

sources, the CSB will process the request under the FOIA.

### § 1601.3 Definitions.

*Appeals Officer* means the person designated by the Chairperson to process appeals of denials of requests for CSB records under the FOIA.

*Business submitter* means any person or entity which provides confidential business information, directly or indirectly, to the CSB and who has a proprietary interest in the information.

*Chairperson* means the Chairperson of the CSB (including, in the absence of a Chairperson, the Board Member supervising personnel matters) or his or her designee.

*Commercial-use requester* means requesters seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the CSB shall determine, whenever reasonably possible, the use to which a requester will put the documents requested. Where the CSB has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the CSB shall seek additional clarification before assigning the request to a specific category.

*Confidential business information* means records provided to the government by a submitter that arguably contain material exempt from disclosure under Exemption 4 of the FOIA, because disclosure could reasonably be expected to cause substantial competitive harm.

*Direct costs* means those expenditures by the CSB actually incurred in searching for and duplicating records to respond to a FOIA request. Direct costs include the salary of the employee or employees performing the work (the basic rate of pay for the employee plus a percentage of that rate to cover benefits) and the cost of operating duplicating machinery. Direct costs do not include overhead expenses, such as the cost of space and heating or lighting of the facility in which the records are stored.

*Duplication* refers to the process of making a copy of a document necessary to fulfill a FOIA request. Such copies can take the form of, among other things, paper copy, microform, audio-visual materials, or machine-readable documentation. The copies provided shall be in a form that is reasonably usable by requesters.

*Educational institution* refers to a pre-school, a public or private elementary or high school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program of scholarly research.

*FOIA Officer* means the person designated to process requests for CSB documents under the FOIA.

*Non-commercial scientific institution* refers to an institution that is not operated on a commercial basis as that term is used above in defining *commercial-use requester*, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

*Record* includes any writing, drawing, map, recording, tape, film, photo, or other documentary material by which information is preserved.

*Representative of the news media* refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the public. For freelance journalists to be regarded as working for a news organization, they must demonstrate a solid basis for expecting publication through that organization. A publication contract would be the clearest proof, but components shall also look to the past publication record of a requester in making this determination.

*Requester* means any person, including an individual, Indian tribe, partnership, corporation, association, or public or private organization other than a Federal agency, that requests access to records in the possession of the CSB.

*Review* refers to the process of examining a record, in response to a FOIA

## § 1601.10

request, to determine whether any portion of that record may be withheld under one or more of the FOIA exemptions. It also includes the processing of any record for disclosure; for example, redacting information that is exempt from disclosure under the FOIA. Review does not include time spent resolving general legal or policy issues regarding the use of FOIA exemptions.

*Search* refers to the time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within a document. The CSB shall ensure that searches are conducted in the most efficient and least expensive manner reasonably possible.

*Submitter* means any person or entity who provides information directly or indirectly to the CSB. The term includes, but is not limited to, corporations, Indian tribal governments, state governments, and foreign governments.

*Working day* means a Federal workday that does not include Saturdays, Sundays, or Federal holidays.

### Subpart B—Administration

#### § 1601.10 Protection of records.

(a) Except as authorized by this part or as otherwise necessary in performing official duties, no employee shall in any manner disclose or permit disclosure of any document or information in the possession of the CSB that is confidential or otherwise of a non-public nature, including that regarding the CSB, the Environmental Protection Agency or the Occupational Safety and Health Administration.

(b) No person may, without permission, remove from the place where it is made available any record made available to him for inspection or copying. Stealing, altering, mutilating, obliterating, or destroying, in whole or in part, such a record shall be deemed a crime.

#### § 1601.11 Preservation of records pertaining to requests under this part.

The CSB will preserve all correspondence pertaining to the requests that it receives under this part, as well as copies of all requested records, until disposition or destruction is authorized by Title 44 of the United States Code or

## 40 CFR Ch. VI (7–1–07 Edition)

the National Archives and Records Administration's General Records Schedule 14. Records will not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

#### § 1601.12 Public reading room.

(a) The CSB maintains a public reading room that contains the records that the FOIA requires to be made regularly available for public inspection and copying as well as a current subject-matter index of its reading room records.

(b) Because of the lack of requests to date for material required to be indexed, the CSB has determined that it is unnecessary and impracticable to publish quarterly, or more frequently, and distribute (by sale or otherwise) copies of each index and supplements thereto, as provided in 5 U.S.C. 552(a)(2). However, the CSB will provide a copy of such indexes to a member of the public upon request, at a cost not to exceed the direct cost of duplication and mailing, if sending records by other than ordinary mail.

(c) The CSB maintains a public reading room at its headquarters: 2175 K Street, NW, Suite 400, Washington, DC 20037-1809.

(d) *Copying*. The cost of copying information available in the offices of the CSB shall be imposed on a requester in accordance with the provisions of §§ 1601.30 through 1601.33.

(e) The CSB also makes reading room records available electronically through the agency's World Wide Web site (which can be found at <http://www.csb.gov>). This includes the index of its reading room records, indicating which records are available electronically.

### Subpart C—Procedures for Requesting and Disclosing Records

#### § 1601.20 Requests for records.

(a) *Addressing requests*. Requests for records in the possession of the CSB shall be made in writing. The envelope and the request both should be clearly marked *FOIA Request* and addressed to: FOIA Officer, United States Chemical Safety and Hazard Investigation Board,