

PART 700 [RESERVED]

PART 701—COUNCIL ORGANIZATION

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AUTHORITY: Sec. 402, Pub. L. 89-80; 79 Stat. 244, as amended (42 U.S.C. 1962-1962d-5), unless otherwise noted.

Subpart A—Introduction

SOURCE: 43 FR 25944, June 15, 1978, unless otherwise noted.

§ 701.1 General.

This part describes the organization established by the Water Resources Council in discharging its duties and responsibilities. The organization is designed to assure that Council Members will meet at least quarterly and consider and decide major matters before the Council. It provides that the Director can take action when necessary and appropriate; provided, that in the preparation of agenda items for the Council meetings, the Director shall consult with the Interagency Liaison Committee. It also provides that the Council Members shall be continuously advised of the significant actions of the Council staff. Council Members expect to participate personally in the work of the Council.

§ 701.2 Creation and basic authority.

The Water Resources Council was established by the Water Resources Planning Act of 1965 (Pub. L. 89-80, 79 Stat. 244, as amended (42 U.S.C. 1962-1962d-5)). The rules and regulations of this part are promulgated by authority of

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section 402 of the Act (42 U.S.C. 1962d-1).

[41 FR 20548, May 19, 1976]

§ 701.3 Purpose of the Water Resources Council.

It is the purpose of the Water Resources Council to effectuate the policy of the United States in the Water Resources Planning Act (hereinafter the Act) to encourage the conservation, development, and utilization of water and related land resources of the United States on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprise with the cooperation of all affected Federal agencies, States, local governments, individuals, corporations, business enterprises, and others concerned, within the limitations set forth in section 3 of the Act (42 U.S.C. 1962-1).

§ 701.4 Functions.

The functions of the Water Resources Council are:

(a) To maintain a continuing study and prepare periodically an assessment of the adequacy of supplies of water necessary to meet the water requirements in each water resource region in the United States and of the national interest therein.

(b) To maintain a continuing study of the relation of regional or river basin plans and programs to the requirements of larger regions of the Nation.

(c) To appraise the adequacy of administrative and statutory means for coordination and implementation of the water and related land resources policies and programs of the several Federal agencies and to make recommendations to the President with respect to Federal policies and programs.

(d) To establish, after consultation with appropriate interested Federal and non-Federal entities, and with approval of the President, principles, standards, and procedures for Federal participation in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects, including primary direct navigation benefits as defined by section 7a, Pub. L. 89-670.

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(e) To coordinate schedules, budgets, and programs of Federal agencies in comprehensive interagency regional or river basin planning.

(f) To carry out its responsibilities under Title II of the Act with regard to the creation, operation, and termination of Federal-State river basin commissions.

(g) To receive plans or revisions thereof submitted by river basin commissions in accordance with section 204(3) of the Act (42 U.S.C. 1962b(3)), and to review and transmit them, together with its recommendations, to the President in accordance with section 104 of the Act (42 U.S.C. 1962a-3).

(h) To assist the States financially in developing and participating in the development of comprehensive water and related land resources plans in accordance with Title III of the Act.

(i) To perform such other functions as the Council may be authorized by law, executive orders, regulations, or other appropriate instructions to perform.

(j) To take such actions as are necessary and proper to implement the Act and to carry out the functions enumerated herein.

§ 701.5 Organization pattern.

(a) The Office of the Water Resources Council is composed of the Water Resources Council, the Chairman of the Water Resources Council, the Water Resources Council Staff headed by a Director, and Field Organizations within its jurisdiction.

(b) The Water Resources Council consists of the following Members: The Secretary of Agriculture; the Secretary of the Army; the Secretary of Commerce; the Secretary of Energy; the Secretary of Housing and Urban Development; the Secretary of the Interior; the Secretary of Transportation; and the Administrator of the Environmental Protection Agency.

(c) The Chairman of the Council is designated by the President.

(d) The Water Resources Council staff is employed, assigned duties and responsibilities, and supervised by the Director.

(e) The Council Members shall establish an Interagency Liaison Committee. Task forces may be established

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and assigned duties by the Director with the concurrence of the Members, and/or action of the Council. Any Council Member may provide each task force with whatever representation he or she deems necessary.

(f) Field organizations are established by or operate under the Council and include field committees formerly under the Inter-Agency Committee on Water Resources and the offices of the Chairmen of Federal-State River Basin Commissions established under Title II of the Act.

§ 701.6 Location of office.

The Headquarters is located in the Washington, DC area.

Subpart B—Headquarters Organization

SOURCE: 43 FR 25945, June 15, 1978, unless otherwise noted.

§ 701.51 The Council.

Decisions of the Council are made as hereinafter described in §§ 701.53 and 701.54.

§ 701.52 Definitions.

As used in this part the term *Member* means the Secretary of Agriculture, the Secretary of the Army, the Secretary of Commerce, the Secretary of Energy, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Transportation, and the Administrator of the Environmental Protection Agency, or Alternate appointed in accordance with § 701.53(a) when the alternate is acting for one of the above-named.

§ 701.53 Council decisions by Members.

Council decisions by Members may be made by direct vote at Council meetings or by a written communication which may provide for either a written or telephone response. Written communications shall state the time limit for voting on issues which they contain; however, extensions of time may be granted by the Director or Chairman when it is deemed necessary. Issues raised at Council meetings shall be decided by majority vote of Members present and voting. Issues identi-

fied in written communications must receive approval of all Members. If an action item does not receive approval of all Members, it will be considered as an agenda item at the next Council meeting. For purposes of this section, approval of all Members shall be defined as approval without a negative vote within the time limit for voting provided within each action memorandum. Decisions affecting the authority or responsibility of a Member, within the meaning of section 3(b) of the Act, (42 U.S.C. 1962-1(b)), can be made only with that Member's concurrence.

(a) Each of the Members in § 701.5(b) shall designate in writing to the Chairman, with a copy to the Director, those individuals who may act as their Alternates in fulfilling the duties as a Member. Each Member shall designate one Alternate and one second Alternate to represent the Member on the Council.

(b) A quorum for the transaction of business at Council meetings shall consist of five or more Members and a majority shall consist of at least four votes.

(c) Each Member has equal responsibility and authority in all decisions and actions of the Council. Each Member may place an item on a meeting agenda or, acting through the Director, circulate in writing an item for Council action. Each Member, as well as each Associate Member and each Observer, shall have full access to all information relating to the performance of his duties and responsibilities.

(d) No vote shall be taken at Council meetings until each Member and Associate Member present has had full opportunity to express his views.

(e) Members shall meet regularly at least quarterly, upon the call of the Chairman, or when requested by a majority of Members.

(f) Matters specifically reserved for Council decision by Members are:

(1) Actions requiring Presidential action or approval.

(2) Approval of Annual Budget requests and the Annual Operating Program of the Office of the Water Resources Council.

(3) Decisions involving substantial policy issues.

(4) Delegations of authority.

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(5) Determination that testimony taken or evidence received shall be taken under oath.

(6) Issuance of invitations to become Associate Members or Observers.

(7) Appointment and termination of the appointment of the Director.

[43 FR 25945, June 15, 1978, as amended at 45 FR 24460, Apr. 10, 1980]

§ 701.54 Interagency Liaison Committee.

There is established within the Council an Interagency Liaison Committee (hereafter referred to as ILC).

(a) The ILC shall be composed of one representative for each Member, Associate Member, and Observer. Additional agency representatives may participate in the ILC meeting whenever necessary.

(b) The chairmanship of the ILC shall rotate quarterly among the Members' representatives. Secretarial assistance shall be the responsibility of the ILC Chairman.

(c) The function of the ILC will be to provide a forum for discussion of agenda items prior to Council meetings to advise the Director of the Members' views on such agenda items, and with the Director, to develop the final agenda. It shall be the duty of the Director or his representative to brief the ILC on each agenda item at these meetings.

(d) The ILC may meet at other times upon the call of the Chairman or Director, to consider other items.

(e) Draft agenda items shall be submitted to ILC representatives at least 30 days prior to the Council meeting. The ILC shall meet at least 20 days prior to the Council meeting. Final Council agenda material shall be submitted to the Members at least 7 days prior to the Council meeting.

(f) All ILC meetings will be open except when privileged information is discussed. At such meetings only representatives of Members shall be present.

[43 FR 25945, June 15, 1978, as amended at 45 FR 58834, Sept. 5, 1980]

§ 701.55 Associate Members.

(a) The Chairman, with concurrence of the Council, may invite the heads of other Federal agencies having authorities and responsibilities relating to the

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work of the Council to become Associate Members. Associate Members, on the same terms and conditions as Members, may designate persons, in accordance with the same procedure identified in § 701.53(a), to serve for them as Associate Members.

(b) Associate Members may participate with Members in consideration of all matters relating to their areas of responsibility, except that their concurrence on a decision of the Council is not required.

§ 701.56 Observers.

(a) Chairmen and Vice-Chairmen of River Basin Commissions established under Title II of the Act shall be Observers.

(b) The Chairman, with the concurrence of the Council, may invite the heads of offices or other officials of the Executive Office of the President or other Federal agencies to become Observers.

(c) Observers may designate persons to attend Council meetings of Members. Observers will be furnished agenda and other materials on the same basis as Associate Members.

§ 701.57 Official decisions of the Council.

Official decisions of the Council shall be of record. Such decisions shall be recorded in accepted minutes of duly called regular or special meetings or set forth in resolutions, memoranda, or other documents approved by Members. Decisions which would affect the authority and responsibilities of heads of other Federal agencies, including Associate Members, within the meaning of section 3(b) of the Act, shall only be made during a regular or special meeting of Members and recorded in the minutes thereof.

§ 701.58 Task forces.

The Director with Council concurrence or the Council may establish task forces from time to time to aid in the preparation of issues for presentation to the Council.

(a) Any Member, Associate Member, or Observer may provide representation on each task force.

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(b) The Director or the Council may designate the chairman of each task force.

(c) For each task force, the Director or the Council shall set forth the purpose and specific functions of each task force and their termination dates in establishing such task forces. Such charter documents shall also identify the relationship of each task force to functions of the Council.

(d) Each duly constituted task force will be provided administrative and secretarial support by the Water Resources Council Staff to the extent possible, directly or through arrangements with other Federal agencies.

§ 701.59 Advisory committees.

The Council may establish standing and ad hoc advisory committees. The establishment, operation, and termination of such committees shall be in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) and other pertinent law and directives.

§ 701.60 Procedures for revision of rules and regulations.

Revisions proposed by the Water Resources Council Members to the Principles and Standards Manual of Procedures promulgated as rules and regulations by the Water Resources Council are to be submitted in writing by one or more Members of the Water Resources Council to the Director, Water Resources Council, to be handled as an action item in accordance with § 701.53. Proposed revisions adopted by the Council in accordance with § 701.53 will be published in the FEDERAL REGISTER as proposed interim, or final changes. Proposed or interim changes shall be subject to a minimum 60-day public comment period; after the comment period, the Water Resources Council will publish notice that the revision is final as written or as changed to reflect comment or is revoked. Final changes will not be subject to a public comment period following publication in the FEDERAL REGISTER and will become effective when published or at specified date.

[44 FR 72584, Dec. 14, 1979]

§ 701.71 The Chairman.

(a) The Chairman shall preside at Council Meetings of Members.

(b) The Chairman is the official spokesman of the Council and represents it in its relations with the Congress, the States, Federal agencies, persons, or the public. He shall from time to time report, on behalf of the Council, to the President. He shall keep the Council apprised of his actions under this section.

(c) The Chairman shall request the heads of other Federal agencies to participate with the Council when matters affecting their responsibilities are considered by the Council.

(d) In the case of absence, disability, or vacancy, the acting Chairman shall be, in order of precedence, as designated (1) by the President (2) by the Chairman from among the Members, or (3) by the Council from among the Members.

§ 701.76 The Water Resources Council Staff.

The Water Resources Council Staff (hereinafter the Staff) serves the Council and the Chairman in the performance of their functions and in the exercise of their authorities in accordance with the Act, the rules and regulations and other decisions of the Council, and all other laws, rules, regulations, and orders applicable to the Water Resources Council, and will be organized in accordance with a structure approved by the Council.

§ 701.77 Director—duties and responsibilities.

The Director shall serve as the principal executive officer for the Council and as the head of the staff, and shall see to the faithful execution of the policies, programs, and decisions of the Council; report thereon to the Council from time to time or as the Council may direct; administer the office and staff of the Council within the limits of the Annual Budget and the Annual Operating Program related thereto; make recommendations to the Council and the Chairman relating to the performance of their functions and the exercise of their authorities; and facilitate the work of the Council and the Chairman.

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His duties and responsibilities include, but are not limited to, the following:

(a) Acting for the Chairman, represents the Council in its relations with the Congress, States, Federal agencies, persons, or the public under the general supervision and direction of the Council.

(b) Establishes the line of succession as Acting Director among the other officers of the Council below the Deputy Director.

(c) Directs the Staff in its service to the Council and the Chairman in the performance of their functions and in the exercise of their authorities. The Director is responsible to the Council for the organization of the Staff, employment and discharge of personnel, training and personnel development program, assignment of duties and responsibilities, and the conduct of its work.

(d) Insures that the quality of the work of the Staff in its studies, reports, and in other assignments is high that the professional integrity of its personnel is respected, and that its overall perspective and independence of judgment with regard to water and related land resources matters is approximately maintained within the context of the inter-agency, intergovernmental, and other staff collaboration that is both necessary and desirable in the fulfillment of the purpose of the Council as set forth in § 701.3.

(e) Prepares and recommends reports on legislation, Executive orders, and other documents requested of the Council.

(f) Prepares and recommends an Annual Budget request in accordance with policies, rules, and regulations applicable thereto. During its consideration by the Office of Management and Budget the President and the Congress, the Director shall seek acceptance of the proposed Annual Budget by every appropriate means. On behalf of the Council, he is authorized in his discretion to make appeals and agree to adjustments. However, to the extent that time and circumstances permit, he shall consult with and obtain the approval of the Council on all substantial appeals and adjustments.

(g) Prepares and recommends the Annual Operating Program to carry out

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the work of the Council, within the appropriations provided by the Congress and allowances approved by the Office of Management and Budget.

(h) Prepares and recommends proposed rules and regulations, including proposed delegations of authority, for carrying out the provisions of the Act, or other provisions of law which are administered by the Council.

(i) Prepares and recommends reports and materials for public information that are explanatory of the work and accomplishments of the Council.

(j) Appoints staff representatives to each task force established pursuant to § 701.58.

(k) Establishes and enforces administrative rules and regulations pertaining to the Staff consistent with applicable laws, Executive Orders, Budget Circulars, and other regulations and orders.

§ 701.78 Director—delegation of authorities.

(a) Under the authority of section 403 of the Act (42 U.S.C. 1962d-2), the Director is delegated authority to:

(1) Hold hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reprints thereon as he may deem advisable.

(2) Acquire, furnish, and equip such office space as is necessary.

(3) Use the U.S. mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(4) Employ and fix compensation of all personnel as the Director deems advisable in accordance with the civil service laws and the Classification Act of 1949, as amended; assign duties and responsibilities among such personnel and supervise personnel so employed.

(5) Procure services as authorized by section 15 of the Act of August 2, 1946 (5 U.S.C. 3109), at rates not in excess of the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of Title 5 of the United States Code in the case of individual experts or consultants.

(6) Purchase, hire, operate, and maintain passenger motor vehicles.

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(7) Utilize and expend such funds as are deemed advisable for proper administration of the authorities delegated herein. However, contract and individual modifications there of in excess of \$100,000 or which involve significant policy decisions shall be submitted to the Council for approval before execution.

(8) Request any Federal department or agency (i) to furnish to the Council such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and (ii) to detail personnel to temporary duty with the Council on a reimbursable basis.

(9) Make available for public inspection during ordinary office hours all appropriate records and papers of the Council.

(10) Compute and certify for payment funds to the States in accordance with standards and formula approved by the Council, and perform related functions of the Council contained in section 305 of the Act.

(11) Serve as a duly authorized representative of the Chairman of the Council for the purpose of audit and examination of any pertinent books, documents, papers, and records of the recipient of a grant under Title III of the Act, and recommend to the Chairman the appointment of further representatives as may be necessary for such function.

(12) Review, for compliance, State programs approved under Title III; conduct full inquiries as the Council may direct; and recommend for Council decision such withholding or reinstatement of payments as is appropriate and authorized by section 304 of the Act.

(13) Serve as the "responsible agency official" under part 705 of these rules and regulations.

(b) The authorities delegated in this section may be redelegated by the Director to the extent determined by him to be necessary and desirable for proper administration.

§ 701.79 Selection policy for professional personnel.

In the selection for employment of the professional staff as a whole, the

Director shall be guided by the following criteria:

(a) Outstanding character and competence—both personal and professional.

(b) Spread and balance of training and experience in the several relevant professions—ecology; economics; economic geography; engineering; fish and wildlife biology; forestry; hydrology; irrigation; landscape architecture; law; political science; recreation; sanitary engineering; soil conservation; urban and other land planning; etc.

(c) Diversity of prior identification and experience, both planning and operating in Washington and in the field; including personnel with prior identification and experience with Federal, State, or local government, private enterprise, or university teaching and research.

Subpart C—Field Organization

SOURCE: 39 FR 20590, June 12, 1974, unless otherwise noted.

§ 701.100 Field Directors.

The Council may employ as professional staff Field Directors who shall be designated as chairmen of committees or groups established by the Council to develop and prepare regional or river basin assessments or plans. Such Field Directors shall perform their official functions at locations established by the Council.

§ 701.101 Field committees.

The Council may establish or continue already established regional committees to carry out assigned functions at field level.

§ 701.102 Existing committees.

Field Committees operating under the Water Resources Council (formerly under the Inter-Agency Committee on Water Resources) are as follows:

Pacific Southwest Inter-Agency Committee
Arkansas-White-Red Inter-Agency Committee
Southeast Basins Inter-Agency Committee

Subpart D—Availability of Information

AUTHORITY: 5 U.S.C. 552 as amended by Pub. L. 93-502, 88 Stat. 1561; 42 U.S.C. 1962d-1.

SOURCE: 40 FR 7253, Feb. 19, 1975, unless otherwise noted.

§ 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. 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. 552 which require that agencies make their records available for public inspection and copying do not apply to matters which 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 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 (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.

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 Information Officer, Water Resources Council, Suite 800, 2120 L Street NW., Washington, DC 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.

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(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 8 × 14 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

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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

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(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;

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Pacific Southwest Inter-Agency Committee, 630 Sansome Street, Room 1216, San Francisco, California 94111;

Southeast Basins Inter-Agency Committee, 402 New Walton Building, Atlanta, Georgia 30303.

[40 FR 7253, Feb. 19, 1975, as amended at 40 FR 10668, Mar. 7, 1975]

Subpart E—Protection of Privacy

AUTHORITY: Sec. 402, Water Resources Planning Act of 1965 (Sec. 402, Pub. L. 89-80; 79 Stat. 254, as amended (42 U.S.C. 1962d-1)) and the Privacy Act of 1974 (Pub. L. 93-579; 88 Stat. 1896 (5 U.S.C. 552a)).

SOURCE: 40 FR 45676, Oct. 2, 1975, unless otherwise noted.

§ 701.300 Purpose and scope.

(a) The purpose of this subpart is to set forth rules to inform the public about information maintained by the U.S. Water Resources Council relating to identifiable individuals and to inform those individuals how they may gain access to and correct or amend information about themselves.

(b) The regulations in this subpart implement the requirements of the Privacy Act of 1974 (Pub. L. 93-579; 88 Stat. 1896 (5 U.S.C. 552a)).

(c) The regulations in this subpart apply only to records disclosed or requested under the Privacy Act of 1974, and not requests for information made pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552, as amended by Pub. L. 93-502).

§ 701.301 Definitions.

For the purposes of this subpart, unless otherwise required by the context:

(a) *Council* means the U.S. Water Resources Council;

(b) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent resident;

(c) *Maintain* means maintain, collect, use or disseminate;

(d) *Record* means any item, collection, or grouping of information about an individual that is maintained by the Council, including, but not limited to, his education, financial transactions, medical history and criminal or employment history, and that contains his name, or the identifying number, symbol, or other identifying particular

assigned to the individual, such as a finger or voice print or a photograph;

(e) *Adverse determination* means a decision by the proper Council official to deny, in whole or in part, a request from an individual for a correction or amendment of a record concerning the individual and maintained by the Council; and

(f) *Record system* means *system of records* as defined in the Act, i.e., a group of any records under the control of the Council from which information is retrieved by the name of the individual or by some identifying particular assigned to the individual.

§ 701.302 Procedures for notification of existence of records pertaining to individuals.

(a) The systems of records, as defined in the Privacy Act of 1974, maintained by the Council are listed annually in the FEDERAL REGISTER as required by that Act. Any individual may request the Council to inform him or her whether a particular record system named by the individual contains a record pertaining to him or her. The request may be made in person during business hours or in writing at the location and to the person specified in the notice describing that record system.

(b) An individual who believes that the Council maintains records pertaining to him or her but who cannot determine which records system contains those records, may request assistance by mail or in person at the Division of Program Coordination and Management, 2120 L Street, NW., Washington, DC 20037, during business hours (8:00 A.M. through 4:30 P.M., Monday through Friday, excluding legal holidays).

(c) The Council will attempt to respond to a request as to whether a record exists within 10 working days from the time it receives the request or to inform the requestor of the need for additional time or additional information within 10 working days. If a request is complied with within 10 working days, no separate acknowledgment will be made.

[40 FR 45676, Oct. 2, 1975, as amended at 41 FR 8343, Feb. 26, 1976]

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§ 701.303 Conditions of disclosure.

(a) Subject to the conditions of paragraphs (b) and (c) of this section, the Council will not disclose any record which is contained in a system of records, by any means of communication to any person who is not an individual to whom the record pertains.

(b) Upon written request or with prior written consent of the individual to whom the record pertains, the Council may disclose any such record to any person or other agency.

(c) In the absence of a written consent from the individual to whom the record pertains, the Council may disclose any such record provided such disclosure is:

(1) To those officers and employees of the Council who have a need for the record in the performance of their duties;

(2) Required under the Freedom of Information Act (5 U.S.C. 552);

(3) For a routine use compatible with the purpose for which it was collected;

(4) To the Bureau of Census for purposes of planning or carrying out a census or survey or related activity under the provisions of Title 13 of the United States Code;

(5) To a recipient who has provided the Council with adequate advance written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity authorized by law: *Provided*, The head of the agency or instrumentality has made a prior written request to the Assistant Director Program Coordination and Management specifying the particular record and the law enforcement activity for which it is sought;

(8) To a person pursuant to a showing of compelling circumstance affecting the health or safety of an individual: *Provided*, That upon such disclosure notification is transmitted to the last known address of such individual (and see § 701.306);

(9) To either House of Congress, and to the extent of a matter within its jurisdiction, any committee or subcommittee, or joint committee of Congress;

(10) To the Comptroller General, or any of his authorized representatives in the course of the performance of the duties of the GAO; or

(11) Under an order of a court of competent jurisdiction.

§ 701.304 Procedures for identification of individuals making requests.

(a) Each individual requesting the disclosure of a record or copy of a record will furnish the following information with his or her request:

(1) The name of the record system containing the record;

(2) Proof as described in paragraph (b) of this section that he or she is the individual to whom the requested record relates; and

(3) Any other information required by the notice describing the record system.

(b) Proof of identity as required by paragraph (a)(2) of this section will be provided as described in paragraph (b)(1) and (2) of this section. Requests made by an agent, parent, or guardian will include the authorization described in § 701.310(a) and (b).

(1) Requests made in writing will include a statement, signed by the individual and properly notarized, that he or she appeared before a notary public and submitted proof of identification in the form of a drivers license, birth certificate, passport or other identification acceptable to the notary public. In any case in which, because of the extreme sensitivity of the record sought to be seen or copied, the agency determines that the identification is not adequate, it may request the individual to submit additional proof of identification.

(2) If the request is made in person, the requester will submit proof of identification similar to that described in

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paragraph (b)(1) of this section, acceptable to the Council.

[41 FR 8343, Feb. 26, 1976]

§ 701.305 Procedures for requests for access to or disclosure of records pertaining to individuals.

(a) After being informed by the Council that a system of records contains a record pertaining to him or her, an individual may request the Council for access to or disclosure of that record to him or her in the manner described in this section. Each such request of a record or a copy of it will be made at the place specified in the notice describing that system of records, either in writing or in person. Requests may be made by agents, parents, or guardians of individuals as described in § 701.310(a) and (b).

(b) The request for access to or disclosure of a record should specifically identify the systems of records involved.

(c) The Council will attempt to affirm or deny a request within 10 working days from the time it receives the request or to inform the requester of the need for additional time, additional information, identification, or the tendering of fees (as specified in § 701.312), within 10 working days; except that if the request for access was not preceded by a notification request as provided in § 701.302, then the 10-day period will not begin until after such time as it has been determined that the record exists. If a request is complied with within 10 working days, no separate acknowledgement will be made.

[41 FR 8343, Feb. 26, 1976]

§ 701.306 Special procedure: Medical records.

(a) An individual requesting disclosure of a record which contains medical or psychological information may name a medical doctor or other person to act as his agent as described in § 701.310(a). Records containing medical or psychological information may be disclosed to that agent rather than to the individual at the individual's request.

(b) If the individual has not named a medical doctor as agent, the Council may determine, after consultation with

a medical doctor, that disclosure of the information would have an adverse effect on the requester. The Council may then disclose that information to a medical doctor specified by the individual, rather than to that individual, either in person or by mail.

[40 FR 45676, Oct. 2, 1975, as amended at 41 FR 8343, Feb. 26, 1976]

§ 701.307 Request for correction or amendment to record.

(a) Any individual who has reviewed a record pertaining to him that was furnished to him under this subpart, may request the agency to correct or amend all or any part of that record.

(b) Each individual requesting a correction or amendment will send the request to the agency official who furnished the record to him.

(c) Each request for a correction or amendment of a record will contain the following information:

(1) The name of the individual requesting the correction or amendment;

(2) The name of the system of records in which the record sought to be corrected or amended is maintained;

(3) The location of that record in the system of records;

(4) A copy of the record sought to be corrected or amended or a description of that record;

(5) A statement of the material in the record requested to be corrected or amended;

(6) A statement of the specific wording of the correction or amendment sought; and

(7) A statement of the basis for the requested correction or amendment, including any material that the individual can furnish to substantiate the reasons for the correction or amendment sought.

§ 701.308 Council review of request for correction or amendment of record.

(a) Not later than 10 days (excluding Saturdays, Sundays, and legal holidays) after the receipt of the request for the correction or amendment of a record under § 701.307, the Council will acknowledge receipt of the request and inform the individual whether further information is required before the correction or amendment can be considered.

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(b) The Council will promptly review the request and either make the requested correction or amendment or notify the individual of the initial adverse determination, including in the notification the reasons for the adverse determination and the appeal procedure provided by § 701.309.

(c) The Assistant Director, Program Coordination and Management, or his designee, will, after consulting with the General Counsel, or his designee, have the primary authority to make an initial adverse determination.

(d) The Council will make each requested correction or amendment to a record if that correction or amendment will correct anything that is not accurate, relevant, timely, or complete, within the record.

(e) If the requested correction or amendment to a record is agreed to by the Council, the Council will, within 30 working days:

- (1) Advise the individual;
- (2) Correct the record accordingly; and

(3) Where an accounting of disclosures had been made (as provided in § 701.311), advise all previous recipients (including the individual) of the record of the fact that the correction was made and the substance of the correction.

[40 FR 45676, Oct. 2, 1975, as amended at 41 FR 8343, Feb. 26, 1976]

§ 701.309 Appeal of initial adverse determination.

(a) Any individual whose request for a correction or amendment, requested by him, to a record has been denied, in whole or in part, may appeal that decision to the Director of the Council.

(b) The appeal will be in writing and will:

- (1) Name the individual making the appeal;
- (2) Identify the record sought to be amended;
- (3) Name the record system in which that record is contained;
- (4) Contain a short statement describing the amendment sought; and
- (5) State the name and location of the Council official who made the initial adverse determination.

(c) Not later than 30 days (excluding Saturdays, Sundays, and legal holi-

days) after the date on which the Council received the appeal, the Director will complete his review of the appeal and make a final decision thereon. However, for good cause shown, the Director may extend that 30 day period by not more than an additional 30 working days. If the Director so extends the period, he will promptly notify the individual requesting the review that the extension has been made and the reasons therefor.

(d) After review of an appeal request, the agency will send a written notice to the requester containing the following information:

(1) The decision and, if the denial is upheld, the reasons for the decision; and

(2) The specific civil remedies available to the requester as per section 2(g) of Pub. L. 93-579, as well as notice that additional remedies may be appropriate and available to enable the full exercise of the requester's rights at law.

(3) The right to file with the Council a concise statement setting forth the requester's reasons for disagreement with the Council's refusal to correct or amend the record.

[40 FR 45676, Oct. 2, 1975, as amended at 41 FR 8344, Feb. 26, 1976]

§ 701.310 Disclosure of record to person other than the individual to whom it pertains.

(a) Any individual who desires to have a record covered by this subpart disclosed to or mailed to a person other than that individual may authorize that person to act as his agent for that specific purpose. The authorization will be in writing, signed by the individual, and will be notarized. The agent will submit with the authorization proof of the individual's identity as required by § 701.304(b).

(b) The parent of any minor individual or the legal guardian of any individual who has been declared by a court of competent jurisdiction to be incompetent due to physical or mental incapacity or age, may act on behalf of that individual in any matter covered by this subpart. A parent or guardian who desires to act on behalf of such an individual will present suitable evidence of parentage or guardianship, by

birth certificate, certified copy of a court order, or similar documents, and proof of the individual's identity in a form that complies with §701.304(b).

(c) An individual to whom a record is to be disclosed in person pursuant to this subpart, may have a person of his own choosing accompany the individual when the record is disclosed.

§701.311 Accounting for disclosures.

(a) *Maintenance of an accounting.* (1) Where a record is disclosed to any person, or to another agency, under any of the provisions of §701.303 except §701.303(c)(1) and (2), an accounting will be made.

(2) The accounting will record (i) the date, nature, and purpose of each disclosure of a record to any person or to another agency and (ii) the name and address of the person or agency to whom the disclosure was made.

(3) Accountings prepared under this section will be maintained for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made.

(b) *Access to accounting.* (1) Except for accounting of disclosures made under §701.303(c)(1) and (2), accountings of all disclosures of a record will be made available to the individual to whom the record relates at his or her request.

(2) An individual desiring access to accountings of disclosures of a record pertaining to him or her will submit his request by following the procedures of §701.305.

(c) *Notification of disclosure.* When a record is disclosed pursuant to §701.303(c)(11) as the result of the order of a court of competent jurisdiction, reasonable efforts will be made to notify the individual to whom the record pertains as soon as the order becomes a matter of public record.

[41 FR 8344, Feb. 26, 1976]

§701.312 Fees.

(a) The Council will not charge an individual for the costs of making a search for a record or the costs of reviewing the record. When the Council makes a copy of a record as a necessary part of the process of disclosing the record to an individual, the Council will not charge the individual for the cost of making that copy.

(b) If an individual requests the Council to furnish him with a copy of the record (when a copy has not otherwise been made as a necessary part of the process of disclosing the record to the individual), the Council will charge a maximum fee of \$0.25 per page (maximum per page dimension of 8 × 14 inches) to the extent that the request exceeds \$5.00 in cost to the Council. Requests not exceeding \$5.00 in cost to the Council will be met without cost to the requester.

[40 FR 45676, Oct. 2, 1975. Redesignated at 41 FR 8344, Feb. 26, 1976]

§701.313 Penalties.

Title 18 U.S.C. 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of \$10,000 or imprisonment for not more than 5 years or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. Section 552a(i)(3) of the Privacy Act (5 U.S.C. 552a(i)(3)) makes it a misdemeanor, subject to a maximum fine of \$5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. Section 552a(i)(1) and (2) of the Privacy Act (5 U.S.C. 552a(i)(1) and (2)) provide penalties for violations by agency employees of the Privacy Act or regulations established thereunder.

[40 FR 45676, Oct. 2, 1975. Redesignated at 41 FR 8344, Feb. 26, 1976]

§701.314 Exemptions.

No Council records system or systems are exempted from the provisions of 5 U.S.C. 552a as permitted under certain conditions by 5 U.S.C. 552a(j) and (k).

[40 FR 45676, Oct. 2, 1975. Redesignated at 41 FR 8344, Feb. 26, 1976]

PART 704—PLAN FORMULATION STANDARDS AND PROCEDURES

Subparts A–D [Reserved]