.h. Redundant verbiage has been removed.

Sec. 10.a. & b. Soil Conservation Service addresses have been revised.

Sec. 16.b.8. The price for cassettes was corrected from $8.00 to $3.00.

Pursuant to the authority delegated to the Director, Office of Operations in 7 CFR 2.79 (a) (3) (iii), there is published the following fee schedule to be effective February 19, 1975.

The previous fee schedule published in 39 FR 26050 as amended in 39 FR 28449 is superseded.

FEE SCHEDULE

Sec. 1. *General.* This schedule sets forth fees to be charged for providing copies of records, including photographic reproductions, microfilm, maps and mosaics, and related services. The fees set forth in this schedule are applicable to all agencies and constituent units of the Department of Agriculture.

Sec. 2. *Facilities.* Records and related services are available at the locations specified by the agencies in their statements of organization and services. Each agency is responsible for promulgating procedures to facilitate public inspection and copying of its records. Any materials offered for sale by the Government Printing Office should be purchased from that source. Departmental agencies will not stock such materials for public sale.

Agencies do not stock copies of forms and publications or maintain records at any facility which does not require these materials in its operations.

Sec. 3. *Fees for materials and services.* All agencies of the Department shall be guided by the fees set forth herein. Any changes or additions to this fee schedule shall be made by amendment to or revision of this schedule.

Sec. 4. *Circumstances governing exceptions to the charging of fees for records and related services.* (For photographic reproductions, see Sec. 12.)

a. *Waiver of fees for records and related services.* Fees may be waived in whole or in part under the following conditions:

(1) Where individual collections are $3.00 or less.

(2) Where the furnishing of the service without charge is an appropriate courtesy to a foreign country or international organization; or comparable fees are set on a reciprocal basis with a foreign country or an international organization.

(3) Where the recipient is engaged in a nonprofit activity designed for the public safety, health, or welfare.

(4) Where the agency determines that payment of the full fee by a State, local government, or nonprofit group would not be in the interest of the program involved.

b. *Fees not to be charged for records and related services.* Fees shall not be charged under the following conditions:

(1) When the furnishing of records and related services is determined by the agency to be in the public interest as primarily benefiting the general public.

(2) When filling requests from other Departments or Government agencies for official use, provided quantities requested are reasonable in number.

(3) When members of the public provide their own copying equipment, in which case no copying fee will be charged.

(4) When any notices, decisions, orders, or other material are required by law to be served on a party in any proceedings or matter before any Department agency.

c. Where both a and b above apply to a matter, b shall be controlling.

Sec. 5. *Limitations of copies.* a. Agencies may restrict numbers of photocopies and directives furnished the public to one copy of each page. Copies of forms provided the public shall also be held to the minimum practical. Persons requiring any large quantities should be encouraged to take single copies to commercial sources for further appropriate reproduction.

b. Single or multiple copies of transcripts, provided the Department under a reporting service contract, may be obtained from the contractor at a cost not to exceed $.10 per page for the first copy and $.05 per page for each additional copy ordered by the same person. The contractor may add a postage charge when mailing orders to the public but no other charge may be added.

Sec. 6. *Search Services.* a. Search services are services of agency personnel-clerical, supervisory or professional salary level-used in trying to find the records sought by the requester. They include time spent examining records for the purpose of finding records which are within the scope of the request. They also include services to transport personnel to places of record storage, or records to the location of personnel for the purpose of the search, if such services are reasonably necessary.

b. Because of the nature of the Department's business and records, the normal location of a record in a file or other facility will not be considered a search. This would be the same as quickly locating a piece of material for purposes of answering a letter or telephone inquiry, and is based on the Department's obligation to respond to requests furnishing a reasonably specific description of the record.

Sec. 7. *Payments of fees and charges.* a. Payments will be collected to the fullest extent possible in advance or at the time the requested materials are furnished.

b. Except as otherwise stipulated by agency procedures, payment shall be made by check, draft, or money order made payable to the Treasury of the United States, but small amounts may be paid in cash, particularly where services are performed in response to a visit to a Department office.

c. Where the estimated fees to be charged exceed $50.00, a deposit of 50 percent of the estimated amount shall be collected from the requester before any of the requested materials are reproduced.

d. Where a request for records indicates the necessity of an extensive search, the requester should be notified of that fact, and of the possibility of an unproductive search. The notification should offer the requester the opportunity to confer with agency personnel to reform his request to meet his needs at a lower fee. When an extensive search still appears necessary, unless the agency determines that the request is in the public interest in accordance with section 4b(1), it shall inform the requester that no search will be undertaken until an agreement to pay applicable fees is received, including a deposit of 50% of the estimated fee where appropriate.

Sec. 8. *Fees for records and related services.*

a. Photocopies, 8½" x 14" or smaller; $0.10 for the first copy and $0.05 for each additional copy of the same page.

b. Photocopies in excess of 8½" x 14"; $0.25 per linear foot of the longest side of the copy.

c. Manual searches will be charged for at the rate of $4.00 per hour for clerical time and $9.00 per hour for supervisory or professional time. Charges will be computed to the nearest quarter hour required for the search. A search may involve both clerical and supervisory or professional time.

d. Other direct costs incurred will be assessed the requester at the actual cost to the Government, e.g., where records are required to be shipped from one office to another by commercial carrier in order to timely answer the request, the actual freight charges will be assessed the requester.

e. Computer searches will be charged for at the rates established in the Users Manual or Handbook published by the computer center at which the work will be performed, except that where commercial time-sharing computer sources are the required search media, the contract rate charged by the commercial source to the Government will be charged. A listing follows showing where those rates are published and the office from which copies may be obtained or at which the rates may be examined.

Fort Collins Computer Center Users Manual Section 3.4—Administrative Policies and Procedures—Rates, pp. 3–4 through 3–7:

Fort Collins Computer Center, U.S. Department of Agriculture, 3825 East Mulberry Street (P.O. Box 1206), Fort Collins, Colorado 80521.

New Orleans Computer Center Users Manual Appendix B—New Orleans Computer Center Rates, pp. 1 through 5:

New Orleans Computer Center, U.S. Department of Agriculture, 13800 Old Gentilly Road, Building 350, New Orleans, Louisiana 70129.

Kansas City Computer Center Users Manual Appendix D–2–Rates. pp. 65–80:

Kansas City Computer Center, U.S. Department of Agriculture, 8930 Ward Parkway (P.O. Box 205), Kansas City, Missouri 64141.

Washington Computer Center Users Handbook Appendix B–Washington Computer Center Rates. pp. 1–10:

Washington Computer Center, U.S. Department of Agriculture, Room S–100, South Buildings, 12th Street and Independence Ave., S.W., Washington, D.C 20250

St. Louis Computer Center. Charges for the St. Louis Computer Center will be based on actual computer configuration used and be based on direct costs only:

St. Louis Computer Center, U.S. Department of Agriculture, Farmers Home Administration, Business Services Branch, 1520 Market Street, St. Louis, Missouri 63103.

f. The fees do not include and no charge shall be made for (a) time spent examining records to determine whether an exemption

can should be asserted, (b) time spent deleting exempt matter being withheld from records to be furnished, or (c) time spent in monitoring a requester's inspection of agency records.

g. Certifications, $1.00 each; Authentications under Department Seal (including aerial photographs), $2.00 each.

h. Except as provided in section 9, for services not subject to the Freedom of Information Act, and not covered by (g) above, agencies may set their own fees in accordance with applicable law.

i. The fees specified in a through f of this Section apply to all requests for services under the Freedom of Information Act, as amended (5 USC 552), unless no fee is to be charged, or the agency has determined to waive or reduce those fees pursuant to Section 4. No higher fees nor charges in addition to those provided for in this schedule may be charged a party requesting search or duplication services under the Freedom of Information Act.

j. The fees specified in g and h of this Section and in Sections 9 through 16 of this schedule apply to requests for services other than those subject to the Freedom of Information Act. The authority for establishment of these fees is 31 USC 483a and other applicable law.

Sec. 9. *Photographic reproduction, microfilm, mosaic and maps.* Reproduction of such aerial or other photographic microfilm, mosaic and maps as have been obtained in connection with the authorized work of the Department may be sold at the estimated cost of furnishing such reproductions as prescribed in this schedule.

Sec. 10. *Agencies which furnish photographic reproductions.*—a. *Aerial photographic reproductions.* The following agencies of the Department furnish aerial photographic reproductions:

Agricultural Stabilization and Conservation Service (ASCS) Room 3405 Auditor's Building, Washington, D.C. 20250.

Forest Service (FS), 24 LOB RP-E, Arlington, Virginia 22209, or nearest Forest Service Regional Office.

Soil Conservation Service (SCS), Cartographic Division, SCS, Washington, D.C. 20250 or Cartographic Unit in nearest SCS Technical Service Center.

b. *Other photographic reproductions.* Other types of photographic reproductions may be obtained from the following agencies of the Department:

Agricultural Stabilization and Conservation Service (ASCS) (Address above).

Forest Service (Address above).

Office of Communication, Photographic Division, Room 536A, Washington, D.C. 20250.

Soil Conservation Service, Information Division, Audio-Visual Branch, Washington, D.C. 20250.

National Agricultural Library, Information Officer, Room 204, Beltsville, Maryland 20705.

Sec. 11. *Photographic Sales Committee.* The Photographic Sales Committee consists of representatives designated by Department agencies principally concerned with the sale of photographic reproductions. The Committee recommends prices at which photographic and mosaic reproductions, except library material, shall be sold, and other matters related to photographic reproductions.

Sec. 12. *Circumstances under which photographic reproductions may be provided free.* Reproductions may be furnished free at the discretion of the agency, if it determines this action to be in the public interest, to:

a. Press, radio, television, and newsreel representatives for dissemination to the general public.

b. Agencies of State and local governments carrying on a function related to that of the Department when it will help to accomplish an objective of the Department.

c. Cooperators and others furthering agricultural programs. Generally, only one print of each photograph should be provided free.

Sec. 13. *Loans.* Aerial photographic film negatives or reproductions may not be loaned outside the Federal Government.

Sec. 14. *Sales of positive prints under Government contracts.* The annual contract for furnishing single and double frame slide film negatives and positive prints to agencies of the Department, County Extension Agents and others cooperating with the Department, carries a stipulation that the successful bidder must agree to furnish slide film positive prints to such persons, organizations, and associations as may be authorized by the Department to purchase them.

Sec. 15. *Procedure for handling orders.* In order to expedite handling, all orders should contain adequate identifying information. Agencies furnishing aerial photographic reproductions require that all such orders identify the photographs. Each agency has its own procedure and order forms.

Sec. 16. *Photographic reproduction prices.* The prices for photographic reproductions listed here are the most generally requested items.

a. *National Agricultural Library.* The following prices are applicable to National Agricultural Library items only.

Microfilm-$1.00 for each 30 pages or fraction thereof. Photoreproduction-$1.00 for each 10 pages.

b. *General photographic reproductions.* Minimum charge $1.00 per order. All sizes are approximate. An extra charge may be necessary for excessive laboratory time caused by any section instructions from the purchaser.

Class of work	Unit	Price
1. Black and white copy negatives and film positives:		
4 x 5	Each	$3.60
5 x 7	do	3.90
8 x 10	do	4.50
11 x 14	do	7.00
2. Black and white enlargements:		
Up to 8 x 10	do	2.70
11 x 14	do	4.20
Over 11 x 14	Per square foot	3.60
3. Reductions (from any size negative)		3.60
4. Mounting	Per square foot	2.20
5. Slides: Black and white (from copy negative):		
2 x 2 cardboard mounted	Each	2.40
3¼ x 3¼	do	3.60
Original color (from flat copy)	do	1.80
Duplicate color (2 x 2 cardboard mounted)	do	.30
(Duplicate color slides are slides copied from 35mm color slides only.) Slides made from black and white material, or from transparencies larger or smaller than 35mm, will be charged at the same rates shown for black and white and original color slides.		
6. Color transparencies (4 x 5)	do	8.00
7. Color prints		-(1)
8. Current USDA slide sets in stock:		
1 to 50 frames		13.00
51 to 60 frames		14.00
61 to 75 frames		15.00
76 to 95 frames		17.50
96 to 105 frames		18.50
106 to 130 frames		21.00
(Prices include printed narrative guide)		
The following can be purchased for the corresponding slide sets above:		
Cassettes		3.00
Records		3.00
Audio-tape		1.50
9. Milk sedimentation standards (5 x 7 Black and white photograph)	Each	1.25
10. Seeds and seedlings (any size)	do	2.40

[1] By quotation.

c. *Aerial photographic reproductions.* No minimum charge on aerial photographic reproductions. All prints are furnished unmounted and untrimmed.

1. *Contact prints.* The prices for contact prints are set forth below. The size refers to the approximate size of the contact print.

	Each
Size 9 by 9 on commercial grade paper	$2

For polyester base paper, add $0.75 per contact print available from ASCS only).

	Each
Size 70-mm contact prints	$1.25
Size 70-mm contact transparencies	2.00

2. *Enlargements* (projection prints). The prices for enlargements of various sizes are set forth below. The size in each case refers to the approximate size of paper required to produce the enlargement ordered.

Size:	Price each
9 by 9 in (from 70 mm)	$2.00
17 by 17 in	4.00
24 by 24 in	5.00
24x24 in	6.00
38 by 38 in	12.00

For larger size reproductions, add $2.00 for each additional 12 inches or fraction thereof, linear measurement.

3. *Aerial photo-index sheets.*

Size 20 by 24 inches

Quantity:	Price each
Any quantity	$5.00

4. *Film positives.* Contact printed from aerial negatives, size 9 by 9 inches.

Quantity:	Price each
Any quantity	$3.00

5. *Copy negatives.* On film, aerial exposures, size 9 by 9 inches.

Quantity:	Price each
Any quantity	$3.00

6. *Diapositives.* Prints on glass, size 9 by 9 inches, thickness 0.06 inch.

Quantity:	Price each
Any quantity	$10.00

7. *Aperture Cards and Printouts.*

	First unit	Each additional unit
Duplicate of an aperture card	$1.00	$0.10
Aperture card from photoindex sheet	1.00	.25
Printout from aperture card	1.00	.50

8. *Color Photography.* Furnished only by the Regional Forest Service Aerial Photography Laboratories at Ogden, Utah and San Francisco, California, and the Agricultural Stabilization and Conservation Service Aerial Photography Laboratory in Salt Lake City, Utah.

Positive contact print made from negative	$7.00
Enlargements 9x9 inches (from 70 mm)	7.00
Enlargements 13x13 inches	12.00
Enlargements 17x17 inches	15.00
Enlargements 24x24 inches	20.00
Enlargements 38x38 inches	30.00
Color film transparencies (positives or negatives)	
Contacts 70 mm	$5.00
Contacts 9x9 inches	12.00
Enlargements 9x9 inches (from 70 mm)	12.00

9. *Special Needs.* For special needs not covered above, persons desiring aerial photographic reproductions should contact the agencies listed in Section 10a or the Coordinator, Aerial Photographic Work of the Department of Agriculture, ASCS, Room 3405, Auditors Building, 14th Street and Independence Avenue, SW, Washington, D.C. 20250.

(5 USC 301; 5 USC 552; 31 USC 483a; and 7 CFR 2.79(a)(3)(iii))

Done at Washington, D.C., this 13th day of February, 1975.

JOHN J. KEANEY,
Director.

[FR Doc.75-4753 Filed 2-18-75;12:22 pm]

Title 5—Administrative Personnel

CHAPTER III—OFFICE OF MANAGEMENT AND BUDGET

PART 1303—PUBLIC INFORMATION PROVISIONS OF THE ADMINISTRATIVE PROCEDURES ACT

Notice is hereby given that pursuant to the provisions of 5 U.S.C. 552, there is published as Chapter III, Part 1303 of Title 5, Code of Federal Regulations and as Chapter V of Title 3, Code of Federal Regulations, the following regulations as set forth below.

It is the policy of the Office of Management and Budget whenever practicable to afford the public an opportunity to participate in the rule-making process. Accordingly, interested persons may submit written comments, suggestions, or objections concerning the regulations pertaining to the Office of Management and Budget to the Assistant to the Director for Administration, Office of Management and Budget, Washington, D.C. 20503, on or before March 31, 1975. These regulations are effective immediately.

PHILLIP D. LARSEN,
Acting Assistant to the Director for Administration.

EXECUTIVE OFFICE OF THE PRESIDENT

NOTE: Until further regulations are promulgated, the remainder of the entities within the Executive Office of the President, to the extent that 5 U.S.C. 552 is applicable, shall follow the procedures set forth in the regulations applicable to the Office of Management and Budget. Requests for information from these other entities should be submitted directly to such entity.

Freedom of information regulations for:

Office of Management and Budget appear at 5 CFR Ch. III;

Council on Wage and Price Stability appear at 6 CFR Ch. VII;

National Security Council appear at 32 CFR Ch. XXI.

OFFICE OF MANAGEMENT AND BUDGET

ORGANIZATION AND INFORMATION

Pursuant to section 552 of title 5, United States Code, as amended, the following Part 1303 is published:

ORGANIZATION

Sec.
1303.1 General.
1303.2 Authority and functions.
1303.3 Organization.

PROCEDURES

1303.10 Methods of operation.

AVAILABILITY OF INFORMATION

1303.20 Inspection, copying and exceptions.

CHARGES FOR SEARCH FOR REPRODUCTION

1303.30 Schedule of fees and method of payment for services rendered.

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93-502.

ORGANIZATION

§ 1303.1 General.

This information is furnished for the guidance of the public and in compliance with the requirements of section 552 of title 5, United States Code, as amended.

§ 1303.2 Authority and functions.

(a) The Office of Management and Budget was established in the Executive Office of the President pursuant to Part I of Reorganization Plan No. 2 of 1970 (35 FR 7959), effective July 1, 1970. That Plan transferred to the President all functions vested by law in the Bureau of the Budget, or its Director, and designated the Bureau of the Budget as the Office of Management and Budget. By Executive Order No. 11541 of July 1, 1970 (35 FR 10737), the President delegated all functions transferred to him by Part I of the Plan to the Director of the Office of Management and Budget.

(b) The principal statutory functions of the Office of Management and Budget are contained in the Budget and Accounting Act of 1921 (42 Stat. 20, 31 U.S.C. 1-25); the Federal Reports Act of 1942 (44 U.S.C. 3501-3511); the Government Corporation Control Act (59 Stat. 597, 31 U.S.C. 841-869); the Budget and Accounting Procedures Act of 1950 (65 Stat. 832), the Federal Advisory Committee Act (Pub. L. 92-463), the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93-344), the Office of Federal Procurement Policy Act (Pub. L. 93-400), and the Privacy Act of 1974 (Pub. L. 93-579).

(c) The functions of the Office of Management and Budget are carried out pursuant to the provisions of the statutes cited above and the provisions of various Executive orders—principally, Executive Order No. 8248 of September 8, 1939 (CFR Cum. Supp., p. 576), outlining certain functions to be performed by the Bureau of the Budget for the President, and Executive Order No. 11230 of June 28, 1965 (3 CFR 1965 Supp., p. 146), as amended, delegating certain functions of the President to the Director of the Bureau of the Budget. Under the terms of Executive Order No. 11541 of July 1, 1970, the assignments and delegations made in the earlier orders are to be considered as assignments to the Office of Management and Budget and its Director.

§ 1303.3 Organization.

The central organization of the Office of Management and Budget consists of—

(a) The Office of the Director, which includes the Director and the Deputy Director and their principal assistants, including the Assistant to the Director for Administration.

(b) The Administrator of the Office of Federal Procurement Policy.

(c) Three Associate and Assistant Directors with Government-wide management responsibilities in specialized areas, as follows:

Executive Development and Labor Relations
Legislative Reference
Management and Operations

(d) Five program and budget Associate and Assistant Directors, as follows:

Budget Review
National Security and International Affairs
Human and Community Affairs
Economics and Government
Natural Resources, Energy, and Science

(e) The Office has no field organization.

(f) Units of the Office of Management and Budget are presently located in the Executive Office Building, 17th Street and Pennsylvania Avenue, NW., and in the New Executive Office Building, 17th and H Streets, NW., Washington, D.C. 20503. Regular office hours are from 9

a.m. to 5:30 p.m., Monday through Friday. Both buildings are under security control. Persons desiring to visit officers or employees of the Office Management and Budget in either building will usually find it easier to do so if they write or telephone in advance for an appointment.

PROCEDURES

§ 1303.10 Methods of operation.

(a) The Office of Management and Budget maintains current indexes which identify information pertaining to matters issued, adopted, or promulgated after July 4, 1967, that are within the scope of 5 U.S.C. 552(a)(2). These indexes are updated quarterly and are published in the FEDERAL REGISTER. They are also available for public inspection and copying at the Office's Publications Office, Room G-236, New Executive Office Building, 17th and H Streets NW., Washington, D.C. 20503. The indexes may be examined between the hours of 9 a.m. and 5:30 p.m. on any day, except Saturdays, Sundays, and legal public holidays.

(b) The Office of Management and Budget has established an internal Committee on Freedom of Information (hereinafter referred to as the Committee), chaired by the Deputy Director. The purpose of this Committee is to oversee the Officer's administration of the Freedom of Information Act as amended and to rule on any appeals that may be filed in the event a request for information is denied.

(c) The Assistant to the Director for Administration is responsible for acting on all initial requests. Individuals wishing to obtain any information listed on the indexes should address their request in writing to the Assistant to the Director for Administration, Office of Management and Budget, Washington, D.C. 20503, Phone 395-4790. Requests for information shall be as specific as possible. It is suggested that requestors use the format shown in either Exhibit A or B hereto.[1]

(d) Upon receipt of any request for information or records, the Assistant to the Director for Administration will determine within 10 days (excepting Saturdays, Sundays, and legal public holidays) whether it is appropriate to grant the request and will immediately (Receipt of a request as used herein means the date the request is received in the office of the Assistant to the Director for Administration.) provide written notification to the person making the request. If the request is denied, the written notification will also include the names of other individuals who participated in the determination and a notice that an appeal may be lodged including the format and content of any such appeal within the Office of Management and Budget.

(e) In the event the request is denied and that denial is appealed, the Assistant to the Director for Administration will refer the appeal to the Committee which will make a determination with respect to such appeal within 20 days (excepting Saturdays, Sundays, and legal public holidays). Appeals shall be set forth in writing and addressed to the Assistant to the Director for Administration at the address specified in paragraph (c) of this section. The appeal shall include a statement explaining the basis for the appeal. Determinations of appeals will be set forth in writing and signed by the Deputy Director ,or his designee. If, on appeal, the denial is in whole or in part upheld, the written determination will also contain a notification of the provisions for judicial review and the names of the persons who participated in the determination.

(f) In unusual circumstances, the time limits prescribed in paragraphs (d) and (e) of this section, may be extended for not more than 10 working days (excepting Saturdays, Sundays, or legal public holidays). Extensions may be granted by the Assistant to the Director for Administration in the case of initial requests and by the Deputy Director in the case of appeals. The extension period may be split between the initial request and the appeal but in no instance may the total period exceed 10 working days. Extensions will be by written notice to the persons making the request and will set forth the reasons for the extension and the date the determination is expected. As used herein, but only to the extent reasonably necessary to the proper processing of the particular request, the term "unusual circumstances" means:

(1) The need to search for and collect the requested records from establishments that are separate from the office processing the request;

(2) The need to search for, collect, and examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practical speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency which have a substantial subject matter interest therein.

AVAILABILITY OF INFORMATION

§ 1303.20 Inspection, copying, and exceptions.

(a) When a request for information has been approved pursuant to section 10 above, the person making the request may make an appointment to inspect or copy the materials requested during regular business hours by writing or telephoning the Assistant to the Director for Administration at the address or telephone number listed in § 1303.10(c). Such materials may be copied manually without charge, and reasonable facilities will be made available for that purpose. Also, copies of individual pages of such materials will be made available at the price per page specified in paragraph (a) of § 1303.30; however, the right is reserved to limit to a reasonable quantity the copies of such materials which may be made available in this manner when copies also are offered for sale by the Superintendent of Documents.

(b) Certain functional units of the Office of Management and Budget solely advise and assist the President, and therefore these units are not covered by 5 U.S.C. 552. However, the Director or the Deputy Director, acting on his behalf, may determine that a record which falls in one of the following categories shall be made available. These units carry out activities that provide advice and assistance to the President with regard to

(1) The formulation and preparation of the Federal budget,

(2) The processing of enrolled bills and determinations of the relationships of pending and proposed legislation to the program of the President.

(3) The compensation of Federal employees, and

(4) The establishment and organization of new agencies and the reorganization of existing programs and agencies.

(5) The preparation of Executive Orders and Proclamations.

(c) Except to the extent that the Director or Deputy Director, acting on his behalf, determines that a record which falls within one of the following categories shall be made available, this section shall not apply to matters that are—

(1)(i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of the national defense or foreign policy, and (ii) are in fact properly classified pursuant to such Executive Order.

(2) Related solely to the internal personnel rules and practices of the Office;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the Office;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Contained in or related to examination, operating, or condition reports

[1] Exhibits A and B filed as part of the original document.

prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

CHARGES FOR SEARCH AND REPRODUCTION

§ 1303.30 Schedule of fees and method of payment for services.

(a) Following is the fees schedule for the search and reproduction of information available under the Freedom of Information Act (5 U.S.C. 552), as amended.

(1) *Search for records.* $5.00 per hour when the search is conducted by a clerical employee. $8.00 per hour when the search is conducted by a professional employee. No charge for searches of less than 1 hour.

(2) *Duplication of records.* Records will be duplicated at a rate of $.25 per page for all copying of 4 pages or more. There is no charge for duplicating 3 or less pages.

(3) *Other.* When no specific fee has been established for a service, or the request for a service does not fall under one of the above categories due to the amount or type thereof, the Assistant to the Director for Administration is authorized to establish an appropriate fee based on "direct costs" as provided in the Freedom of Information Act and in accordance with Office of Management and Budget Circular No. A–25, "User charges." Examples of services covered by this provision include searches involving computer time or special travel, transportation, or communications costs.

(b) If records requested under this part are stored elsewhere than the headquarters of the Office of Management and Budget at Washington, D.C., the special costs of returning such records to the headquarters for review will be added to the search costs. Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made, or if the Office determines that a record which has been requested, but which is exempt from disclosure under this part, is to be withheld.

(c) Where it is anticipated that the fees chargeable under this section will amount to more than $25.00, or the maximum amount specified in the request, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof as can readily be estimated. In instances where the estimated fees will greatly exceed $25.00, an advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to consult with Office personnel in order to reformulate the request in a manner which will reduce the fees, yet still meet the needs of the requester. Dispatch of such a notice or request shall suspend the running of the period for response by the Office until a reply is received from the requester.

(d) Fees must be paid in full prior to issuance of requested copies. In the event the requestor is in arrears for previous requests for which the Office was unable to find or provide the requested information (see paragraph (b)) of this section), copies of records will not be provided for any subsequent request until the arrears have been paid in full.

(e) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Treasury of the United States and mailed or delivered to the Assistant to the Director for Administration, Office of Management and Budget, Washington, D.C. 20503.

(f) A receipt for fees paid will be given upon request. Refund of fees paid for services actually rendered will not be made.

(g) The Assistant to the Director for Administration, or an officer designated by the Assistant to the Director for Administration may in accordance with the Freedom of Information Act, as amended, waive all or part of any fee provided for in this section when the Assistant to the Director for Administration or the designated officer deems it to be in either the Office's interest or in the general public's interest.

For the Director of the Office of Management and Budget.

PHILLIP D. LARSEN,
Acting Assistant to the Director for Administration.

FEBRUARY 18, 1975.

[FR Doc.75–4777 Filed 2–18–75;3:01 p.m.]

federal register

WEDNESDAY, FEBRUARY 19, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 34

PART III

THE PRESIDENT

Executive Orders

■

OFFICE OF MANAGEMENT AND BUDGET

■

FY 75 RESCISSIONS AND DEFERRALS

Title 3—The President

EXECUTIVE ORDER 11839

Amending the Civil Service Rules To Except Certain Positions in Regional Offices From the Career Service

The program to decentralize Federal policy and decision making and to involve local governments and other interested parties in Federal, State, and local policy and program development requires a capability for deep involvement in the development and advocacy of Administration proposals and policies, and support of their controversial aspects, on the part of certain senior regional officials.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution of the United States and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Civil Service Rule VI is amended by adding the following Section:

"SECTION 6.8. *Specified Exceptions.* Positions in the Department of the Interior whose incumbents serve as the principal representative of the Secretary in their respective regions shall be listed in Schedule C for grades not exceeding grade GS–15 of the General Schedule, and shall be designated Noncareer Executive Assignments for positions graded higher than GS–15. Incumbents of these positions who are, on February 15, 1975, in the competitive service shall not be affected by the foregoing provisions of this Section."

SEC. 2. Civil Service Rule IX is amended by adding the following:

"SEC. 9.11. *Specified Noncareer Executive Assignments.* The regional director, regional administrator, or the Secretary's principal regional representative positions in the Departments of Health, Education, and Welfare, Housing and Urban Development, Transportation and Labor, and those positions in the Environmental Protection Agency shall be designated Noncareer Executive Assignments; and, the Limited Executive Assignments of any incumbents of these positions on February 15, 1975, are converted to Noncareer Executive Assignments. Incumbents of these positions serving in Career Executive Assignments on February 15, 1975, shall not be affected by the foregoing provisions of this Section."

Gerald R. Ford

THE WHITE HOUSE,
February 15, 1975.

[FR Doc.75–4754 Filed 2–18–75;12:29 pm]

EXECUTIVE ORDER 11840

Waiver of Certain Provisions of Law and Limitations of Authority

The American Revolution Bicentennial Board has requested that the American Revolution Bicentennial Administration be authorized to perform, without regard to certain provisions of law or limitations of authority, the functions authorized under the act to establish the American Revolution Bicentennial Administration (Public Law 93–179; 87 Stat. 697, hereinafter referred to as the act). I have determined that it would be in furtherance of the purposes of the act to provide such authorization.

NOW, THEREFORE, by virtue of the authority vested in me by section 11 of the act, and as President of the United States of America, it is hereby ordered as follows:

Section 1. The American Revolution Bicentennial Administration is authorized to perform the functions authorized by the act without regard to the following specified provisions of law and limitations of authority:

(a) section 638(a) of title 31 of the United States Code to the extent that it pertains to hiring passenger motor vehicles.

(b) section 13 of title 41 of the United States Code.

(c) section 501 of title 44 of the United States Code.

(d) Any provision of law or limitation of authority to the extent that such provision or limitation would limit or prohibit:

(1) selection of, and award of contracts to, a State or local government agency or non-profit organization on a sole-source basis;

(2) expenditure of not to exceed $10,000 annually of funds received pursuant to contracts under section 2(f) of the act for official receptions and representation; and

(3) expenditure of appropriated funds for transportation and subsistence of volunteers.

SEC. 2. It is directed that each specific use of the waivers of statutes and limitations of authority authorized by the foregoing provisions of this order shall be made only with the advice of the General Counsel of the Administration, and only when determined in writing by the Administrator (or in his absence by the Deputy Administrator) that such use is specifically in furtherance of the purposes of the act and in the public interest.

Gerald R. Ford

THE WHITE HOUSE,
February 18, 1975.

[FR Doc.75–4755 Filed 2–18–75;12:29 pm]

OFFICE OF MANAGEMENT AND BUDGET

1975 RESCISSIONS AND DEFERRALS

Cumulative Report

FEBRUARY 1975.

This report is submitted in fulfillment of the requirements of section 1014 of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014 provides for a monthly report listing all budget authority for the current fiscal year with respect to which, as of the first day of such month, a special message has been transmitted to the Congress. This February report includes those deferrals and rescissions in the eight special messages sent by the President to the Congress in September, October, November, December, and January.

Rescissions. Five proposed rescissions, totaling $131,481,000 in budget authority, have been effected by Pub. L. 93-529 signed December 21, 1974. In addition, $455,635,000 in budget authority proposed for rescission for Rural Electrification Administration loans but not included in Pub. L. 93-529 has been made available for obligation. Another $85,000,000 proposed for rescission under the Agricultural Conservation Program (REAP) and not included in Pub. L. 93-529 lapsed on December 31, 1974. These items are shown in the report together with the remaining proposed rescission which total—as of February 1, 1975—$1,782,805,000.

Deferrals. Attachment B identifies, by agency and account, all deferred funds reported. As of February 1, of the 152 deferrals submitted to the Congress, 30 had been revised by supplementary reports. When supplementary reports have revised previous reports, the amount initially reported has been placed in brackets and zeroed out in the column labeled "Adjustments." Unlike proposed rescissions of budget authority, funds reported as deferred (section 1013 of the act) are often planned to be made available for obligation, in whole or in part, during the course of the fiscal year. As of February 1, 4 of these deferrals had been made available in whole for obligation. These releases as well as the partial releases are detailed in Attachment B which shows, for each deferral, the amount of deferred funds made available by the Office of Management and Budget and other Federal agencies in the current year, the date the funds were made available, and the balance of funds being deferred as of the first of the month for which the report is submitted. The total of all budget authority deferrals currently before the Congress, as amended by subsequent releases or lapses of funds, is $20,362,089,000. In addition to this amount of deferred budget authority, another $10,000,000 in outlays have been deferred under the Department of the Interior's Land and Water Conservation Fund.

Actions concluded before July 12, 1974. Some of the actions reported in the special messages are not, in the opinion of the Attorney General, subject to Congressional ratification or disapproval under the Impoundment Control Act since they were concluded before it became effective on July 12, 1974. These items, marked by asterisks, are included in the report to provide more complete information on the status of withheld funds.

Actions by Congress on rescissions and deferrals. The report formats provide for showing the effect of congressional action and inaction on both deferrals and proposed rescissions. As of February 1, 1975, no congressional action on deferrals had been concluded. Public Law 93-529, signed December 21, 1974, rescinded $131,481,000 of budget authority proposed for rescission in the first two special messages. Details of these approved rescissions are shown in Attachment A under columns entitled "Amount Rescinded by Congress" and "Date Rescission Act Signed." The proposed rescission of $455,635,000 for Rural Electrification Administration Loans was not included in Pub. L. 93-529 and was made available for obligation on December 11, 1974.

Information from the special messages. The eight special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the FEDERAL REGISTERS of:

Monday, September 23 (Vol. 39, No. 185, Part III),
Tuesday, October 8 (Vol. 39, No. 196, Part V),
Tuesday, November 5 (Vol. 39, No. 214, Part III),
Tuesday, November 19 (Vol. 39, No. 224, Part III),
Thursday, December 5 (Vol. 39, No. 235, Part IV),
Wednesday, January 8 (Vol. 40, No. 5, Part IV), and
Thursday, February 6 (Vol. 40, No. 26, Part III).

PAUL H. O'NEILL,
Acting Director.

ATTACHMENT A

STATUS OF RESCISSIONS

FISCAL YEAR 1975
(Amounts in thousands)

As of February 1, 1975

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded by Congress	Date Rescission Act Signed	Amount Made Available as a result of Congressional Inaction	Date Made Available
Executive Office of the President							
Special Action Office for Drug Abuse Programs							
Pharmacological Research	R75-45	2,760	11-26-74				
Special Fund for Drug Abuse	R75-46	2,240	11-26-74				
Funds Appropriated to the President							
Appalachian Regional Development Commission							
Appalachian Regional Development Programs	[R75-1]	[40,000*]	[09-20-74]				
	[R75-1A]	[40,000]	[11-13-74]	-40,000	12-21-74		
Department of Agriculture							
Extension Service:							
Extension service	R75-47	3,200	01-30-75				
Farmers Home Administration:							
Rural Development Grants	R75-50	3,750	01-30-75				
Rural Community Fire Protection Grants	R75-51	3,500	01-30-75				
Agricultural Stabilization and Conservation Service							
Agricultural Conservation Program (REAP)	[R75-3]	[85,000*] 1/	[10-08-74]				
	R75-48	156,250	01-30-75				

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded by Congress	Date Rescission Act Signed	Amount Made Available as a result of Congressional Inaction	Date Made Available
Water Bank Act Program	[R75-8]	[11,213]	[11-26-74]				
	R75-8A	21,213	01-30-75				
Rural Electrification Administration Loans*	[R75-2]	[455,635*]2/	[09-20-74]				12-11-74
Forest Service Cooperation in Forest Fire Control	R75-9	4,921	11-26-74				
Reforestation and Stand Improvement	R75-10	10,000	11-26-74				
Forest Roads and Trails and Roads and Trails for State National Forest Fund	[R75-4]	[63,553*]	[10-04-74]				
	[R75-4A]	[61,611]	[11-13-74]	-61,611	12-21-74		
Forestry Incentive Programs	R75-49	25,000	01-30-75				
Department of Commerce							
Social and Economic Statistics Administration							
Salaries and Expenses	R75-11	373	11-26-74				
Economic Development Administration							
Economic Development Assistance Programs	R75-12	2,000	11-26-74				
Domestic and International Business Administration							
Financial and Technical Assistance	R75-13	12,000	11-26-74				
United State Travel Service							
Salaries and Expenses	R75-14	250	11-26-74				

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded by Congress	Date Rescission Act Signed	Amount Made Available as a result of Congressional Inaction	Date Made Available
Inter-American Cultural and Trade Center	R75-52	5,000	01-30-75				
National Oceanic and Atmospheric Administration							
Operations, Research and Facilities	[R75-15]	[500]	[11-26-74]				
	R75-15A	3,227	01-30-75				
Patent Office							
Salaries and Expenses	R75-16	700	11-26-74				
Department of Defense, Military							
Operation and Maintenance							
Army	R75-17	41,000	11-26-74				
Navy	R75-18	27,500	11-26-74				
Marine Corps	R75-19	5,000	11-26-74				
Air Force	R75-20	40,000	11-26-74				
Defense Agencies	R75-21	1,900	11-26-74				
Army Reserve	R75-22	1,800	11-26-74				
Navy Reserve	R75-23	1,100	11-26-74				
Air Force Reserve	R75-24	400	11-26-74				
Army National Guard	R75-25	1,400	11-26-74				
Air National Guard	R75-26	500	11-26-74				
Aircraft Procurement							
Army	[R75-27]	[13,500]	[11-26-74]				
	R75-27A	5,700	01-30-75				
Air Force	[R75-28]	[248,000]	[11-26-74]				
	R75-28A	152,500	01-30-75				

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded by Congress	Date Rescission Act Signed	Amount Made Available as a result of Congressional Inaction	Date Made Available
Special Foreign Currency Program, 1973/1975	R75-53	915	01-30-75				
Special Foreign Currency Program, 1974/1975	R75-54	40	01-30-75				
Department of Health, Education and Welfare							
Health Services Administration: Health Services	R75-55	25,681	01-30-75				
Center for Disease Control: Preventive Health Services	R75-56	9,805	01-30-75				
National Institutes of Health: National Cancer Institute	R75-57	123,006	01-30-75				
National Heart and Lung Institute	R75-58	37,730	01-30-75				
National Institute of Dental Research	R75-59	7,489	01-30-75				
National Institute of Arthritis, Metabolism, and Digestive Diseases	R75-60	28,473	01-30-75				
National Institute of Neurological Diseases and Stroke	R75-61	30,283	01-30-75				
National Institute of Allergy and Infectious Diseases	R75-62	13,975	01-30-75				
National Institute of General Medical Sciences	R75-63	30,794	01-30-75				
National Institute of Child Health and Human Development	R75-64	23,978	01-30-75				

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded by Congress	Date Rescission Act Signed	Amount Made Available as a result of Congressional Inaction	Date Made Available
National Eye Institute	R75-65	6,512	01-30-75				
National Institute of Environmental Health Sciences	R75-66	6,922	01-30-75				
Research Resources	R75-67	40,560	01-30-75				
Fogarty International Center	R75-68	1,020	01-30-75				
National Library of Medicine	R75-69	385	01-30-75				
Alcohol, Drug Abuse and Mental Health Administration:							
Alcohol, Drug Abuse and Mental Health	R75-70	103,994	01-30-75				
Health Resources Administration:							
Health Resources	R75-71	25,477	01-30-75				
Health Services Planning and Development	[R75-29]	[372,466]	11-26-74				
	R75-29A	284,719	01-30-75				
Office of Education:							
Elementary and Secondary Education	R75-72	35,856	01-30-75				
Education for the Handicapped	R75-73	102,500	01-30-75				
Occupational, Vocational and Adult Education	R75-74	38,710	01-30-75				
Higher Education	R75-75	58,300	01-30-75				
Library Resources	R75-76	49,433	01-30-75				
Social and Rehabilitation Services:							
Public Assistance	R75-77	12,900	01-30-75				

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded by Congress	Date Rescission Act Signed	Amount Made Available as a result of Congressional Inaction	Date Made Available
Rehabilitation Services	R75-78	29,848	01-30-75				
Office of Human Development: Human Development	R75-79	41,582	01-30-75				
Department of Housing and Urban Development							
Housing Production and Mortgage Credit College Housing*	[R75-5]	[14,518*]	[10-04-74]	-14,518	12-21-74		
Department of the Interior							
Bureau of Land Management Public Lands Development Roads and Trails	[R75-6]	[4,891*]	[10-04-74]				
	[R75-6A]	[4,891]	[11-13-74]	-4,891	12-21-74		
National Park Service Road Construction	[R75-7]	[14,000]	[10-04-74]				
	[R75-7A]	[10,461]	[11-13-74]	-10,461	12-21-74		
Department of Justice							
Federal Bureau of Investigation Salaries and Expenses	R75-30	5,300	11-26-74				
Immigration and Naturalization Service Salaries and Expenses	R75-31	1,300	11-26-74				
Bureau of Prisons Salaries and Expenses	R75-32	5,257	11-26-74				
Buildings and Facilities	R75-33	1,750	11-26-74				
Drug Enforcement Administration Salaries and Expenses	R75-34	2,400	11-26-74				

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded by Congress	Date Rescission Act Signed	Amount Made Available as a result of Congressional Action	Date Made Available
Department of Labor							
Manpower Administration:							
Community Service Employment:							
For Older Americans	R75-80	12,000	01-30-75				
Department of State							
International Organizations and Conferences							
Contributions to International Organizations	R75-35	2,000	11-26-74				
International Trade Negotiations	R75-36	100	11-26-74				
Department of Treasury							
Office of the Secretary							
Salaries and Expenses	R75-37	310	11-26-74				
Federal Law Enforcement Training Centers							
Salaries and Expenses	R75-38	60	11-26-74				
Bureau of Accounts							
Salaries and Expenses	R75-39	630	11-26-74				
U.S. Customs Service							
Salaries and Expenses	R75-40	3,000	11-26-74				
Internal Revenue Service							
Salaries and Expenses	R75-41	530	11-26-74				
Accounts, Collection and Taxpayer Service	R75-42	9,230	11-26-74				
Compliance	R75-43	10,240	11-26-74				

Agency Bureau Account	Rescission Number	Amount Proposed for Rescission	Date Special Message Transmitted to Congress	Amount Rescinded by Congress	Date Rescission Act Signed	Amount Made Available as a result of Congressional Inaction	Date Made Available
General Services Administration							
Public Buildings Service							
Federal Buildings Fund	R75-44	20,023	11-26-74				
Other Independent Agencies							
Consumer Product Safety Commission:							
Salaries and Expenses	R75-81	1,709	01-30-75				
TOTAL RESCISSIONS		1,782,805		-131,481			

1/ Contract Authority lapsed December 31, 1974

2/ Released on December 11, 1974

STATUS OF DEFERRALS

ATTACHMENT B

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Funds Appropriated to the President

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Subsequent Actions Taken by OMB/Agency (Releases)	Subsequent Actions Taken by House	Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 02-01-75
Agency for International Development									
Prototype Desalting Plant, Economic Assistance*	D75-19		20,000*	10-04-74					20,000
TOTAL			20,000						20,000

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Department of Agriculture

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Subsequent Actions Taken by OMB/Agency (Releases)	Subsequent Actions Taken by House	Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 02-21-75
Agricultural Research Service									
Agricultural Research Service (Construction)*	D75-11		770*	09-20-74					770
Foreign Agriculture Service									
Special Foreign Currency Program*	D75-20		2,516*	10-04-74					2,516
Agricultural Stabilization and Conservation Service:									
Emergency Conservation Measures	D75-21	[5,000]		10-04-74					
				01-30-75				-5,000 1/	0
	D75-21A		11,688	01-30-75					11,688
Water Bank Program	D75-139		1,266	01-30-75					1,266
Agricultural Marketing Service:									
Marketing Services	D75-22	[903*]		10-04-74					
				01-30-75				-903 1/	0
	D75-22A		1,459	01-30-75					1,459
Perishable Agricultural Commodities Act Fund	D75-23	[341*]		10-04-74					
				01-30-75				-341 1/	0
	D75-23A		511	01-30-75					511
Forest Service:									
Youth Conservation Corps	D75-88		3,081	11-13-74					3,081

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Subsequent Actions Taken by OMB/Agency (Releases)	Subsequent Actions Taken by House	Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 02-01-75
Forest Roads and Trails and Roads and Trails for State National Forest Fund	D75-24	[420,000*]		10-04-74 11-13-74				-420,000 1/	0
	D75-24A		420,000	11-13-74					420,000
Construction and Land Acquisition	D75-90		6,865	11-26-74					6,865
Forest Fire Prevention	D75-25	[152]		10-04-74 01-30-75				-152 1/	0
	D75-25A		173	01-30-75					173
Expense, Brush Disposal	D75-26	[18,747*]		10-04-74 01-30-75				-18,747 1/	0
	D75-26A		26,141	01-30-75					26,141
TOTAL		445,143	474,470					-445,143	474,470

1/ Subsequently incorporated in a supplementary report

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Department of Commerce

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Subsequent Actions Taken by: OMB/Agency (Releases)	Subsequent Actions Taken by: House	Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 02-01-75
General Administration:									
Special Foreign Currency	D75-140		1,500	01-30-75					1,500
Economic Development Administration:									
Job Opportunities Program	D75-141		125,000	01-30-75					125,000
Social and Economic Statistics Administration									
Periodic Censuses and Programs	D75-91		327	11-26-74					327
Domestic and International Business Administration									
Operations and Administration	D75-92		750	11-26-74					750
Financial and Technical Assistance, Trade Adjustment Assistance*	D75-27	[1,780*]		10-04-74 11-26-74				-1,780 1/	0
United States Travel Service									
Inter-American Cultural and Trade Center*	D75-28	[4,891*]		10-04-74 11-26-74 01-30-75				-1,420 -3,471 2/	0
Inter-American Cultural and Trade Center	D75-93	[1,420]		11-26-74 01-30-75				-1,420 2/	0
National Oceanic and Atmospheric Administration									
Operations Research and Facilities	D75-94		6,800	11-26-74 01-03-75				-3,227 3/	3,573

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Subsequent Actions Taken by: OMB Agency (Releases)	Subsequent Actions Taken by: House	Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 02-01-75
Costal Zone Management*	D75-30	[3,175*]		10-04-74					
				10-26-74	-*,000				
				12-27-74				-2,175 3/	0
	D75-30A		2,175	12-27-74					2,175
Coastal Zone Management	D75-95		1,000	11-26-74					1,000
Promote and Develop Fishery Products and Research Pertaining to American Fisheries	D75-131		1,871	12-27-74					1,871
Fisheries Loan Fund*	D75-12	[4,039*]		09-20-74					
				12-27-74				-4,039 4/	0
	D75-12A		5,292	12-27-74					5,292
National Fire Prevention and Control Administration									
Operations, Research and Administration	D75-96		500	11-26-74					500
National Bureau of Standards									
Construction and Facilities*	D75-29		231*	10-04-74					231
Office of Telecommunications: Scientific and Technical Research and Services	D75-97	[3,718]		11-26-74					
				01-30-75				-3,718 1/	0
	D75-97A		4,628	01-30-75					4,628
Maritime Administration									
Ship Construction	D75-99		5,750	11-26-74					5,750
Research and Development	D75-99	[3,468]		11-26-74					
				01-30-75				-3,468 1/	0
	D75-99A		7,768	01-30-75					7,768
Operations and Training	D75-100		1,300	11-26-74					1,300

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Department of Defense, Military

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Subsequent Actions Taken by OMB/Agency (Releases)	Subsequent Actions Taken by House	Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 02-01-75
Shipbuilding and Conversion, Navy	D75-32	[497,990]		10-04-74 12-27-74				-497,990 1/	0
	D75-32A		1,244,760	12-27-74					1,244,760
Military Construction, Army	D75-33		156,893	10-04-74 10-25-74 11-18-74 12-04-74	-19,598 -1,636 -10,037				125,622
Special Foreign Currency Program Appropriations	D75-34	[955]		10-04-74 01-30-75				-955 2/	0
TOTAL		498,945	1,401,653		-31,271			-489,945	1,370,382

1/ Subsequently incorporated in a supplementary report

2/ See Rescission Nos. R75-53 and R75-54

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Subsequent Actions Taken by: OMB/Agency (Releases)	Subsequent Actions Taken by: House	Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 02-01-75
Office of the Assistant Secretary for Science and Technology:									
Scientific and Technical Research and Services*	D75-31	[2,468*]		10-04-74 11-26-74				-2,468 5/	0
TOTAL		24,959	164,892		-1,000			-27,186	161,665*

1/ See Rescission No. R75-13
2/ See Rescission No. R75-52
3/ Amount proposed for rescission (R75-15A)
4/ Subsequently incorporated in a supplementary report
5/ See Deferral No. D75-97

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Department of Defense, Civil

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Subsequent Actions Taken by: OMB/Agency (Releases)	Subsequent Actions Taken by: House	Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 02-01-75
Corps of Engineers, Civil									
Construction, General	D75-1		108	09-20-74					108
	D75-81		43,945	10-31-74					43,945
Flood Control, Mississippi River and Tributaries	D75-82		14,503	10-31-74					14,503
Soldiers' and Airmen's Home									
Capital Outlay*	D75-35	[613*]		10-04-74					
				10-01-74	-179				
				11-13-74				-434 1/	0
	D75-35A		434	11-13-74					434
Panama Canal Zone									
Capital Outlay*	D75-36	[500*]		10-04-74					
				11-13-74				-500 1/	0
	D75-36A		500	11-13-74					500
Wildlife Conservation Military Reservations*	D75-37	[297*]		10-04-74					
				11-13-74				-297 1/	0
	D75-37A		343	11-13-74					343
TOTAL		[1,410]	59,833		-179			-1,231	59,833

1/ Subsequently incorporated in a supplementary report

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Department of Health, Education, and Welfare

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Subsequent Actions Taken by: OMB/Agency (Releases)	Subsequent Actions Taken by: House	Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 02-01-75
Health Services Administration									
Health Services Delivery*	D75-38		2,250*	10-08-74					
				10-31-74	-2,250				0
Health Services	D75-142		13,996	01-30-75					13,996
Indian Health Facilities*	D75-39		88*	10-08-74					88
National Institutes of Health									
Buildings and Facilities*	D75-40	[10,441*]		10-08-74					
				11-18-74	-4,009				
				12-27-74				-6,432 1/	0
	D75-40A		6,432	12-27-74					6,432
Research Resources	D75-143		6,255	01-30-75					6,255
Alcohol, Drug Abuse and Mental Health Administration:									
Alcohol, Drug Abuse, and Mental Health	D75-144		2,326	01-30-75					2,326
Health Resources Administration									
Health Resources	D75-145		2,823	01-30-75					2,823
Health Resources (Health Facilities Construction)	D75-146		301,340	01-30-75					301,340
Health Manpower	D75-87		100	10-31-74					100
Health Manpower	D75-101	[3,550]		11-26-74					
				12-20-74				-3,550 2/	0

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Subsequent Actions Taken by: OMB/Agency (Releases)	Subsequent Actions Taken by: House	Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 02-01-75
Program Management	D75-102	[1,400]		11-26-74 01-30-75				-1,400 1/	0
	D75-102A		740	01-30-75					740
Office of Assistant Secretary for Health									
Scientific Activities Overseas*	D75-41		21,714*	10-04-74 01-10-75	-6,566				15,148
Education Division:									
Office of Education:									
Elementary and Secondary Education:									
Supplementary Services	D75-103	[9,278]		11-26-74 12-27-74				-9,278 2/	0
Equipment and Minor Remodeling	D75-104	[6,562]		11-26-74 12-27-74				-6,562 2/	0
Nutrition and Health	D75-105	[1,900]		11-26-74 12-27-74				-1,900 2/	0
School Assistance in Federally Affected Areas	D75-6	[16,000]		09-20-74 12-27-74				-16,000 1/	0
	D75-6A	[64,000]		12-27-74 12-07-74				-64,000 2/	0
Higher Education	D75-42	[8,788*]		10-04-74 01-30-75				-8,788 1/	0
	D75-42A		72,790	01-30-75					72,790
(University Community Services)	D75-3	[2,906]		09-20-74 12-27-74				-2,906 1/	0
	D75-3A	[5,812]		12-27-74 12-07-74				-5,812 2/	0
(Land Grant Colleges)	D75-4	[9,500]		09-20-74 12-07-74				-9,500 2/	0

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Subsequent Actions Taken by: OMB/Agency (Releases)	Subsequent Actions Taken by: House	Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 02-01-75
(State Postsecondary Education Commission)	D75-5	[350]		09-20-74 12-27-74				-350 1/	0
	D75-5A	[700]		12-27-74 12-07-74				-700 2/	0
(Basic Opportunity Grants)	D75-147		298,714	01-30-75					298,714
Library Resources: (Public Libraries)	D75-2	[5,437]		09-20-74 12-27-74				-5,437 1/	0
	D75-2A	[10,874]		12-27-74 12-07-74				-10,874 2/	0
Library Resources	D75-148		2,792	01-30-75					2,792
Social and Rehabilitation Service: Public Assistance (Child Welfare Assistance)	D75-8	[375]		09-20-74 12-27-74				-375 1/	0
	D75-8A	[750]		12-27-74 12-07-74				-750 2/	0
Work Incentives	D75-132	[50,000]		12-27-74 12-07-74				-50,000 2/	0
Rehabilitation Services (Innovation and Expansion)	D75-7	[5,000]		09-20-74 12-27-74				-5,000 1/	0
	D75-7A	[10,000]		12-27-74 12-07-74				-10,000 2/	0
Research and Training Activities Overseas	D75-43		8,158	10-04-74					8,158

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Subsequent Actions Taken by OMB/Agency (Releases)	Subsequent Actions Taken by House	Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 02-01-75
Social Security Administration									
Limitation on Construction*	D75-44	[15,393*]		10-04-74					
				11-22-74	-2,865				
				12-27-74				-12,528 1/	0
	D75-44A	[12,528]		12-27-74					
				01-30-75				-12,528 1/	0
	D75-44B		20,576	01-30-75					20,576
Special Institutions									
Model Secondary School for the Deaf*	D75-45		803*	10-04-74					803
Howard University	D75-46	[11,490*]		10-04-74					
				01-30-75				-11,490 1/	0
	D75-46A		6,323	01-30-75					6,323
Gallaudet College (Construction)	D75-149		1,267	01-30-75					1,267
Office of the Secretary									
Departmental Management	D75-106	[1,902]		11-26-74					
				12-20-74				-1,902 2/	0
TOTAL		268,936	769,487		-15,690			-258,062	760,671

1/ Subsequently incorporated in a supplementary report

2/ Enactment of P.L. 93-529 (December 7, 1974) ended deferral of funds provided by the Continuing Resolution

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Department of Housing and Urban Development

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Subsequent Actions Taken by OMB/Agency (Releases)	Subsequent Actions Taken by House	Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 02-01-75
Housing Production and Mortgage Credit									
Nonprofit Sponsor Assistance*	D75-47		7,995*	10-04-74					7,995
Homeownership Assistance* 1/	D75-48		264,117*	10-04-74					264,117
Community Planning and Development									
Comprehensive Planning Grants	D75-107		50,000	11-26-74					50,000
Open Space Land Programs*	D75-49		55,161*	10-04-74					
				01-01-75				-55,161 2/	0
Grants for Neighborhood Facilities*	D75-50		48*	10-04-74					
				01-01-75				-48 2/	0
Grants for Basic Water and Sewer Facilities*	D75-51		401,734*	10-04-74					
				01-01-75				-401,734 2/	0
Public Facility Loans	D75-52	[199,290*]		10-04-74					
				10-04-74	-15,356				
				11-13-74				-183,934 3/	0
	D75-52A		183,934	11-13-74					
				01-01-75				-183,934 2/	0
New Communities Administration:									
New Communities Assistance Grants*	D75-53		1,799*	10-04-74					1,799

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Subsequent Actions Taken by OMB/Agency (Releases)	Subsequent Actions Taken by House	Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 02-01-75
Policy Development and Research									
Research and Technology	D75-108		8,000	11-26-74					8,000
TOTAL		199,290	972,788		-15,356			-824,811	331,911

1/ On November 6, 1974, the Comptroller General advised the Congress that, in his opinion, this item was misclassified and should have been submitted as a rescission.
2/ Authority for these programs expired January 1, 1975.
3/ Subsequently incorporated in a supplementary report.

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Department of the Interior

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Subsequent Actions Taken by OMB/Agency (Releases)	Subsequent Actions Taken by House	Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 02-01-75
Bureau of Land Management									
Public Lands Development Roads and Trails	D75-54	[30,000*]		10-04-74 11-13-74				-30,000 1/	0
	D75-54A		30,000	11-13-74					30,000
Oregon and California Grant Lands*	D75-13		23,693*	09-20-74					23,693
Bureau of Reclamation									
Loan Program	D75-83		900	10-31-74					900
Construction and Rehabilitation:	D75-14		1,055	09-20-74 09-27-74	-25				1,030
	D75-84		17,955	10-31-74					17,955
Colorado River Basin Project	D75-85		2,525	10-31-74					2,525
Upper Colorado River Storage Project	D75-86		1,730	10-31-74					1,730
Upper Colorado River Basin Fund	D75-15		1,150	09-20-74					1,150
Bureau of Outdoor Recreation									
Land and Water Conservation Fund*	D75-55		30,000*	10-04-74					30,000
Land and Water Conservation Fund	D75-109		20,000 (10,000)	11-26-74 2/11-26-74					20,000 (10,000)
Fish and Wildlife Service									
Federal Aid in Fish Restoration and Management*	D75-56		6,924*	10-04-74					6,924

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Subsequent Actions Taken by: OMB/Agency (Releases)	Subsequent Actions Taken by: House	Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 02-01-75
Federal Aid in Wildlife Restoration*	D75-57		19,375*	10-04-74					19,375
National Wildlife Refuge Fund	D75-58		3,642	10-04-74					3,642
Proceeds from Sales, Water Resources Development Projects*	D75-59		4*	10-04-74					4
National Park Service:									
Road Construction	D75-60		312,098	10-04-74					
				10-10-74	-55,962				
				12-18-74	-7,500				248,636
U.S. Geological Survey									
Payments from Proceeds, Sale of Water, Mineral Leasing Act, 1920	D75-61	[28*]		10-04-74					
				10-25-74	-1				
				11-13-74				-27 1/	0
	D75-61A		27	11-13-74					27
Bureau of Mines									
Drainage of Anthracite Mines*	D75-62		3,575*	10-04-74					3,575
Helium Fund	D75-133		47,500	12-27-74					47,500
Bureau of Indian Affairs									
Road Construction	D75-63	[110,423]		10-04-74					
				01-30-75				-110,423 1/	0
	D75-63A		135,175	01-30-75					135,175
Acquisition of Land and Loans to Indians of Oklahoma, Act of June 26, 1939*	D75-64		105*	10-04-74					105
TOTAL		[140,451]	657,433		-63,488			-140,450	593,946

1/ Subsequently incorporated in a supplementary report

* Deferral of outlays only

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Department of Justice

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Subsequent Actions Taken by OMB/Agency (Releases)	Subsequent Actions Taken by House	Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 02-01-75
Bureau of Prisons									
Buildings and Facilities*	D75-65		19,320*	10-04-74					19,320
TOTAL			19,320						19,320

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Department of Labor

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Subsequent Actions Taken by OMB/Agency (Releases)	Subsequent Actions Taken by House	Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 02-01-75
Manpower Administration:									
Program Administration	D75-135	[200]		12-27-74					
				12-07-74				-200 1/	0
Comprehensive Manpower Assistance	D75-138	[5,000]		12-27-74					
				12-07-74				-5,000 1/	0
Departmental Management:									
Salaries and expenses	D75-136	[60]		12-27-74					
				12-07-74				-60 1/	0
Special Foreign Currency	D75-150		200	01-30-75					200
Pension Benefit Guarantee Corporation:									
Pension Guaranty Fund	D75-89		383	11-13-74					
				01-06-75	-383				0
TOTAL		5,260	583		-383			-5,260	200

1/ Enactment of P.L. 93-529 (December 7, 1974) ended deferral of funds provded by the Continuing Resolution.

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Department of State

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Subsequent Actions Taken by OMB/Agency (Releases)	Subsequent Actions Taken by House	Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 02-01-75
Administration of Foreign Affairs									
Acquisition, Operation, and Maintenance of Buildings Abroad	D75-66		33,310	10-04-74					33,310
International Boundary and Water Commission, U.S. and Mexico									
Construction	D75-67	[4,696*]		10-04-74					
				11-13-74				-4,696 1/	0
	D75-67A		4,696	11-13-74					4,696
International Center, Washington, D.C.	D75-16		500	09-20-74					500
TOTAL		[4,696]	38,506					-4,696	38,506

1/ Subsequently incorporated in a supplementary report

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Department of Transportation

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Subsequent Actions Taken by: OMB/Agency (Releases)	Subsequent Actions Taken by: House	Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 02-01-75
United States Coast Guard									
Acquisition, Construction, and Improvements	D75-68		7,614	10-04-74					7,614
Federal Aviation Administration									
Civil Supersonic Aircraft Development Termination and Civil Supersonic Aircraft Development	D75-69		8,113	10-04-74					8,113
Facilities and Equipment	D75-70		260,824	10-04-74					260,824
Federal Highway Administration									
Rail Crossings - Demonstration Projects	D75-72		8,015	10-04-74					8,015
National Scenic and Recreational Highway and Trust Fund Share of Other Highway Programs	D75-71		90,000	10-04-74					90,000
Federal Aid Highways 1975 and prior	D75-17		4,370,090	09-20-74					4,370,090
1976	D75-17		6,357,500	09-20-74					6,357,500
National Highway Traffic Safety Administration									
Traffic and Highway Safety	D75-151		1,800	01-30-75					1,800
TOTAL			11,103,956						11,103,956

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Environmental Protection Agency

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Subsequent Actions Taken by OMB/Agency (Releases)	Subsequent Actions Taken by House	Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 02-01-75
Abatement and Control									
Water Program Operations	D75-74		2,000	10-04-74					2,000
Water Planning and Standards	D75-75		30,000	10-04-74					30,000
Construction Grants	D75-9		9,000,000*	09-20-74 01-31-75	-4,000,000				5,000,000
Air and Water Control Agency Grants	D75-152		9,375	01-30-75					9,375
TOTAL			9,041,375		-4,000,000				5,041,375

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Energy Research and Development Administration 1/

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Subsequent Actions Taken by: OMB/Agency (Releases)	Subsequent Actions Taken by: House	Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 02-01-75
Operating Expenses Weapons Program	D75-110		4,000	11-26-74					4,000
Civilian Reactor Research and Development	D75-111		8,000	11-26-74					8,000
Civilian Reactor Research and Development	D75-112		6,700	11-26-74					6,700
Physical Research	D75-113		2,700	11-26-74					2,700
Controlled Thermonuclear Research	D75-114		8,000	11-26-74					8,000
Biomedical and Environmental Research and Safety	D75-115		4,000	11-26-74					4,000
Operating Expenses/Plant and Capital Equipment Weapons Program	D75-116		4,700	11-26-74					4,700
Plant and Capital Equipment	D75-73	[1,500]		10-04-74 11-26-74				-1,500 2/	0
Plant and Capital Equipment Nuclear Materials	D75-117		12,000	11-26-74					12,000
Nuclear Materials	D75-118		12,000	11-26-74					12,000
Civilian Reactor Research and Development	D75-119		10,000	11-26-74					10,000
Civilian Reactor Research and Development	D75-120		1,500	11-26-74					1,500

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Subsequent Actions Taken by: OMB/Agency (Releases)	Subsequent Actions Taken by: House	Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 02-01-75
Civilian Reactor Research and Development	D75-121		12,100	11-26-74					12,100
Civilian Reactor Research and Development and Controlled Thermonuclear Research	D75-122		13,000	11-26-74					13,000
Other Capital Equipment	D75-123		13,900	11-26-74					13,900
TOTAL		[1,500]	112,600					-1,500	112,600

1/ Effective January 19, 1975 all AEC deferrals were transferred to ERDA. AEC programs transferred to the Nuclear Regulatory Commission contained no deferrals. EPA, NSF, and Interior programs transferred to ERDA contained no deferrals.

2/ See Deferral No. D75-120.

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: General Services Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Subsequent Actions Taken by OMB/Agency (Releases)	Subsequent Actions Taken by House	Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 02-01-75
Automatic Data and Telecommunications Activities:									
Automatic Data Processing	D75-10		18,300	09-20-74					
				09-30-74	-4,300				
				12-10-74	-14,000				0
Property Management and Disposal Service:									
Rare Silver Dollar Program	D75-137		2,184	12-27-74					2,184
TOTAL			20,484		-18,300				2,184

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: National Aeronautics and Space Administration

Bureau/Account	Deferral Number	Amount Transmitted in Special Message Superseded	Amount Transmitted in Special Message Current	Date of Action	Subsequent Actions Taken by OMB/Agency (Releases)	Subsequent Actions Taken by House	Subsequent Actions Taken by Senate	Adjustments	Amount Deferred as of 02-01-75
Research and Development Manned Space Flight	D75-124		20,000	11-26-74					20,000
Space Science and Applications	D75-125		16,000	11-26-74					16,000
Aeronautical Research and Space Supporting Activities	D75-126		36,000	11-26-74					36,000
TOTAL			72,000						72,000

STATUS OF DEFERRALS

FISCAL YEAR 1975
(Amounts in thousands)

Agency: Other Independent Agencies

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Subsequent Actions Taken by: OMB/Agency (Releases)	Subsequent Actions Taken by: House	Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 02-01-75
District of Columbia									
Loans for Capital Outlay	D75-76		96,800	10-04-74					96,800
Federal Energy Administration									
Salaries and expenses	D75-77		11,929	10-04-74					11,929
Foreign Claims Settlement Commission									
Payment of Vietnam Prisoners of War Claims	D75-18		10,500	09-20-74					10,500
Advisory Commission on Intergovernmental Relations									
Salaries and Expenses	D75-138		50	12-27-74 01-02-75	-50				0
National Foundation on the Arts and Humanities									
Salaries and expenses	D75-127		18,000	11-26-74					18,000
National Science Foundation									
Salaries and Expenses	D75-128		15,000	11-26-74					15,000
Salaries and Expenses (Energy R&D Appropriation Act, 1975)	D75-129		5,000	11-26-74					5,000
American Revolution Bicentennial Administration									
Salaries and Expenses	D75-78		11,000	10-04-74 11-20-74	-11,000				0
Commemorative Activities Fund	D75-79		6,310	10-04-74 12-05-74	-4,810				1,500

Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Superseded	Amount Transmitted in Special Message: Current	Date of Action	Subsequent Actions Taken by: OMB/Agency (Releases)	Subsequent Actions Taken by: House	Subsequent Actions Taken by: Senate	Adjustments	Amount Deferred as of 02-01-75
Railroad Retirement Board									
Railroad Unemployment Administrative Expenses Trust Fund*	D75-80		4,716*	10-04-74					4,716
Small Business Administration									
Business Loan and Investment Fund	D75-130		36,000	11-26-74					36,000
TOTAL			215,305		-15,860				199,445
TOTAL, ALL DEFERRALS		1,586,590	25,144,270		-4,161,487			-2,207,284	20,362,069

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