

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration****21 CFR Part 1240**

[Docket No. 97N-0418]

**Revocation of Lather Brushes Regulation; Correction**

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of May 12, 1998. The document that revoked regulations pertaining to the treatment, sterilization, handling, storage, marketing, and inspection of lather brushes. The document published with an inadvertent error. This document corrects that error.

**DATES:** The final rule is effective June 11, 1998.

**FOR FURTHER INFORMATION CONTACT:** Philip L. Chao, Policy Development and Coordination Staff (HF-23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-3380.

In FR Doc. 98-12450 appearing on page 26077 in the **Federal Register** of Tuesday, May 12, 1998, the following correction is made:

On page 26077, in the second column, in the heading, the docket number "97P-0418" is corrected to read "97N-0418".

Dated: May 21, 1998.

**William K. Hubbard,**  
Associate Commissioner for Policy  
Coordination.

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**DEPARTMENT OF JUSTICE****28 CFR Parts 16 and 50**

[Attorney General Order No. 2156-98]

RIN 1105-AA20

**Revision of Freedom of Information Act and Privacy Act Regulations and Implementation of Electronic Freedom of Information Act Amendments of 1996**

AGENCY: Department of Justice.

ACTION: Final rule.

**SUMMARY:** This document amends the Department's regulations under both the Freedom of Information Act (FOIA) and

the Privacy Act of 1974. The FOIA and Privacy Act regulations have been streamlined and condensed, in accordance with the principles of the National Performance Review, with more "user-friendly" language used wherever possible. These revisions also reflect the principles established by President Clinton and Attorney General Reno in their FOIA Memoranda of October 4, 1993. The Department's new statement of discretionary disclosure policy—which originated in the Attorney General's FOIA Memorandum of October 4, 1993, and is incorporated into § 16.1(a)—supersedes the existing regulation regarding discretionary access to records of historical interest. Additionally, the regulations have been updated to reflect developments in case law and to include updated cost figures used in calculating and charging fees. These revisions also contain new provisions implementing the Electronic Freedom of Information Act Amendments of 1996 (Electronic FOIA Amendments).

**EFFECTIVE DATE:** July 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Janice Galli McLeod ((202) 514-3642).

**SUPPLEMENTARY INFORMATION:****Background Information**

On August 26, 1997, the Department of Justice published a proposed rule that revised its existing regulations under the FOIA and Privacy Act and added new provisions implementing the Electronic FOIA Amendments. See 62 FR 45184, Aug. 26, 1997. Interested persons were afforded an opportunity to participate in the rulemaking through submission of written comments on the proposed rule. The Department received three responses to its proposed rule. The Department has adopted several of the modifications suggested by the commenters and has made other revisions to its proposed rule for clarity as well.

New provisions implementing the Electronic FOIA Amendments are found at § 16.2(c) (electronic reading rooms), § 16.5(b) (multitrack processing), § 16.5(c) (processing under unusual circumstances), § 16.5(d) (expedited processing), § 16.6(b) (deletion marking), § 16.6(c) (appeal of format determinations), § 16.6(c)(3) (volume estimation), § 16.11(b)(3) (format of disclosure), and § 16.11(b)(8) (electronic searches). Revisions to the Department's fee schedule are found at § 16.11 (c) and (d).

**Comments**

The Department received three responses from commenters: the first,

from several organizations that represent newspapers, news editors, and reporters; the second, from two nonprofit groups that regularly use the FOIA, both as requesters and as counsel for requesters; and the third, from a Federal agency. Each of the three responses contained several comments. Due consideration has been given to each of the comments received.

In several instances, commenters questioned the absence in the proposed rule of verbatim restatements of the language of the Electronic FOIA Amendments, or other statutory provisions of the FOIA. Such restatements of statutory language, however, are not necessary to the regulation. The rule revises the Department's existing regulations only where the amending language of the Electronic FOIA Amendments specifically requires or permits new regulations, where the current regulations conflict with the statutory amendments or existing case law, or where condensing or clarifying the regulations is warranted. The Department has added to its final rule three new clarifying statements—in §§ 16.1 and 16.3, as well as in § 16.40—to remind requesters and users that the Department's regulations should be read in conjunction with the FOIA, the Privacy Act, or both statutes.

Requesters and other users of the regulations now are also referred in § 16.3 to the Department's "Freedom of Information Act Reference Guide"—a user-friendly guide created under the Electronic FOIA Amendments that provides helpful information designed to familiarize users with available resources and specific procedures for making FOIA requests to the Department. The Department has complied with new subsection (g) of the FOIA by making its "Freedom of Information Act Reference Guide" available both in paper form and electronically. See "FOIA Update," Summer 1997, at 2; see also "Freedom of Information Act Reference Guide," at 3 & Attachment C (Aug. 1997); H.R. Rep. No. 104-795, at 30 (1996). In accordance with one commenter's suggestion, § 16.3(a) has been revised to specifically refer requesters to the Department's "Freedom of Information Act Reference Guide" for assistance in locating the records of the Department's various components in connection with potential FOIA requests.

In some instances, commenters suggested particular amendments to the proposed rules. Several of the suggested amendments have been accepted and incorporated into the Department's final rule. For example, one commenter noted