

**NATIONAL ARCHIVES AND RECORDS ADMINISTRATION****36 CFR Part 1256**

RIN 3095-AA55

**Domestic Distribution of United States Information Agency Materials in the Custody of the National Archives****AGENCY:** National Archives and Records Administration.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The National Archives and Records Administration (NARA) is proposing regulations which will govern the domestic distribution of USIA materials prepared for dissemination abroad that are in the custody of NARA. Public Law 101-246, section 202, requires the Archivist of the United States to issue necessary regulations to ensure that persons seeking release of such USIA materials in the United States have secured and paid for necessary rights and licenses. This proposed rule would affect members of the public who wish to use or obtain copies of USIA audiovisual records transferred to NARA.

**DATES:** Comments must be received in writing on or before April 1, 1997.

**ADDRESSES:** Comments should be sent to the Regulation Comment Desk (NPOL), National Archives and Records Administration, 8601 Adelphi Rd., College Park, MD 20740-6001. Comments may be faxed to 301-713-7270.

**FOR FURTHER INFORMATION CONTACT:** Nancy Allard at 301-713-7360, extension 226.

**SUPPLEMENTARY INFORMATION:** On February 16, 1990, Public Law 101-246 (104 Stat. 49) amended the United States Information and Educational Exchange Act (22 U.S.C. 1461) to provide for the domestic release of motion pictures, videotapes, sound recordings and other materials 12 years after initial dissemination abroad, or, if not disseminated, 12 years from the preparation of the material. Previously, section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) had prevented the domestic dissemination by the United States Information Agency of such materials prepared for dissemination abroad in perpetuity unless specifically and individually released by Congressional legislation. The amended law allows release and dissemination once the 12-year threshold has been met and instructs NARA to provide regulations to ensure that any copyrights or underlying rights

that may exist in these USIA materials have been protected and releases obtained prior to dissemination in the United States. For the public this amended law provides access and potential use of over 35,000 USIA motion picture films, 3,000 USIA videotape productions, and over 20,000 sound recordings of Voice of America (VOA) radio broadcasts that have been selected as permanently valuable audiovisual records and have been transferred into the custody of the Motion Picture, Sound and Video Branch of NARA. These regulations only apply to USIA records in NARA's custody that were prepared for dissemination abroad.

This proposed rule is a significant regulatory action for purposes of Executive Order 12866 of September 30, 1993. As such, it has been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities. This proposed rule does not contain any information collections subject to the Paperwork Reduction Act.

**List of Subjects in 36 CFR Part 1256**

Archives and records, Copyright, Reports and recordkeeping requirements.

For the reasons set forth in the preamble, NARA proposes to amend 36 CFR chapter XII, Part 1256 as follows:

**PART 1256—RESTRICTIONS ON THE USE OF RECORDS**

1. The authority citation for part 1256 is revised to read as follows:

Authority: 44 U.S.C. 2101-2118; 22 U.S.C. 1461(b).

2. By adding a new Subpart C consisting of §§ 1256.50 through 1256.60 to read as follows:

**Subpart C—Domestic Distribution of United States Information Agency Materials in the Custody of the National Archives**

Sec.

1256.50 Scope of subpart.

1256.52 Purpose.

1256.54 Definition.

1256.56 Transfer of USIA audiovisual records to NARA.

1256.58 Domestic distribution of USIA audiovisual records in NARA custody.

1256.60 Fees.

**Subpart C—Domestic Distribution of United States Information Agency Materials in the Custody of the National Archives****§ 1256.50 Scope of subpart.**

This subpart prescribes procedures governing the public availability of

audiovisual records and other materials subject to 22 U.S.C. 1461(b) that have been transferred to the National Archives of the United States by the United States Information Agency (USIA).

**§ 1256.52 Purpose.**

This subpart implements Section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), as amended by Section 202 of Public Law 101-246 (104 Stat. 49, Feb. 16, 1990). This subpart prescribes procedures by which the public may inspect and obtain copies of USIA audiovisual records and other materials prepared for dissemination abroad that have been transferred to NARA for preservation and domestic distribution.

**§ 1256.54 Definition.**

For the purposes of this subpart—“Audiovisual records” mean motion picture films, videotapes, and sound recordings, and other materials regardless of physical form or characteristics that were prepared for dissemination abroad.

**§ 1256.56 Transfer of USIA audiovisual records to NARA.**

The provisions of 44 U.S.C. 2107 and 36 CFR part 1228 apply to the transfer of USIA audiovisual records to NARA, and to their deposit with the National Archives of the United States. At the time the audiovisual records are transferred to NARA, the Director of USIA, in accordance with § 1228.184(e) of this chapter, will also transfer any production or title files bearing on the ownership of rights in the productions in connection with USIA's official overseas programming.

**§ 1256.58 Domestic distribution of USIA audiovisual records transferred to NARA.**

No USIA audiovisual records in the National Archives of the United States that were prepared for dissemination abroad will be available for copying until it has been at least 12 years since such materials were first disseminated abroad, or, in the case of materials prepared for foreign dissemination but not disseminated abroad, until it has been at least 12 years since the preparation of the materials.

(a) *Access to USIA audiovisual records that neither have copyright protection nor contain copyright material.* USIA audiovisual records prepared for dissemination abroad that NARA determines neither have copyright protection nor contain copyrighted material are available for examination and copying in accordance with the regulations set forth in Parts

1252, 1253, 1254, 1256, and 1258 of this chapter. In determining whether materials have copyright protection or contain copyrighted material, NARA will rely on information contained within or affixed to individual records (e.g., copyright notices); information contained within relevant USIA production, title, or other files that have been transferred to NARA by USIA; information provided by requesters pursuant to paragraph (b)(2) of this section (e.g., evidence from the Copyright Office that copyright has lapsed or expired); and information provided by copyright or license holders.

(b) *Reproduction of USIA audiovisual records that either have copyright protection or contain copyrighted material.* (1) USIA audiovisual records prepared for dissemination abroad that NARA determines may have copyright protection or may contain copyrighted material will be made available for examination in NARA research facilities in accordance with the regulations set forth in this chapter.

(2) Copies of USIA audiovisual records prepared for dissemination abroad that NARA determines may have copyright protection or may contain copyrighted material will be provided to persons seeking the release of such materials in the United States once NARA has:

(i) Ensured, in accordance with paragraph (b)(3) of this section, that the persons seeking copies have secured and paid for necessary United States rights and licenses;

(ii) Been provided with evidence from the Copyright Office sufficient to determine that copyright protection in the materials sought, or relevant portions therein, has lapsed or expired; or

(iii) Received a requester's signed certification in accordance with paragraph (b)(4) of this section that the materials sought will be used only for purposes permitted by the Copyright Act of 1976, as amended, including the fair use provisions of 17 U.S.C. 107. No copies of USIA audiovisual records will be provided until the fees authorized under part 1258 of this chapter have been paid to NARA.

(3) If NARA has determined that a USIA audiovisual record prepared for dissemination abroad may have copyright protection or may contain copyrighted material, persons seeking the release of such material in the United States may obtain copies of the material by submitting to NARA written evidence from all copyright and/or license owner(s) that any necessary fees

have been paid or waived and any necessary licenses have been secured.

(4) If NARA has determined that a USIA audiovisual record prepared for dissemination abroad may have copyright protection or may contain copyrighted material, persons seeking the release of such material in the United States may obtain copies of the material by submitting to NARA the following certification statement:

I, (printed name of individual), certify that my use of the copyrighted portions of the (name or title and NARA identifier of work involved) provided to me by the National Archives and Records Administration (NARA), will be limited to private study, scholarship, or research purposes, or for other purposes permitted by the Copyright Act of 1976, as amended. I understand that I am solely responsible for the subsequent use of the copyrighted portions of the work identified above.

(c) In every instance where a copy of an audiovisual record is provided under this subpart, and NARA has determined that the work being reproduced may have copyright protection or may contain copyrighted material, NARA shall provide a warning notice of copyright.

(d) Nothing in this section shall limit NARA's ability to make copies of USIA audiovisual records for preservation, arrangement, repair and rehabilitation, description, exhibition, security, or reference purposes.

#### § 1256.60 Fees.

Copies or reproductions of audiovisual records will only be provided under this subpart upon payment of fees in accordance with 44 U.S.C. 2116(c) and 22 U.S.C. 1461(b)(3).

Dated: January 24, 1997.

John W. Carlin,

*Archivist of the United States.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 61 and 69

[CC Docket Nos. 96-262, 94-1, 91-213, 96-263; FCC No. 96-488]

#### Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Transport Rate Structure and Pricing; Usage of the Public Switched Network by Information Service and Internet Access Providers

AGENCY: Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Notice of Proposed Rulemaking (NPRM) begins a review of the Commission's interstate access charge rules, together with its price cap rules, to establish fair rules of competition for both the local and long distance markets and determine the extent to which it must revise these rules in light of the local competition and Bell Operating Company entry provisions of the 1996 Act and state actions to open local networks to competition, the effects of potential and actual competition on incumbent LEC pricing for interstate access, and the impact of the Act's mandate to preserve and enhance universal service. The Commission outlines two possible approaches for addressing claims that existing access charge levels are excessive, for establishing a transition to access charges that more closely reflect economic costs, and for deregulating incumbent LEC exchange access services as competition develops in the local exchange and exchange access markets. The first approach is a market-based approach under which the Commission would rely on potential and actual competition from new facilities-based providers and entrants purchasing unbundled network elements to drive prices for interstate access services toward economic cost. The second approach is a prescriptive one under which the Commission would specify the nature and timing of the changes to the existing rate levels.

**DATES:** Comments for the notice of proposed rulemaking are due January 27, 1997,<sup>1</sup> and replies are due February 13, 1997. Comments for the notice of inquiry are due no later than March 3, 1997, and replies are due April 1, 1997.

**FOR FURTHER INFORMATION CONTACT:** Richard Lerner, Attorney, Common Carrier Bureau, Competitive Pricing Division, (202) 418-1530. For additional information concerning the information collections contained in this Report and Order contact Dorothy Conway at 202-418-0217, or via the Internet at dconway@fcc.gov.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking adopted December 23, 1996, and released December 24, 1996. The full text of this Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW., Washington, DC. The complete text also

<sup>1</sup> Note: This document was received at the Office of the Federal Register on January 24, 1997.