

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 the Commission. 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.

§ 700.237 Definitions.

Act. As used in this subpart, "Act" means the "Freedom of Information Act," 5 U.S.C. 552.

§ 700.239 Records available.

(a) *Commission policy.* It is the policy of the Commission to make the records of the Commission 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 Commission, 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 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.

(d) *Decisions on requests.* It is the policy of the Commission 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 Commission and another Federal agency, the record will be made available by the Commission only if the interest of the Commission is the primary interest. If the Commission's interest is not the primary interest, the requester shall be referred in writing to the agency having the primary interest. The Commission has the primary interest in a record if the record was developed pursuant to Commission regulations, directives, or request even though the record originated outside of the Commission.

(2) If the release of a record in which the Commission 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 Commission 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.

§ 700.241 Request 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) *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 Commission 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 § 700.251, the failure to state willingness to pay fees as high as are anticipated by the Commission 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 § 700.245 until it has been identified by bureau personnel as a Freedom of Information request and marked by them with this legend.